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Office of Chief Counsel
January 6, 2026
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Public Record

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January 6, 2026

VIA ELECTRONIC FILING

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

Re: **Docket No. FD 36836 (~~Sub No. 1~~)**
CSX Transportation, Inc. – Terminal Trackage Rights –
Norfolk Southern Railway Company and
Norfolk and Portsmouth Belt Line Railroad Company

Dear Case Administration Chief:

Attached for filing in the above-captioned proceeding is the **Final Brief of Norfolk and Portsmouth Belt Line Railroad Company (NPBL-10)**, dated January 6, 2026.

If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,

/s/ *Thomas J. Litwiler*

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

TJL:tl

Attachment

cc: Parties on Certificate of Service
Hon. Jenifer Soulikias, ALJ

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36836 (~~SUB NO. 1~~)

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

**FINAL BRIEF OF
NORFOLK AND PORTSMOUTH BELT LINE RAILROAD COMPANY**

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**ATTORNEYS FOR
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LINE RAILROAD COMPANY**

Dated: January 6, 2026

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36836 (~~SUB-NO. 1~~)

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

**FINAL BRIEF OF
NORFOLK AND PORTSMOUTH BELT LINE RAILROAD COMPANY**

In accordance Decision No. 12 served on November 17, 2025 in Docket No. FD 36836, Norfolk and Portsmouth Belt Line Railroad Company (“NPBL”) hereby submits this final brief with respect to matters relevant to NPBL. NPBL does not take a position on the merits of the underlying application filed in Docket No. FD 36836 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, “NS”) seeking STB control authorization with respect to NPBL. As NPBL has previously explained, however, NPBL opposes the Application for Terminal Trackage Rights (CSXT-23) filed by CSX Transportation, Inc. (“CSXT”) as a responsive application in Docket No. FD 36836 (Sub-No. 1). *See* Reply of NPBL to Application for Terminal Trackage Rights (NPBL-6), filed November 20, 2025.¹ NPBL incorporates that filing here by reference.

CSXT’s responsive application seeks terminal trackage rights over a key segment of NPBL’s trackage extending from a connection with CSXT at Seaboard Junction in Portsmouth, Virginia across the Southern Branch of the Elizabeth River and through NPBL’s Berkley Yard to

¹ CSXT had filed its CSXT-23 responsive application in Docket No. FD 36836, and NPBL filed its NPBL-6 Reply in similar fashion. The Board subsequently indicated that CSXT’s responsive terminal trackage rights application had been redesignated to Docket No. FD 36836 (Sub-No. 1).

a connection with NS at NS Junction in Norfolk, Virginia. That terminal trackage rights request is subject to the statutory criteria of 49 U.S.C. § 11102(a), which provide that an applicant must demonstrate that:

1. The request is for use of “terminal facilities, including main-line tracks for a reasonable distance outside of a terminal.”
2. The use is “in the public interest.”
3. The use is “practicable . . . without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business.”
4. Compensation for the use, either as agreed to by the parties or established by the Board, “shall be paid or adequately secured before a rail carrier may begin to use the facilities”

CSXT’s primary rationale for why use of NPBL’s rail lines would be in the public interest – that is, the need for imposition of terminal trackage rights – is significantly flawed. *See* NPBL-6 Reply at 7-11. CSXT predicates its responsive application on the repeated allegation that NPBL’s reciprocal switching rate is too high to provide CSXT with effective rail access via NPBL to the Port of Virginia’s Norfolk International Terminals (“NIT”), and compels CSXT to dray containers from another CSXT location to NIT. As NPBL has demonstrated, however, the drayage rate for such traffic is in reality more expensive than NPBL’s reciprocal switching rate. NPBL-6 Reply at 8 and Exhibit 1. Ultimately, CSXT has not provided comparative evidence or analysis of the cost of its proposed terminal trackage rights,² its current drayage model, and NPBL’s tariff reciprocal switching rates that would show that CSXT’s trackage rights proposal would be comparatively more cost-effective than available transport options it seeks to avoid.

