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January 20, 2026

ENTERED
Office of Chief Counsel
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Part of
Public Record**VIA E-Filing**Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001ALJ Jenifer Soulikias
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001
Email: alj.soulikias.inbox@stb.govRe: Norfolk S. Corp. & Norfolk S. Ry. Co. – Acquisition of Control – Norfolk & Portsmouth Belt Line Rr. Co., FD 36836, Response to CSXT-41

Dear Chief of Case Administration and ALJ Soulikias,

Norfolk Southern (“NS”) respectfully submits this brief response to the letter CSXT submitted on January 15 2026 (“CSXT-41”) suggesting that “[a]t no prior point to filing its final brief did NS argue that the intermodal exemption removed the Board’s jurisdiction to consider the impact of a control or merger application submitted under 49 U.S.C. § 11324 on intermodal traffic.” CSXT-41 at 1 (emphasis removed). That is simply not true.

Throughout the proceeding, NS repeatedly made the argument in a number of ways, but it perhaps is best summed up in the following: “Indeed, having exempted intermodal containers from regulation, the Board cannot regulate, and a denial of an application involving an allegation of competitive impacts on the international container market is the epitome of regulation, without first revoking the intermodal exemption.” NS-32, at 42, n.131 (citations omitted). As it has done repeatedly throughout this proceeding, CSXT mischaracterizes NS’s arguments.

CSXT is being disingenuous when it argues that NS has only “argued that the intermodal exemption reflects the Board’s view that intermodal traffic is highly competitive,” CSXT-41, at 1 (citing various points in NS-13 and NS-32). CSXT conveniently fails to mention arguments in those same documents where NS discusses the very foundational issue of the Board’s legal ability to deny or condition the transaction based upon alleged harms related to intermodal traffic. *See, e.g.*, NS-13, at 18 (listing as a foundational fact that the Board has acted to alter its fundamental jurisdiction); NS-32, at 224 (“For nearly four decades, intermodal rail traffic has been categorically *exempted from economic regulation* on the presumption that rail carriers do

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not have market dominance over the traffic at issue.”); NS-13, at 28-29 (addressing the Board’s jurisdiction and whether even an anticompetitive intermodal switch rate could even be considered to have an impact on competition in a control transaction); and NS-32, at 10, n.3.

NS has argued throughout this proceeding that intermodal traffic, movements, pricing and other aspects of intermodal competition have been exempted from the Board’s regulatory review and cannot form the basis of a condition or a denial. See also, NS-32, at 10, n.3 (exemption from regulation), id., at 41-42 (drawing a connection between the exemption and the finding of market dominance in competitive markets, a fundamental aspect of review of control transactions), id., VS Fapp, at 224 (same), VS Brennan, at 277 (concerning the 1982 merger being exempt from regulatory oversight), and VS Brennan, at 279 (concerning the Board’s exemption from regulatory review). All of these comments and argument were presented before NS filed its brief. There is nothing “new” about them.

CSXT’s letter not only misrepresents what NS has presented in its brief and throughout the proceeding, but it is a procedurally improper reply to NS’s brief that should be stricken. CSXT had many opportunities prior to the briefs to rebut and reply to NS’s arguments. Having not done so until 9 days after the briefs were filed and after the record has closed, it is CSXT’s filing that should be disregarded, not NS’s arguments in the brief.¹

Respectfully Submitted,

/s/ William A. Mullins

William A. Mullins
Counsel for Norfolk Southern Corporation and
Norfolk Southern Railway Company

cc: Parties of Record

¹ If is accepted into the record, then NS should be allowed to reply to CSXT’s arguments with respect to prior case citations allegedly rebutting NS’s assertions. At this time, NS simply notes that the ICC’s statement in Santa Fe S. Pac. Corp.—Control—S. Pac. Transp. Co., 2 I.C.C.2d 709, 739-40 (1986) was issued before adoption of the full scale intermodal exemption, which was issued in 1989.