

SURFACE TRANSPORTATION BOARD**Ex Parte 711 (Sub. No. 1)****Summary of Ex Parte Meeting Between Norfolk Southern Railway Company****and Surface Transportation Board Member Ann Begeman****November 15, 2021**Norfolk Southern Attendees:

- Jim Squires, Chairman, President, and CEO
- Vanessa Allen Sutherland, Executive Vice President and Chief Legal Officer
- Raymond Atkins, Counsel to Norfolk Southern
- Randy Noe, AVP Regulatory Affairs

STB Attendees:

- Ann Begeman, Board Member
- Amanda Gorski, Attorney Advisor
- Rebecca Morrow, Attorney Advisor

Meeting Summary:

Norfolk Southern thanked Member Begeman for the opportunity to meet and for her years of service on the Board. Member Begeman thanked Norfolk Southern for requesting the ex parte meeting and she expressed her interest in hearing Norfolk Southern's views about how increased switching under the proposed rule in EP 711 (Sub-No. 1) could impact the nation's rail network and the supply chain overall.

Norfolk Southern emphasized the complexity of railroad operations, which are constantly tested in a dynamic environment with difficult-to-forecast demand levels and long lead times for adjusting resources to match those demand levels. With supply chains rapidly evolving, Norfolk Southern cautioned against imposing broad policy changes that will create greater uncertainty. Norfolk Southern counseled proceeding cautiously during these volatile times and bringing in new evidence and testimony in the docket to better understand the impacts of the proposed rule. Norfolk Southern observed that the railroad industry has changed so much since the rule was proposed in EP 711 (Sub. No. 1) that its impact is even less understood today than it was when originally proposed.

Norfolk Southern noted that the proposed rule seems to really be about rates, and that reorganizing relationships with industry competitors to address that issue seems to be a dangerous place to go. Member Begeman posited that some shippers may be concerned about the efficiency of the route chosen by the incumbent carrier. Norfolk Southern observed that a carrier using its market power to deny a customer a more efficient routing or to provide poor service is already a justification for seeking a reciprocal switch under existing regulations, so there would be no need to relax the Board's regulations to give relief to such a shipper.

Norfolk Southern expressed its view that another reason to re-open the record would be to re-examine the state of truck competition, which is pervasive not only in intermodal but throughout the industrial products franchise.

Norfolk Southern suggested the Board would be well-served to undertake a study to evaluate the proposed rule's impacts on the industry. Before imposing a new set of rules with unknown consequences, Norfolk Southern encouraged the Board to take a step back and gain a greater understanding of what those consequences could be. The meeting participants discussed whether the Board had the internal resources to conduct such a study or whether it would have to be done by an outside consultant.