² This is particularly the case given that CSXT has asked the Board to defer determination of the actual trackage rights fee that it will pay to utilize NPBL’s lines to a later date.

With respect to the practicability and substantial impairment standards of the terminal trackage rights statute, CSXT elected in its responsive application to provide no actual operational testimony, data or analysis addressing the feasibility of the trackage rights it seeks.³ Instead, it relied on a categorical legal argument that, because CSXT could hypothetically interchange its intermodal traffic to NPBL for subsequent movement by NPBL to NIT, there could be no operational impacts from CSXT moving such trains itself over NPBL pursuant to terminal trackage rights. Never mind that CSXT itself specifically acknowledges that NPBL would not (and could not) handle CSXT intermodal traffic to NIT in the manner CSXT proposes to do under its sought-after trackage rights – through the operation of two-mile-long intermodal trains. CSXT-23 at 19. CSXT’s blanket legal argument, if credited, would simply write the practicability and substantial impairment standards out of the statute, since there would never be a terminal trackage rights situation where the argument would not apply – all connecting railroads have a common carrier obligation to accept traffic in interchange. That fact alone cannot be sufficient to allow an applicant to satisfy the statutory criteria and obtain terminal trackage rights over a connecting railroad.

As indicated, CSXT’s terminal trackage rights proposal would introduce two-mile-long trains to NPBL’s speed-restricted terminal trackage for six- to twelve-hour preference windows, blocking roadway crossings and drawbridges for significant periods of time and disrupting service to local NPBL industrial customers. NPBL’s Cannon Moss has catalogued in

³ CSXT belatedly and improperly sought to submit such evidence, including a verified statement from a new witness, in CSXT’s rebuttal filing. Consistent with agency precedent, NPBL is addressing that improper rebuttal evidence in its concurrently-filed motion to strike (NPBL-9) rather than in this brief. See *Sunbelt Chlor Alkali Partnership v. Norfolk Southern Railway Company*, Docket No. NOR 42130 (STB served July 15, 2013), slip op. at 2 (“[A] closing brief is not the proper vehicle to raise [arguments addressing allegedly improper rebuttal evidence]. Those arguments should instead be address in a motion to strike.”).

detail and at length the significant operational impediments and disruptions that NPBL's hosting of such trains would entail. NPBL-6, Verified Statement of R. Cannon Moss at 5-17.

Local constituencies have taken notice as well. The Mayor of the City of Portsmouth has outlined "grave concerns" about the CSXT proposal, explaining that it "would impose unacceptable burdens on our residents, compromise public safety, and undermine the very economic development we have worked so hard to achieve." NPBL-8 Letter, filed December 19, 2025, first attachment. Public school officials, military groups, economic development agencies and local bridge operators, among others, have outlined similar concerns and urged the Board not to permit the trackage rights operations that CSXT seeks to have imposed in this proceeding. NPBL-8 Letter, second through ninth attachments.

The Board has experience with railroad applicants – indeed, with this railroad applicant – that failed to adequately acknowledge, consider or address the severe community impacts that their proposals entailed. *See CSX Transportation, Inc. – Acquisition of Operating Easement – Grand Trunk Western Railroad Company*, Docket No. FD 35522 (STB served Dec. 10, 2018), slip op. at 5 (Board Member Miller commenting) ("I would note, however, that carriers should be aware that in future transactions in which the Board considers the impacts a proposed transaction would have on local communities – particularly those involving CSXT – I will certainly look upon their representations with more caution."). In several vital ways, CSXT has failed to justify the terminal trackage rights remedy that it seeks here as well. Regardless of what action the Board may take on NS's underlying application to control NPBL, it should deny CSXT's responsive application seeking terminal trackage rights in this docket.

Respectfully submitted,

/s/ *Thomas J. Litwiler*

By: _____

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**ATTORNEYS FOR
NORFOLK AND PORTSMOUTH BELT
LINE RAILROAD COMPANY**

Dated: January 6, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of January, 2026, a copy of the foregoing **Final Brief of Norfolk and Portsmouth Belt Line Railroad Company (NPBL-10)** was served by electronic or first-class mail, postage prepaid, upon:

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