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SERVICE DATE – SEPTEMBER 25, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42183¹

CSX TRANSPORTATION, INC. v. NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

Docket No. FD 36859

CSX TRANSPORTATION, INC.—TERMINAL TRACKAGE RIGHTS—
NORFOLK SOUTHERN RAILWAY COMPANY AND
NORFOLK & PORTSMOUTH BELT LINE RAILROAD COMPANY

Docket No. AB 290 (Sub-No. 299X)

NORFOLK SOUTHERN RAILWAY COMPANY—DISCONTINUANCE OF
SERVICE EXEMPTION—IN CHESAPEAKE, VA.

Docket No. AB 1024X

NORFOLK & PORTSMOUTH BELT LINE RAILROAD
COMPANY—DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION—IN
CHESAPEAKE, VA.

Digest:² This decision grants a motion to hold the proceedings in abeyance.

Decided: September 25, 2025

CSX Transportation, Inc. (CSXT), has initiated a series of proceedings related to the control of Norfolk & Portsmouth Belt Line Railroad Company (NPBL) by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). In Docket No. NOR 42183, CSXT filed a complaint pursuant to 49 U.S.C. §§ 11701 and 11704 and 49 C.F.R. § 1111.2 against NS, alleging that NS has exercised and continues to exercise unlawful control of NPBL, and that NS unlawfully removed certain track assets without first obtaining

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience.

² The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

abandonment authority from the Board (the Complaint Proceeding). In Docket No. FD 36859, CSXT filed an application under 49 U.S.C. § 11102 for terminal trackage rights over certain lines owned by NS and NPBL in the Norfolk, Va., and Chesapeake, Va., areas (the CSXT Trackage Rights Proceeding). In Docket Nos. AB 290 (Sub-No. 299X) and AB 1024X, CSXT filed a petition to reject or reopen and revoke the notices of exemption for NS to discontinue service over, and NPBL to discontinue trackage rights over, certain track in Chesapeake (the Discontinuance Proceedings). The Complaint Proceeding, the CSXT Trackage Rights Proceeding, and the Discontinuance Proceedings will be referred to collectively as the Related Proceedings. This decision grants a motion filed by NS to hold the Related Proceedings in abeyance.

BACKGROUND³

On February 14, 2025, in Norfolk Southern Corp.—Acquisition of Control—Norfolk & Portsmouth Belt Line Railroad, Docket No. FD 36836 (the Control Proceeding), NS filed a submission, styled as an application for a “minor” transaction, seeking the Board’s authorization of its acquisition of control of NPBL. NPBL is a terminal switching company that operates approximately 36 miles of rail line from Portsmouth, Va., to Norfolk, and approximately 27 miles of trackage rights over NS track from Norfolk to Chesapeake (the NPBL Trackage Rights). See NS Prefiling Notification 12-23, 42, Norfolk S. Corp.—Acquis. of Control—Norfolk & Portsmouth Belt Line R.R., FD 36836.⁴ The NPBL Trackage Rights facilitate NPBL’s access to the Norfolk International Terminal (NIT), which is the larger of the two primary container terminals at the Port of Virginia in or about the Hampton Roads area. Id. at 58, 60.

NPBL is currently owned by NS (57.14%) and CSXT (42.86%). Id. at 12. According to NS, it has had effective control over NPBL for over 42 years and filed its February 14, 2025 submission to “legally effectuate a corporate and shareholder structure that has been in place since 1982.” Id. at 7-8. On February 27, 2025, CSXT filed a petition to reject NS’s submission, arguing that it would be inappropriate to treat the transaction as a minor transaction given “serious competitive effects involving NS’s unauthorized control of NPBL.” CSXT Pet. to Reject CSXT-1-18, CSXT-1-20 to CSXT-1-24, Norfolk S. Corp.—Acquis. of Control—Norfolk & Portsmouth Belt Line R.R., FD 36836. By decision served March 14, 2025, and published in the Federal Register on March 17, 2025 (90 FR 12440), the Board found that the transaction in the Control Proceeding should be classified as a “significant” transaction, treated the submission as a prefiling notification for a significant transaction, and stated that NS could perfect its application by supplementing the February 14, 2025 submission. See Norfolk S. Corp.—Acquis. of Control—Norfolk & Portsmouth Belt Line R.R., FD 36836, slip op. at 7-8 (STB served Mar. 14, 2025). On June 13, 2025, NS supplemented its February 14, 2025 submission, and on

³ For additional details on the facts underlying these proceedings, see Norfolk Southern Corp.—Acquisition of Control—Norfolk & Portsmouth Belt Line Railroad (Decision No. 7), FD 36836, slip op. at 2-5 (STB served July 10, 2025).

