

SURFACE TRANSPORTATION BOARD**Ex Parte 711 (Sub. No. 1)****Summary of Ex Parte Meeting Between Norfolk Southern Railway Company****and Surface Transportation Board Vice Chairman Michelle Schultz****April 13, 2022**Norfolk Southern Attendees:

- Tom Zoeller, General Counsel Markets and Regulation
- Randy Noe, AVP Regulatory Affairs
- Raymond Atkins, Counsel to Norfolk Southern

STB Attendees:

- Michelle Schultz, Vice Chairman
- Michael Small, Attorney Advisor

Meeting Summary:

Norfolk Southern thanked Vice Chairman Schultz for the opportunity to further discuss the Board's 2016 reciprocal switching proposal. Vice Chairman Schultz thanked the Norfolk Southern team for meeting with her and offering its perspective.

Norfolk Southern and the Vice Chairman first discussed the impact of a reciprocal switch rule limited to terminal areas and a railroad's ability to handle an influx of new switching activity within those terminal areas. They discussed the physical constraints present at some interchange locations as well as the workforce factor, including the training time needed to certify and qualify additional employees to handle new business and to perform their job duties safely. They also discussed how the railroad's common carrier obligation factors in. They discussed that while the railroad has some tools to maintain control over its limited capacity, the common carrier obligation generally requires a railroad to handle business when tendered by a customer.

The meeting participants also discussed the tendency of even a narrower version of the proposed rule that would be limited to existing interchange locations to create winners and losers. Norfolk Southern expressed the view that losers would include customers whose facilities are not in a location open to reciprocal switch, grain customers who would rarely if ever be within the scope of the rule, and railroads who have more open switches than their competitors. Norfolk Southern suggested that the Board's existing regulations to address service issues would be more even-handed because they would be available to any customer that meets the standards.

There was related discussion about the geographic scope of the impact if the proposed rule were limited to terminal areas and if there were better alternatives to limiting that impact. Norfolk Southern expressed the view that the best way to minimize the harmful impacts of the rule to operations and investment was to retain the fault-based feature of the existing regulation. That way, the harmful impacts would be felt only if a railroad engaged in some form of anticompetitive conduct.

The meeting also included a discussion about the impact of the proposed rule to bottleneck pricing and the necessity to confine the rule to terminal areas if that impact is to be avoided. Also discussed was the impact of the proposed rule to operating longer trains and to PSR. Norfolk Southern confirmed that its opposition to the proposed rule was not rooted in either, and in fact predates its adoption of PSR principles.

The meeting concluded with Vice Chairman Schultz thanking Norfolk Southern for meeting with her and the Norfolk Southern team thanking the Vice Chairman for her time.