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July 12, 2021

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **Docket No. FD 36522**
Norfolk Southern Railway Company --
Petition For Declaratory Order

Dear Ms. Brown:

Norfolk and Portsmouth Belt Line Railroad Company (“NPBL”) hereby responds to the Petition for Declaratory Order and Request to Set a Procedural Schedule submitted by Norfolk Southern Railway Company (“NSR”) in the above-captioned proceeding on June 21, 2021. NPBL is a party to the federal litigation in which the United States District Court for the Eastern District of Virginia referred certain questions to the Board in its May 18, 2021 Opinion and Order attached as Exhibit A to the NS Petition.¹ NPBL is also a party to the related Board proceedings in Docket No. FD 36223, which the Board previously held in abeyance at the request of intervenor CSX Transportation, Inc. (and over NPBL’s objection) pending resolution of the same federal district court proceeding which has now generated a referral of questions back to the Board.²

NPBL concurs in NSR’s request for initiation of a declaratory order proceeding. *See, e.g., Delegation of Authority – Declaratory Order Proceedings*, 5 I.C.C.2d 675, 676 (1989); *Finch Paper LLC – Petition for Declaratory Order*, Docket No. FD 35981 (STB served Feb. 11, 2016), at 1 (“Petitions for issuance of a declaratory order premised on a court referral are routinely

¹ *CSX Transportation, Inc. v. Norfolk Southern Railway Company and Norfolk & Portsmouth Belt Line Railway [sic] Company*, Civil No. 2:18cv530 (E.D. Va., May 18, 2021).

² *See Norfolk Southern Railway Company – Petition to Set Trackage Rights Compensation – Norfolk & Portsmouth Belt Line Railroad Company*, Docket No. FD 36223 (STB served July 25, 2019).

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accepted.”). NPBL also confirms its concurrence in the procedural schedule proposed by NSR in its Petition.

Please feel free to contact me should any questions arise regarding this filing.
Thank you for your assistance on this matter.

Respectfully submitted,

/s/ *Thomas J. Litwiler*

Thomas J. Litwiler
Attorney for Norfolk and Portsmouth
Belt Line Railroad Company

TJL:tl

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