

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

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

STB Attendees:

- Michelle Schultz, Board Member
- Christopher Diamond, Attorney Advisor

Meeting Summary:

Norfolk Southern thanked Member Schultz for the opportunity to meet with her and express its views on reciprocal switching. Member Schultz thanked the Norfolk Southern team for meeting with her and offering its perspective.

Norfolk Southern began by questioning the rationale for modifying the current legal standard. While competition in the industry has been offered by some stakeholder groups as a justification, the study commissioned by the Board in 2008 found that railroads were not earning above normal profits and rate increases were not the result of increased market power. Although Norfolk Southern's perspective is that competition in the industry has further intensified since 2008, Norfolk Southern suggested that if the Board believes there is an issue with competition it should commission a new study.

Member Schultz indicated that shipper groups have expressed the view that where there is an alternative between carriers, there is a difference in rates. Norfolk Southern emphasized the importance of differential pricing. Member Schultz asked what impact the proposed rule changes would have on differential pricing. Norfolk Southern explained that it could create an erosion in otherwise lawful rates that could change its investment decisions. Norfolk Southern questioned why, with such a well-developed body of law designed to test rate reasonableness, the Board would impose operational changes on railroads as an indirect method of setting rates.

The meeting participants discussed how the proposal would impact operations. Norfolk Southern explained that introducing additional variability and uncertainty into its operations will negatively impact service. Member Schultz asked about the relationship between reciprocal switching and Precision Scheduled Railroading. Norfolk Southern explained that PSR is about taking advantage of all the tools available to a railroad to deliver efficient, consistent service. Reciprocal switching has network service impacts because it creates a level of complexity that is challenging to manage in the face of

constant demand changes at the interchange locations. This increased complexity makes it more difficult to deliver and recover service. Increased complexity also has an impact on asset utilization, which negatively impacts customers who own their own railcars.

Member Schultz asked about locations on Norfolk Southern that are open to reciprocal switch and the circumstances that led to them being opened. Norfolk Southern explained that these locations were typically opened as merger conditions or through reciprocal arrangements with competing carriers. The meeting participants discussed a specific example of a location on Norfolk Southern that is open to reciprocal switching and why it adds operational complexity and is difficult to justify investment. They also discussed an area of the Norfolk Southern system where shippers may seek to open new locations to reciprocal switch and why it would complicate existing operations that are already under pressure from labor shortages.

Member Schultz asked if Norfolk Southern could forecast the impact on investment of the proposed rule. Norfolk Southern responded that modeling would be difficult given the case-by-case nature of the proposal, the vagueness of the standards, and the missing access price component. Norfolk Southern expressed concern, however, that once a single case is decided it would set the standard for the entire industry.

Norfolk Southern expressed the view that if the Board moved forward with the proposal the only economically viable way to proceed would be to set the access price at the efficient component pricing level. The cost-based approach advocated by shippers would destroy differential pricing. While those same shippers say that efficient component pricing would undercut the incentive to bring a case, there would be no justification for driving rates below the level railroads need to support the service.

Member Schultz asked about differences in the US and Canada, where reciprocal switching seems to work. Norfolk Southern explained the differences in the network, the difference in the number of locations where Norfolk Southern operates in close proximity to its eastern competitor, and the differences in population and industrial base.

Member Schultz relayed that some shippers believe the railroads are overstating the impact on operations and their ability to adapt. Norfolk Southern responded that while railroads can be nimble to accommodate some changes, it is impossible to plan for every conceivable change and adding complexity risks disruption to the network.