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CSXT-3

June 2, 2025

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: **STB Docket No. NOR 42183, *CSX Transportation, Inc. v. Norfolk Southern Corporation and Norfolk Southern Railway Company***

STB Docket No. FD 36859, *CSX Transportation, Inc.—Terminal Trackage Rights—Norfolk Southern Railway Company and Norfolk & Portsmouth Belt Line Railroad Company*

Dear Ms. Brown:

CSXT¹ hereby briefly responds to the motions for extension of time filed in the above-referenced proceedings by NS on May 30, 2025. NS has asked the Board for 30-day extensions of time, until July 9, 2025, for NS to file any responsive pleadings in these proceedings that would otherwise be due on June 9, 2025. NS also indicates that it will soon file motions to hold these proceedings in abeyance and that NS will request that the Board stay all pending deadlines in these proceedings until the Board rules on those forthcoming abeyance requests. NS states that its motions for extension of time “will become moot” if the Board issues a stay or holds the proceedings in abeyance.

As an initial matter, it is not clear why NS did not simply file its requests for a housekeeping stay and abeyance rather than the motion for extension of time.

¹ Unless otherwise defined, the acronyms and defined terms used herein are the same as those used in CSX Transportation Inc.’s Complaint, filed on May 20, 2025 in Docket No. NOR 42183, or in CSX Transportation Inc.’s Application for Terminal Trackage Rights, filed on May 20, 2025 in Docket No. FD 36859.

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Counsel for NS did not reach out to counsel for CSXT to request an extension. But had NS made such a request, CSXT would have agreed to, and now would not object to, a ten-day extension, to June 19, 2025, of any otherwise-applicable 20-day deadline in these proceedings.

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However, CSXT strongly objects to NS's clearly-stated strategy of putting off all consideration of CSXT's requests for relief, first through a 30-day extension of time to respond to CSXT's claims, second through an indefinite housekeeping stay that NS will apparently request within days, and third through a forthcoming request that CSXT's claims be put into abeyance. NS's predicate for its requests to put off CSXT's claims is NS's assertion that CSXT's May 20 filings in these proceedings were intended simply to "generate[] chaos" and were "a deliberate attempt to 'flood the zone' so as to prevent, delay, or frustrate" NS's preparation of an amended request for authority to control NPBL.

But NS has it entirely upside-down. CSXT is the aggrieved party here, not NS. CSXT is the victim of NS's anticompetitive conduct enabled by NS's on-going, unlawful control of NPBL. CSXT has been frozen out of access to the important NIT intermodal terminal by NS's continuing unlawful conduct, to the serious harm and detriment of shippers and the Port of Virginia. CSXT is the party that has suffered and continues to suffer direct economic damages due to NS's unlawful conduct. In short, CSXT is the party that is entitled to seek relief and is entitled to prompt consideration of its claims. The STB should soundly reject NS's efforts to put off consideration of CSXT's claims so that NS can focus its litigation efforts on seeking future immunity, through a control application, for the unlawful control of NPBL that it has admitted to exercising for years.

CSXT would not oppose a short 10-day extension of the schedule for responding to its May 20 filings, but CSXT is strongly opposed to a potentially indefinite extension of the schedule through a housekeeping stay. NS has already sought to obstruct CSXT's efforts to seek relief from NS's unlawful control of NPBL by refusing to engage in any discovery in the NS/NPBL control proceeding. The STB should not countenance NS's continuing desperate efforts to derail CSXT's claims through every procedural mechanism NS can find.

CSXT will respond to NS's forthcoming request to put CSXT's claims into abeyance when we see NS's arguments. In the meantime, the STB should not accede to NS's request to delay consideration of CSXT's claims for 30 days or potentially indefinitely through a housekeeping stay.

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Respectfully submitted,
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Office of Proceedings
/s/ Peter W. Denton
June 2, 2025
Peter W. Denton
Part of
Attorney for CSX Transportation, Inc.
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cc: Parties of record

CERTIFICATE OF SERVICE

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I hereby certify that I have caused this Letter in Docket Nos. NOR 42183 and FD 36859 to be served electronically or by first class mail, postage pre-paid, on all parties of record in these proceedings.

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Sally Mordi

Attorney for CSX Transportation, Inc.

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