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CSXT-39

VIA E-FILING

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

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

Dear Chief of Case Administration:

CSXT¹ respectfully submits this letter in response to the December 19, 2025 filing by NPBL regarding CSXT's terminal trackage rights responsive application, which included ten letters from Portsmouth-area stakeholders opposing CSXT's responsive application (NPBL-8 or "Supplemental Response").

The Board's procedural schedule in this case is intended to allow applicants (including responsive applicants such as CSXT) to have the last word regarding their applications. Any responses to CSXT's responsive application were due by November 20, 2025, and CSXT's rebuttal in support of its responsive application was due by December 19, 2025.

On November 20, NS and its controlled subsidiary NPBL each filed a timely response to CSXT's responsive application. CSXT filed its rebuttal on December 19. Three hours after CSXT served its rebuttal on NPBL and other parties of record, NPBL served its Supplemental Response. It appears that NPBL deliberately submitted its Supplemental Response after CSXT filed its rebuttal in order to prevent CSXT from responding to the contentions. At least one of the letters included in the Supplemental Response was dated December 8, yet NPBL withheld it for more than ten days, filing only in the hours after CSXT submitted its rebuttal.

¹ The acronyms and defined terms used herein are the same as those used in the Board's *Decision No. 7*, served on July 10, 2025 in Docket No. FD 36836.

This deprived CSXT of any opportunity to address the Supplemental Response in its rebuttal and undermines the integrity of the Board's application process.²

Ultimately, however, NPBL's submission weighs in favor of granting CSXT's responsive application. First, none of the stakeholders included in the Supplemental Response oppose CSXT's goal of reaching NIT via rail. To the contrary, most of the stakeholders expressly support competitive rail access to the Port of Virginia. (*See, e.g.*, NPBL-8 at 3, 8, 22.) Instead, the stakeholders' concerns appear to relate only to the proposed routing—not to CSXT's right to serve NIT via rail. This reinforces that the public interest favors granting CSXT direct rail access, given that CSXT has been unable to serve NIT directly via NPBL switching.

Second, the Supplemental Response fails to acknowledge NPBL's current operations and potential mitigation strategies for any operational challenges. None of the letters address that CSXT already handles grain trains averaging up to 5,800 feet in length today on the very same line through Portsmouth that is the subject of the responsive application. (V.S. Mayo 6-7.) Those existing grain trains pose the same operational challenges in Portsmouth as intermodal trains that would use the terminal trackage rights sought here. (*Id.* at 7-8.) Not a single stakeholder suggests that the trains moving today create problems for Portsmouth. Contrary to the Supplemental Response, the grain traffic moving today does not prevent children from attending school, restrict the business of local restaurant owners or impair our national security.³

Most importantly, the Supplemental Response makes clear that NPBL has fomented opposition within the Portsmouth community in an effort to actively resist the provision of service for its minority owner CSXT, thereby enabling NPBL's controlling owner, NS, to maintain its monopoly on on-dock rail service at NIT. This is not how an independent terminal railroad should behave.

At bottom, the NPBL Supplemental Response highlights the need for the Board to award CSXT terminal trackage rights if the Board grants the NS control application. CSXT trackage rights access to NIT would yield significant incremental

² CSXT had learned of one the letters from the press and addressed that letter in its December 19, 2025 filing (CSXT-36 at 24 n.20.) Had NPBL honored the procedural schedule, CSXT could have responded to the other nine letters as well.

³ Additionally, CSXT's rebuttal identified multiple strategies to minimize community impact, including the potential for NPBL to operate during off-peak hours (i.e., overnight) and to adopt dispatching protocols that improve throughput. (CSXT-36 at 23-24.) The current nature of traffic on the NPBL line belies the purported concerns expressed in the stakeholder letters.

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revenue for NPBL. But rather than capture that business, NPBL solicited untimely stakeholder letters suggesting that the business should not move on NPBL. NPBL's Supplemental Response reveals its hostility to serving CSXT.

Respectfully submitted,

/s/ Peter Denton

Peter W. Denton

Attorney for CSX Transportation, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have caused this Letter in Docket No. FD 36836 (Sub-No. 1) to be served electronically or by first class mail, postage pre-paid, on the Secretary of Transportation, the Attorney General of the United States, Administrative Law Judge Jenifer Soulikias, Applicants' representative, William Mullins, and all parties of record in this proceeding.

/s/ Jensen Matsuda

Jensen Matsuda

Attorney for CSX Transportation, Inc.

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