

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

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

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

311859

ENTERED
Office of Chief Counsel
July 27, 2026
Part of
Public Record

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

July 27, 2026

VIA ELECTRONIC FILING

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

Re: **Docket No. FD 36223**
Norfolk Southern Railway Company -- Petition to
Set Trackage Rights Compensation -- Norfolk and
Portsmouth Belt Line Railroad Company

Dear Ms. Brown:

Norfolk and Portsmouth Belt Line Railroad Company (“NPBL”), respondent in the above-captioned proceeding, hereby replies to the Petition to End the Abeyance Period and Establish a Procedural Schedule (“NS Motion”) filed on July 6, 2026 by Norfolk Southern Railway Company (“NS”). Consistent with its prior position in this matter in response to efforts by intervenor CSX Transportation, Inc. (“CSXT”) to place or continue to hold the case in abeyance,¹ NPBL supports NS’s request to lift the abeyance and allow the case to now proceed.

NPBL does not concur, however, in NS’s proposed procedural schedule for handling this matter. NS initially proposed a procedural schedule with simultaneous filings of opening evidence by the parties, followed by simultaneous replies and then rebuttal.² The Board itself plainly contemplated such a process as well.³ Now, however, NS proposes sequential filings,

¹ See, e.g., FD 36223, NPBL Reply to CSXT’s Motion to Dismiss or to Continue to Hold in Abeyance, June 24, 2025, at 11-12.

² FD 36223, NS Petition to Set Trackage Rights Compensation, September 13, 2018, at 4-5.

³ “[T]he parties will be directed to confer and submit, either jointly or separately, a non-bifurcated procedural schedule, involving one round of discovery and one round of pleadings that includes opening evidence, replies, and rebuttals.” FD 36223, Decision served March 29, 2019 at 6 (emphasis omitted).

FLETCHER & SIPPEL LLC

Ms. Cynthia T. Brown
July 27, 2026
Page 2

with respondent NPBL and intervenor CSXT each limited to a single filing. NS Motion at 8. NS offers no explanation for, or even acknowledgement of, this significant change in its proposed procedural handling of this matter. NPBL objects to this revised approach, and believes the Board should proceed in the manner previously proposed by NS and endorsed by the Board.⁴

NPBL also believes that the “limited discovery” that NS proposes, NS Motion at 8, would be insufficient to adequately develop the record needed to determine trackage rights compensation in this matter.⁵

Finally, NPBL notes that it continues to disagree with NS’s position that a trackage rights compensation determination in this proceeding should be applied retroactively. NS Motion at 6.⁶

I certify that a copy of this letter has been served by electronic mail on counsel of record in this proceeding.

Respectfully submitted,

/s/ *Thomas J. Litwiler*

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

TJL:tl

cc: Parties of Record

⁴ NPBL continues to believe that a bifurcated procedural schedule – in which the parties first address and the Board establishes the governing valuation methodology under the SSW compensation principles, followed by a determination of the compensation itself – would be more appropriate to frame and limit the issues in this proceeding. See FD 36223, NPBL Reply to Petition to Set Trackage Rights Compensation, October 3, 2018, at 4-6. NPBL acknowledges, however, that the STB has previously declined to adopt such an approach in this matter. FD 36223, Decision served March 29, 2019 at 6.

⁵ See NPBL October 3, 2018 Reply at 5 and 6, n.6; FD 36223, NPBL letter filing, April 18, 2019, at 1-2, NPBL June 24, 2025 Reply at 12, n.13.

⁶ See NPBL October 3, 2018 Reply at 6-7 (Board should not grant retroactive effect to compensation determinations unless the parties consent to retroactivity); see also FD 36223, NPBL Reply to NS Petition for Reconsideration, September 3, 2019, at 3-4.