⁴ Applicants’ February 14, 2025 submission will be referred to as the Prefiling Notification. Citations to pleadings on the record will reference the cumulative page numbers contained therein to the extent they are available.

June 20, 2025, CSXT filed a petition to reject NS's application as incomplete. By decision served and published in the Federal Register on July 10, 2025 (90 FR 30763), the Board accepted the supplemented submission for consideration as an application for a significant transaction. Decision No. 7, FD 36836, slip op. at 3, 7. Pursuant to the procedural schedule, CSXT filed a description of its anticipated responsive application on August 12, 2025. CSXT subsequently filed its responsive application, with an application for terminal trackage rights, as well as a reply in opposition to NS's application on September 18, 2025.

On May 20, 2025, CSXT filed its complaint in the Complaint Proceeding, alleging that NS has exercised and continues to exercise unlawful control of NPBL, and that NS unlawfully removed certain track assets without first obtaining abandonment authority from the Board.⁵ (CSXT Compl. CSXT-1-6, CSXT-1-8, NOR 42183.) CSXT requests that the Board (1) find that NS's control of NPBL violates 49 U.S.C. § 11323(a)(3) and order NS to divest control of NPBL; (2) find that NS removed certain track assets associated with the Connecting Line in violation of 49 U.S.C. § 10903 and order NS to reinstall and rehabilitate those track assets, restore its service over the Connecting Line, and permit NPBL to restore its trackage rights over the Connecting Line; (3) award CSXT damages, including interest; (4) apply civil penalties on NS pursuant to 49 U.S.C. § 11901(a); and (5) award such other relief as the Board deems just and proper under the circumstances. (Id. at CSXT-1-8, CSXT-1-32.)

Also on May 20, 2025, in the CSXT Trackage Rights Proceeding, CSXT filed an application for terminal trackage rights over certain lines owned by NS and NPBL in Norfolk and Chesapeake. CSXT states that it is seeking terminal trackage rights over those lines, which would allow it to serve NIT directly, because NS, "through its unauthorized control over and collusion with NPBL, has prevented CSXT from using NPBL switching services to compete with [NS] for freight to and from NIT." (CSXT Appl. for Terminal Trackage Rts. CSXT-1-5, May 20, 2025, FD 36859.)

On June 2, 2025, NS filed a motion to hold the Complaint Proceeding and the CSXT Trackage Rights Proceeding in abeyance and a petition for housekeeping stay to toll the deadlines in those cases until the Board rules on the motion for abeyance. By decision served June 5, 2025, NS's petition for housekeeping stay was granted, and the procedural deadlines in the Complaint Proceeding and the CSXT Trackage Rights Proceeding were tolled pending further order of the Board. CSX Transp., Inc. v. Norfolk S. Ry., NOR 42183 et al, slip op. at 3 (STB served June 5, 2025).

In its motion for abeyance, NS argues that the Board should hold the Complaint Proceeding, the CSXT Trackage Rights Proceeding, and any further related actions by CSXT⁶ in

⁵ CSXT alleges that NS removed a double diamond at NS Junction and a connection at Carolina Junction, which rendered the line connecting those points (the Connecting Line) unusable. (CSXT Compl. CSXT-1-8, CSXT-1-19 (Ex. 2-F Map), NOR 42183.)

