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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 35743

**APPLICATION OF THE NATIONAL RAILROAD PASSENGER
CORPORATION UNDER 49 U.S.C. § 24308(a) – CANADIAN
NATIONAL RAILWAY COMPANY**

**MOTION OF NORFOLK SOUTHERN RAILWAY COMPANY FOR
LEAVE TO FILE REPLY COMMENTS AS AMICUS CURIAE**

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Dated: March 2, 2018

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Norfolk Southern Railway Company (“Norfolk Southern”) respectfully moves for leave to file the accompanying reply comments as *amicus curiae* in support of Illinois Central Railroad Company and Grand Trunk Western Railroad Company (together, “CN”).¹

Norfolk Southern has a strong interest in the legal issues raised by this proceeding concerning the statutory obligations of host railroads. Norfolk Southern hosts dozens of National Railroad Passenger Corporation (“Amtrak”) trains on its network every day. Amtrak currently operates over Norfolk Southern pursuant to a contractual operating agreement between the parties setting forth their rights and obligations with respect to such access. However, the Surface Transportation Board (“Board”) provides the backstop under 49 U.S.C. § 24308(a) for determining the terms and conditions of Amtrak’s access should either party move to terminate that agreement. As a result, any decision in this proceeding has the potential to impact Amtrak’s access over Norfolk Southern going forward. Indeed, Amtrak has made clear in its filings that it is seeking to create precedent in this proceeding that it would then seek to apply to its relationships with the other host railroads.

¹ See, e.g., *US Magnesium. L.L.C., v. Union Pac. R.R. Co.*, FD 42114, slip op. at n.4 (STB served Jan. 27, 2010) (“The Board has accepted amicus briefs in other similar proceedings.”).

Norfolk Southern's participation will not broaden the issues under consideration in this proceeding. Rather, Norfolk Southern's accompanying comments primarily address legal issues already raised by Amtrak and CN in their opening briefs.² Norfolk Southern is also filing these comments in accordance with the briefing schedule already in place in this case, minimizing any disruption.

Norfolk Southern respectfully requests that the Board grant its motion and accept the accompanying reply comments as *amicus curiae* so that it may comment on some of the important statutory and constitutional issues raised by this proceeding concerning the relationship between Amtrak and the host railroads.

Respectfully submitted,



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Dated: March 2, 2018

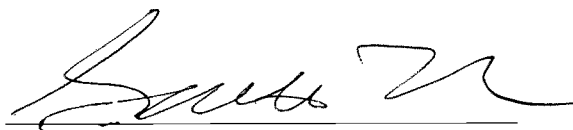
² See *Canexus Chemicals Canada L.P. v. BNSF Railway Company—Emergency Service Order*, FD 35524 et. al. (STB served Oct. 14, 2011) (“CP’s comments are in direct response to issues already raised by the parties in this case. Thus, CP’s participation will not unduly broaden the issues presented.”).

CERTIFICATE OF SERVICE

I certify that on March 2, 2018, the foregoing Motion of Norfolk Southern Railway Company for Leave to File Reply Comments as Amicus Curiae was served electronically upon the following counsel for the following parties:

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A handwritten signature in black ink, appearing to read "Garrett D. Urban", written over a horizontal line.

Garrett D. Urban