

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36836

ENTERED
Office of Chief Counsel
December 11, 2025
Part of
Public Record

**NORFOLK SOUTHERN CORPORATION &
NORFOLK SOUTHERN RAILWAY COMPANY
– ACQUISITION OF CONTROL –
NORFOLK & PORTSMOUTH BELT LINE RAILROAD COMPANY**

MOTION TO SET A PAGE LIMIT FOR BRIEFS

**Joseph H. Carpenter
Thomas E. Zoeller
Hanna M. Chouest
Julianne C. Freeman
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**

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**Attorneys for Norfolk Southern
Corporation and Norfolk Southern Railway
Company**

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MOTION TO SET A PAGE LIMIT FOR BRIEFS

Norfolk Southern Corporation and Norfolk Southern Railway Company (“NS”) hereby respectfully move the Board to impose a 25 page limit on briefs in this proceeding. The issues before the Board are well known, thoroughly developed, and do not present novel or complex questions requiring extended discussion. Limiting the length of submissions will promote efficiency, avoid unnecessary repetition, and ensure a focused record that facilitates timely resolution. This approach serves the interests of all parties by providing a fair and balanced process while advancing the Board’s commitment to administrative efficiency and effective case management.¹

The Board’s rules regarding final briefs are noticeably silent regarding the topic of page limits.² Therefore, the Board should look to prior page limits placed on final briefs in similar control, merger, and rate cases for guidance. As seen in recent years, it is typical to set a page

¹ As of this filing, neither NS nor CSXT has previously requested page limits for briefs in this proceeding. However, because of precedent and the particular circumstances of this proceeding, the Board should set a limit of no more than 25 pages for each Party’s brief.

² See generally 49 C.F.R. 1113.18.

limit for final briefs. The usual page limit for briefs is between 25 and 30 pages.³ Additionally, as a matter of principle, the purpose of a brief is to “focus the issues and thereby contribute to greater efficiency in analyzing the record.”⁴ In many cases, such as this one, if the page limit is too high or unlimited, as is currently the case here, parties will use that opportunity to essentially reargue and resubmit their opening and reply comments rather than focusing on the key issues of the case. Allowing unlimited pages in the briefs burdens the Board and frustrates the Board’s ability to efficiently rule on the issues at hand. By limiting the Parties’ briefs to only 25 pages, as has been done in many cases with records substantially more complicated and lengthier than here, the Board and the Parties can focus on the key relevant issues being disputed while simultaneously protecting against any effort to improperly submit new evidence or arguments.

It is unclear whether CSXT will support, object, or simply be silent on this request.⁵ It should be noted that even some of the most complex cases considered by the Board, such as SAC

³ See FMC Wyo. Corp. v. Union Pac. R.R., NOR 42022, slip op. at 2 (STB served July 2, 1999) (“FMC”) (25-page limit); Wisconsin P & L v. Union Pac. R.R. Co., NOR 42051 (served Nov. 15, 2000) (“WPL”) (25-page limit); PPL Montana LLC v. The Burlington Northern and Santa Fe Railway Company, Docket No. 42054, slip op. at 2 (served Dec. 12, 2001) (25-page limit); Canadian Pacific Railway Limited; Canadian Pacific Railway Company; Soo Line Railroad Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; and Delaware & Hudson Railway Company, Inc. --Control-- Kansas City Southern; The Kansas City Southern Railway Company; Gateway Eastern Railway Company; and The Texas Mexican Railway Company, Docket No. FD 36500, n. 199 (STB served March 14, 2023) (“Decision No. 35”) (30-page limit); Arizona Electric Power Cooperative, Inc. v. The Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company, STB Docket No. 42058, slip. op. at 2 (STB served August 2, 2004) (30-page limit). There is also some precedent for briefs to be set at an even lower page limit. See McCarty Farms v. Burlington Northern, Inc., ICC Docket No. 37809, 1987 ICC Lexis 94 (Oct. 21, 1987) (“McCarty”) (20-page limit).

⁴ WPL, slip. op. at 1.

