

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

THOMAS J. LITWILER
(312) 252-1508
tlitwiler@fletcher-sippel.com

November 20, 2025

310335

NPBL-7

VIA ELECTRONIC FILING

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Chief Counsel
November 20, 2025
Part of
Public Record

Re: **Docket No. FD 36836**
Norfolk Southern Corporation and Norfolk Southern
Railway Company – Acquisition of Control –
Norfolk and Portsmouth Belt Line Railroad Company

Dear Case Administration Chief:

Norfolk and Portsmouth Belt Line Railroad Company (“NPBL”) hereby replies to the Evidence and Argument in Opposition to the NS Control Application (CSXT-22, or “CSXT Opposition”) filed by CSX Transportation, Inc. (“CSXT”) in this significant control proceeding. NPBL does not take a position on the merits of the application filed by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, “NS”) seeking STB control authorization with respect to NPBL. NPBL nonetheless submits this brief filing to correct the record with respect to certain mischaracterizations of NPBL in the CSXT Opposition.

As it has previously, CSXT asserts that the trackage rights compensation proceeding pending – but currently stayed – before the Board in Docket No. FD 36223¹ is “part of the anticompetitive scheme NS has perpetuated to manipulate and conspire with NPBL to exclude CSXT from on-dock rail access at [Norfolk International Terminals].” CSXT Opposition, CSXT-22 at 56.² See also, e.g., CSXT-22 at 89-90 (same); CSXT-22 at 57, n.20 (reciting CSXT’s argument that the trackage rights compensation case should be dismissed “in order to protect the

¹ *Norfolk Southern Railway Company – Petition to Set Trackage Rights Compensation – Norfolk and Portsmouth Belt Line Railroad Company*, Docket No. FD 36223 (“NSR Compensation”).

² Page citations to the CSXT-22 pleading refer to the sequential page numbering in the bottom right corner of each page.

FLETCHER & SIPPEL LLC

Chief of Case Administration
November 20, 2025
Page 2

NPBL-7

integrity of [the STB's] processes from abuse by parties seeking an anticompetitive goal"); CSXT-22 at 116, n.47.

NPBL has addressed at some length these mischaracterizations of its role and participation in the *NSR Compensation* proceeding, and reincorporates that discussion here. See Reply of NPBL to CSXT's Petition to Reject NS's Minor Application (NPBL-1), filed March 10, 2025. NPBL rejects any notion that its participation in the trackage rights compensation proceeding has been in anything other than good faith and in aggressive defense of NPBL's own interests.

Certain other CSXT arguments regarding the availability of NPBL's switching services for movement of CSXT intermodal traffic to NIT are addressed in the Reply of NPBL to Application for Terminal Trackage Rights (NPBL-6), filed concurrently herewith. In addition, NPBL takes issue with a number of other statements in the CSXT Opposition:

- While CSXT improperly characterizes NPBL's switching rate as "prohibitively expensive," CSXT-22 at 87, CSXT currently pays the \$210/car charge for non-intermodal deliveries on NPBL's lines to NIT every week.
- While CSXT asserts that NPBL can support a reduced rate for CSXT intermodal traffic by considering only the variable cost of that particular move, CSXT-22 at 87, CSXT ignores the need for cost recovery to be spread across overall expenses of the railroad.
- While CSXT characterizes the District Court's dismissal of CSXT's antitrust claims solely as a statute of limitations holding, CSXT-22 at 59-60, the Court also found that CSXT offered no evidence of actionable antitrust conduct by NPBL.

NPBL does not mean by this limited response to indicate that it agrees with the balance of CSXT's Opposition or other aspects of the CSXT responsive application for terminal trackage rights (CSXT-23). Indeed, NPBL opposes CSXT's request for terminal trackage rights over a line of NPBL, as extensively detailed in the NPBL-6 reply filing. NPBL merely wants the record with respect to the underlying NS-NPBL control question to be clear regarding NPBL's participation in and approach to the *NSR Compensation* proceeding and certain mischaracterizations by CSXT.

FLETCHER & SIPPEL LLC

Chief of Case Administration
November 20, 2025
Page 3

NPBL-7

I certify that a copy of this filing has been served by electronic mail or first-class mail, postage prepaid, on all parties of record in this docket.

Respectfully submitted,

/s/ *Thomas J. Litwiler*

Thomas J. Litwiler
Attorney for Norfolk and Portsmouth
Belt Line Railroad Company

TJL:tl

cc: Parties of Record
Hon. Jenifer Soulikias, ALJ