

MULLINS LAW GROUP PLLC*Transportation Solutions for the 21st Century*2001 L Street NW, Suite 720
Washington, DC 20036William A. Mullins
wmullins@mullinslawgroup.net
mullinslawgroup.netTelephone: (202) 663-7850
Direct: (202) 663-7823
Facsimile: (202) 464-9123

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ENTERED
Office of Proceedings
March 11, 2025
Part of
Public Record**VIA E-FILING**Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001Re: Norfolk Southern Railway Company – Control Acquisition – Norfolk & Portsmouth Belt Line Railroad Company, FD No. 36836

Dear Ms. Brown:

Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, “NS”) submit this brief rebuttal letter to CSX Transportation, Inc.’s (“CSXT”) improper reply (designated CSXT-2) to NS’s Reply To CSXT’s Petition to Reject Norfolk Southern’s Minor Application (designated “NS-4”). In the guise of correcting alleged “glaring errors” contained in NS-4, it is CSXT who offers misleading and incorrect information for which NS briefly responds.

First, NS’s statement that the Port of Virginia (“POV”) did not specifically request the Application to be “rejected or supplemented” was entirely accurate. POV did request the Application be re-designated as “significant” but, unlike CSXT, did not specifically request that it be “rejected.” POV’s comments did request that the Board would benefit from a “comprehensive analysis.” However, POV did not specifically or even generally suggest what additional analysis would be required for the Board to undertake such an analysis and did not specifically request that the Application be “supplemented.”

The Board can undertake a “comprehensive analysis” during the merits phase of this proceeding. To the extent that such evidence exists, CSXT and POV can provide their arguments the transaction will cause a “substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States” during the comment period. But as the Board has stated before, in determining whether to accept or reject a minor application, the issue is not the merits of the proceeding, but, whether,

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on its face, does the application “clearly” show no anticompetitive impacts.¹ The Application here does “clearly” show the lack of anticompetitive impacts. Neither CSXT nor the POV present any analysis to show that shippers will see a reduction in their competitive options. POV’s comments simply reflect a preference that rail rates at NIT be lower, which any terminal operator would want. But they do not indicate that the transaction will result in any shipper experiencing a reduction of any existing routing options.

Second, CSXT continues improperly to attempt to relitigate claims that both the U.S. District Court and the Fourth Circuit Court of Appeals found not actionable. It is puzzling that CSXT continues to press these points in this docket given that CSXT is complaining about events that arose out of a 1989 structuring of the NPBL that CSXT itself agreed to and NPBL rate-making in 2010 that CSXT never before flagged for review by this Board and only sought relief for in federal court in 2018. As a result, CSXT’s expressions of concern, along with its failure to produce any corroborating evidence about competitive effects, rings hollow.

Respectfully submitted,

/s/ William A. Mullins

Joseph H. Carpenter
Thomas E. Zoeller
Hanna M. Chouest
NORFOLK SOUTHERN CORPORATION
650 W Peachtree St N.W.
Atlanta, GA 30308
Tel: (470) 571-5208

William A. Mullins
Rose-Michele Nardi
John V. Edwards
MULLINS LAW GROUP PLLC
2001 L St., N.W.
Suite 720
Washington, D.C. 20036
Tel.: (202) 663-7823

March 7, 2025

Attorneys for Norfolk Southern Corporation and
Norfolk Southern Railway Company

cc: Parties of Record

¹ Canadian Pacific Railway Company, Et Al. – Control – Dakota, Minnesota & Eastern Railroad Corp., Et Al., FD 35081, 2007 STB LEXIS 641, *16-*17 (STB served Nov. 2, 2007); Genesee & Wyoming - Control - Rail America, Inc., FD 35654, 2012 STB Lexis 324, *1 (STB served Sept. 5, 2012).