



Department of Energy
Washington, DC 20585

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Office of Proceedings
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Public Record

August 9, 2019

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001



RE: Docket Nos. 38302S and 38376S

Dear Ms. Brown:

In a decision served on June 28, 2017, the Surface Transportation Board (the Board) approved a settlement agreement in this proceeding between the U.S. Departments of Defense and Energy (the Government) and Norfolk Southern Railway Company. That decision followed an order in these dockets, served August 26, 2013, approving the Government's settlement agreement with BNSF Railway Company, and an order in these proceedings, served August 2, 2005, approving the Government's settlement agreement with Union Pacific Railroad Company.

In a decision served on August 31, 2017, the Board noted that "these dockets remain open, consistent with the Government's request that the proceedings continue to be held in abeyance pending further settlement negotiations." The Board reduced the Government's reporting requirement on the progress of future settlement negotiations with the remaining railroad defendants from the prior quarterly reports that had been in effect since the approval of the Union Pacific settlement to an annual reporting requirement. The Board set September 4, 2018 as the due date for the first such report, with subsequent reports to be due on or about the first day of September thereafter.

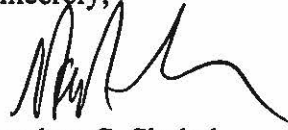
In accordance with the Board's order, the Government reported on September 4, 2018, that we had been actively engaged in the process of awarding a support contract to assist us with rail rate analysis and other technical work needed to support further settlement negotiations in these matters, and that with that support in place, the Government planned to invite CSX Transportation, Inc. ("CSX") to undertake settlement discussions with us. This will update our earlier report, and serve as our annual report for this year in accordance with the Board's order.

In that connection, we would note that, prior to the award of that support contract, the Government held a telephone discussion with CSX on September 26, 2018. Subsequently, the Government was able to complete its procurement activity and recently began engagement with our support contractor, L.E Peabody and Associates, Inc. With



that support now in place, we are in the process of reaching out to CSX to undertake further discussions.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Skubel', with a stylized flourish at the end.

Stephen C. Skubel
Assistant General Counsel
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cc: Attached Service List

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2019, copies of the foregoing document were served by prepaid first-class mail on counsel for the major carrier parties of record and counsel for other parties participating in related proceedings by mailing copies to the following:

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