⁶ More specifically, NS requests that the Board's decision regarding the requested abeyances also apply to any further actions by CSXT that relate to the Control Proceeding or Norfolk Southern Railway—Petition to Set Trackage Rights Compensation—Norfolk &

abeyance pending resolution of the Control Proceeding. (NS Mot. for Abeyance 4, NOR 42183 et al.) According to NS, CSXT's cases involve the same issues and facts, and certain relief that CSXT seeks in the Complaint Proceeding and the CSXT Trackage Rights Proceedings may be sought as potential conditions in the Control Proceeding. (*Id.*) NS argues that processing the proceedings at the same time would be inefficient and could lead to inconsistent evidentiary records and results. (*Id.* at 12-13.) NS further argues that CSXT has filed these cases to delay Board action in the Control Proceeding and the NS/NPBL Trackage Rights Compensation Proceeding. (*Id.* at 10-11.)

On June 9, 2025, in the Discontinuance Proceedings, CSXT filed a petition to reject or reopen and revoke the notices of exemption for NS to discontinue service over, and NPBL to discontinue trackage rights over, the Connecting Line. According to CSXT, the 0.90-mile Connecting Line enabled the efficient movement of traffic between an NPBL yard and the tracks leading to NIT. (CSXT Pet. to Reject or Reopen CSXT-1-13, June 9, 2025, AB 290 (Sub-No. 299X) et al.) CSXT alleges that the discontinuances and NS's subsequent removal of certain track assets associated with the Connecting Line were "efforts to exclude CSXT from effective access to NIT via unlawful control of NPBL." (*Id.* at CSXT-1-13 to CSXT-1-14.) CSXT requests that the Board reject the notices as void ab initio, (*id.* at CSXT-1-25 to CSXT-1-29), or alternatively, reopen the proceedings and revoke the exemptions, (*id.* at CSXT-1-29 to CSXT-1-32).

On June 12, 2025, CSXT replied in opposition to NS's combined motion for abeyance.⁷ CSXT argues that holding the Related Proceedings in abeyance would be fundamentally unfair to CSXT because it is suffering economic damages and other harm from "NS's unlawful control of NPBL, the effect of which has been to keep CSXT from effectively competing for business at the important NIT terminal." (CSXT Reply to Mot. for Abeyance 5, NOR 42183 et al.) CSXT further argues that abeyance would be inefficient because the parties and the Board would be required to develop the record in the Related Proceedings after they have already done so in the Control Proceeding. (*Id.* at 7-8.) According to CSXT, NS's motion for abeyance is an effort to delay Board action "to restore the proper competitive balance at NIT." (*Id.* at 10.)

By decision served June 13, 2025, the housekeeping stay issued in the Complaint Proceeding and the CSXT Trackage Rights Proceeding was extended to apply to the Discontinuance Proceedings, and the deadlines in the Discontinuance Proceedings were tolled pending further order of the Board. See CSX Transp., Inc. v. Norfolk S. Corp., NOR 42183 et al., slip op. at 3 (STB served June 5, 2025).

Portsmouth Belt Line Railroad, Docket No. FD 36223, a case in which NS petitioned the Board to set the compensation terms for the NPBL Trackage Rights (the NS/NPBL Trackage Rights Compensation Proceeding).

⁷ CSXT states in its reply that it expects that the Board will treat the Discontinuance Proceedings consistent with the Complaint Proceeding and the CSXT Trackage Rights Proceeding for purposes of abeyance and scheduling. (See CSXT Reply to Mot. for Abeyance 2 n.2, NOR 42183 et al.)

DISCUSSION AND CONCLUSIONS

“The Board has broad discretion to determine whether to hold a proceeding in abeyance, and its decision ‘to do so in any particular situation is highly dependent on the facts and circumstances of the case.’” Pet. of the Nat’l R.R. Passenger Corp. for Relief Pursuant to 49 U.S.C. § 24905, FD 36048, slip op. at 3 (STB served Oct. 3, 2016) (quoting E.I. DuPont de Nemours & Co. v. Norfolk S. Ry., NOR 42125 et al., slip op. at 4 (STB served Nov. 29, 2012); see also Ballard Terminal R.R.—Pet. for Declaratory Order, FD 36261, slip op. at 4-5 (STB served June 27, 2019); Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council, Inc., 435 U.S. 519, 543 (1978) (“Absent constitutional constraints or extremely compelling circumstances, the ‘administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.’”) (quoting FCC v. Schreiber, 381 U.S. 279, 290 (1965)). In deciding whether to hold a docket in abeyance, the Board considers whether abeyance would promote efficiency and whether it would be fundamentally unfair to any party. E.g., Ballard Terminal R.R.—Pet. for Declaratory Ord., FD 36261, slip op. at 4 (STB served June 27, 2019).