⁵ Counsel for NS reached out to outside counsel to NPBL and CSXT to seek consent to this motion. NPBL has provided consent. Counsel for CSXT simply stated that it had no plans to request a page limit on the briefs and did not indicate what position it would take with respect to any motion to limit the pages for the brief.

cases, which take years and have hundreds of thousands of pages of argument, witness statements, exhibits, and spreadsheets have a 30 page limit on briefs. 49 CFR 1111.9(b)(2). Moreover, the CSXT/Pan Am case had a 20 page limit on final briefs. CSX Corporation And CSX Transportation, Inc., Et Al.--Control And Merger--Pan Am Systems, Inc., Pan Am Railways, Inc., Boston And Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, And Vermont & Massachusetts Railroad Company, FD 36472 (Sub-No. 1) (STB served Dec. 10, 2021)

The issues in the present case are fairly well set out, and are neither new, novel nor complex. Even in those cases that have had novel and complex issues the Board limited the briefs to 25-pages.⁶ As the Board stated in Sunbelt Chlor Alkali Partnership v. Norfolk Southern Railway Company (a proceeding in which the Board initially imposed a 30-page limit on final briefs) it “requires final briefs to narrow and focus the issues for the Board’s benefit in analyzing the record, not to allow parties to answer allegedly improper rebuttal or have the ‘last word’ on matters presented in the record, however novel or complex they may be.”⁷ The Board gave similar guidance in Arizona Electric Power Cooperative, Inc. v. The Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company when it explained “[i]n complex cases such as this one, the purpose of briefs is to identify issues that have been narrowed or are no longer in dispute; put into perspective the principal issues that remain; and

⁶ See generally FMC, 4 S.T.B. 699, 753-55 (2000); WPL, 5 S.T.B. 955, 968-73 (2001); PPL Mont., LLC v. Burlington N. & Santa Fe Ry., 6 S.T.B. 286, 297-300 (2002).

⁷ Sunbelt Chlor Alkali Partnership v. Norfolk Southern Railway Company, Docket No. NOR 42130 (STB served July 15, 2013).

summarize the key evidence to assist the Board in navigating through the record.”⁸ The Board even went further to specify that “new evidence is not permitted in briefs and will be subject to motions to strike and other sanctions.”⁹ In other words, a final brief is only meant to narrow the Board’s focus on the most key issues—not expand the scope of the issues at hand by inserting new evidence and arguments, or chasing every rabbit down every rabbit hole.

In light of the Board’s precedent, it should publish a similar order here. In this case, 25 pages would be more than adequate. The record of this proceeding has been well developed, there are few parties of record, two of whom consent to this motion, and the two principle parties have filed dozens of documents. Both CSXT and NS have had ample time and opportunities to present any new arguments that they may have. A page limitation on the final briefs incentivizes the parties to focus their arguments and avoid unnecessary repetition of all the previous filings. In light of the substantial pleadings, neither party should have the need for more than 25 pages in their final briefs to summarize their key points, arguments, and evidence.

Additionally, limiting the final briefs to 25 pages each would not cause any prejudice to any Party. CSXT has already submitted thousands of pages of evidence, including their own arguments, as well as other material. Furthermore, VPA and VIT, who continually assert that they are not parties, will not face any prejudice from this ruling.

For the foregoing reasons, Norfolk Southern respectfully requests that the Board grant this Motion and permit the filing of briefs with page limits as proposed herein. Doing so will ensure that the parties can fully address the issues presented in this proceeding without

⁸ Arizona Electric Power Cooperative, Inc. v. The Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company, STB Docket No. 42058, slip. op. at 2 (STB served August 2, 2004).

⁹ *Id.*

sacrificing clarity or completeness. Norfolk Southern further requests that the Board issue an order confirming these page limits at the earliest opportunity to facilitate timely and efficient submissions.

Respectfully submitted,

/s/ William A. Mullins

Joseph H. Carpenter
Thomas E. Zoeller
Hanna M. Chouest
Julianne C. Freeman
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

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Attorneys for Norfolk Southern Corporation
and Norfolk Southern Railway Company

CERTIFICATE OF SERVICE

I certify that, on December 11, 2025, in accordance with Decision No. 12, I have caused to be served a copy of Norfolk Southern Corporation's and Norfolk Southern Railway Company's Motion To Set Page Limits On Briefs upon the Secretary of the Department of Transportation, the Attorney General of the United States, and all Parties of Record.

/s/ William A. Mullins

William A. Mullins

Attorney for Norfolk Southern Corporation and
Norfolk Southern Railway Company