

**SURFACE TRANSPORTATION BOARD**

**Ex Parte 711 (Sub-No. 2)**

**Summary of Ex Parte Meeting Between Norfolk Southern Railway Company**

**and Surface Transportation Board Member Robert Primus**

**November 29, 2023**

Norfolk Southern Attendees:

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

STB Attendees:

- Robert Primus, Board Member
- Christopher Diamond, Attorney Advisor

Meeting Summary:

Norfolk Southern began the meeting by thanking Member Primus and staff for meeting. Member Primus thanked the Norfolk Southern team, and he framed his view of the proposal as a “guard rail” rather than as a barrier to railroad conduct.

Norfolk Southern expressed its appreciation to the Board for adopting a conduct-based standard in EP 711 (Sub-No. 2) and indicated that while it supports the overall framework of the proposal it has some suggestions for improving it. One suggestion offered by Norfolk Southern was to require a pre-complaint cure period so that railroads would have an opportunity to address service concerns brought to their attention by a shipper before a complaint is brought to the STB. The discussion turned to the importance of communication, from both railroads and shippers.

Next, Norfolk Southern focused on the importance of giving railroads sufficient flexibility to introduce additional evidence in a particular case, giving them the opportunity to explain why a “guardrail” was hit and whether it actually justifies a reciprocal switching remedy. Norfolk Southern also referenced a number of technical proposals in its written comments, such as statistical testing.

Finally, Norfolk Southern raised the issue of contract traffic. For both legal and policy reasons, Norfolk Southern encouraged limiting the proposed rule to regulated traffic.

Norfolk Southern thanked Member Primus and staff for the opportunity to discuss the Board’s proposal in EP 711 (Sub-No. 2), and Member Primus thanked the Norfolk Southern team for meeting with him and offering its perspective.