Here, holding the Related Proceedings in abeyance, so that the Board can first address the Control Proceeding, would promote efficiency. NS currently owns a majority interest in NPBL without having obtained the required Board authorization and has filed an application in the Control Proceeding in an effort to remedy that omission. The Control Proceeding involves similar parties, subject matter, and underlying facts as the Related Proceedings, and CSXT has raised in the Control Proceeding many of the same arguments that it now raises in the Related Proceedings. See, e.g., CSXT Pet. to Reject CSXT-1-20 to CSXT-1-23, Norfolk S. Corp.—Acquis. of Control—Norfolk & Portsmouth Belt Line R.R., FD 36836 (alleging that NS has exercised its unlawful control of NPBL to prevent CSXT from effectively competing for intermodal traffic at NIT). Notably, CSXT also has sought in the Control Proceeding almost all of the same relief that it has requested in the Related Proceedings.⁸ CSXT has asked the Board in the Control Proceeding to reject or deny NS’ application and, if the Board approves the application, to impose conditions, including conditions providing for (1) trackage rights over NS’s and NPBL’s lines on behalf of CSXT, (2) restoration of the physical assets comprising the Connecting Line, and (3) restoration of NPBL’s trackage rights over the Connecting Line. (CSXT Reply in Opposition 110-116, Sept. 18, 2025, FD 36836.) CSXT has also filed in the Control Proceeding a responsive application for terminal trackage rights. (Responsive Application, Sept. 18, 2025, FD 36836.) These requests in the Control Docket would duplicate the relief requested by CSXT in the Related Proceedings.⁹ As CSXT itself has acknowledged “[t]he Board could theoretically grant through the [Control Proceeding] certain of the forms of relief requested by CSXT in its affirmative cases.” (See id. at CSXT-1-3, NOR 42183.) With respect to the CSXT Trackage Rights Proceeding, CSXT specifically states that “[i]f the Board

⁸ The exception being damages and penalties requested by CSXT in the Complaint Proceeding.

⁹ In the Related Proceedings, CSXT seeks trackage rights in the Complaint Proceeding and the CSXT Trackage Rights Proceeding, restoration of the track assets and service over the Connecting Line in the Complaint Proceeding and the Discontinuance Proceedings, and changes to the control structure of NPBL in the Complaint Proceeding.

grants CSXT's anticipated responsive application, the [CSXT] Trackage Rights Proceeding would be moot." (CSXT Description of Anticipated Responsive Appl. 2, Aug. 12, 2025, FD 36836.)

The procedural schedule adopted in the Control Proceeding provides for extensive briefing and comment on the competitive impacts associated with NS's acquisition of control of NPBL. The Board finds that it would be inefficient for the parties to brief, and the Board to consider, overlapping issues and requests for relief in multiple dockets, when those same issues and requests could be addressed in a single docket. See Mobil Oil Expl. & Producing Se., Inc. v. United Distrib. Cos., 498 U.S. 211, 230 (1991) ("An agency enjoys broad discretion in determining how best to handle related, yet discrete, issues in terms of procedures and priorities.").

Abeyance here would not be fundamentally unfair to any party to the proceedings. The Board can address most issues and requests for relief in the Control Proceeding. Any outstanding issues in the Related Proceeding can be addressed following resolution of the Control Proceeding. Indeed, resolution of the Control Proceeding could moot some of the issues raised in the Related Proceedings.

For these reasons, the Board will grant NS's motion and hold the Related Proceedings in abeyance. All applicable deadlines in the Related Proceedings will be tolled pending further order of the Board.

It is ordered:

1. NS's motion is granted, and the Related Proceedings are held abeyance.
2. All applicable deadlines will be tolled pending further order of the Board.
3. This decision is effective on the date of service.

By the Board, Board Members Fuchs, Hedlund, and Schultz.