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ENTERED

Office of Chief Counsel

August 26, 2025

August 26, 2025

Part of

NS-24

Public Record

VIA E-FILING AND EMAIL

Chief of Case Administration

Office of Chief Counsel

Surface Transportation Board

395 E Street, SW

Washington, DC 20423-0001

Administrative Law Judge Soulikias

Surface Transportation Board

395 E Street, SW

Washington, DC 20434-0001

Email: alj.soulikias.inbox@stb.gov

Re: FD 36836, Norfolk S. Corp. & Norfolk S. Ry. Co. – Acquisition of Control – Norfolk & Portsmouth Belt Line Rr. Co.

Dear Judge Soulikias:

In light of intervening events, NS¹ urges prompt attention to the NS-21 Motion to Compel, including but not limited to the NS request for an expedited response to that Motion. NS requests full recognition of the fact that VPA and VIT would be bound by the decision to comply with discovery requests propounded against them.

On August 15, 2025, NS filed NS-21, a Motion to Compel against the POV, including VPA and VIT. That Motion to Compel arose from the fact that POV, and specifically VPA and VIT, refused to respond to discovery propounded against them. VPA and VIT claimed that they were not parties to these proceedings, notwithstanding, for example, VPA's filing of comments on March 5, 2025, submitting arguments and data to support of Board designation of the transaction as a "significant" transaction under the Board's regulatory procedures.² VPA and VIT also claimed that NS had served the wrong party, insofar as POV was not a proper legal entity.

¹ In this letter, Norfolk Southern Corporation and Norfolk Southern Railway Company shall be referred to as "NS," The Port of Virginia shall be referred to as "POV," and is to be read to include the Virginia Port Authority ("VPA") and Virginia International Terminals, LLC ("VIT"), for the reasons further set forth in NS-21 and footnote 2 below. CSX Transportation, Inc. shall be referred to as "CSXT."

² VPA filed both a public and a highly confidential version of the comments. VPA stated that "VPA and VIT do business as The Port of Virginia ("POV")" and that "VIT is a single-member limited liability company wholly owned by the VPA". Comments, submitted March 5, 2025, at 1.

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NS-21's Motion to Compel sought two items. First, it sought an order of the Board expediting POV's, VPA's and VIT's response to the Motion to Compel so that you could weigh the arguments of the Motion to Compel and VPA's and VIT's response. As to this, VPA and VIT failed to respond, except by letter dated August 18, 2025, simply stating that the Board's regulations provided for 20 days to respond (citing 49 CFR 1104.13 (stating that *parties* would have 20 days to respond to pleadings filed with the Board)). VPA and VIT gave no other reason for opposing the NS motion to expedite its response.

The second thing that NS sought was a decision to compel VPA and VIT to respond to discovery. Particularly as to VPA's and VIT's argument that NS had not served the proper party, NS had attempted to accommodate the concern by reformulating and resubmitting on August 15, 2025 the same discovery requests that have been outstanding to them since July 21, 2025. Notwithstanding that accommodation, in that same August 18, 2025, letter referred to immediately above, VPA and VIT stated that it would respond to that discovery by yesterday, August 25.

VPA and VIT did, in fact, respond to that discovery yesterday, and did so by once again reiterating its refusal to engage at all in discovery. In sum, discovery served on POV, including VPA and VIT, has been outstanding since July 21, 2025, with little more to show for things other than further delay and a statement that VPA and VIT do not intend even to respond to a motion to compel a response until September 4, with a decision and document production to follow sometime after that. For the reasons stated in NS-21, POV and VPA and VIT should all be considered the same entity and they should be required to respond expeditiously to the Motion to Compel.

Sincerely,

//s// John V. Edwards

John V. Edwards

cc: Parties of Record