

**VanNess
Feldman**



Office of
Proceedings

DECISION ID NO.: 44548

DECIDED DATE: 6/8/15

SERVICE DATE: 6/9/15

APPROVED: Richard D. Campbell
Director

☒ Replies due 7/21/15

Michael F. McBride
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Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Ex Parte No. 727, "Petition of Norfolk Southern Railway Company to
Institute a Rulemaking Proceeding to Address Abuses of Board Processes"

Dear Ms. Brown:

I am an attorney in good standing with the D.C. Bar, and am a longstanding practitioner before the Surface Transportation Board ("Board"). I write with respect to the "Petition of Norfolk Southern Railway Company to Institute Rulemaking Proceeding to Address Abuses of Board Processes," filed by NS on Friday, May 22, 2015, in Ex Parte No. 727.

The NS Petition raises issues of considerable significance, concerning filings by various parties that may, and often do, consume significant Board Member and Staff resources (not to mention the resources of private parties to STB proceedings). Those Board Member and Staff resources are limited, with many other matters also competing for their attention. Therefore, all persons who have or may have business before the Board may have an interest in the NS Petition, if for no other reason than that Board Member and Staff resources devoted to one matter cannot, by definition, be devoted to other matters. Thus, if a filing is "abusive," it necessarily distracts Board Members and Staff from working on other matters that are more appropriate for their consideration.

Speaking only for myself at this point, and without addressing the rules proposed to be adopted by NS, institution of a rulemaking proceeding as requested by NS may be warranted, but I also recognize that many interested parties have not been made aware of the NS Petition, and may wish to be heard concerning it before the Board decides whether to institute a rulemaking proceeding. Whatever one may think of the merits of the NS Petition, I believe providing additional time to file replies to the NS Petition is in the public interest.

Under the Board's Rules of Practice (49 C.F.R. § 1104.13(a), replies to the Petition are due within 20 days, or on or before June 11, 2015, unless otherwise provided by the Board. I respectfully suggest that the Board permit parties an additional 40 days, or until July 21, 2015, to file Replies to the NS Petition. That would still allow the Board 60 days to decide whether to institute a rulemaking proceeding in response to the NS Petition. 49 C.F.R. § 1110.2(d).



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I am authorized to state that John Scheib, Esq., in-house counsel for NS, authorized the undersigned to state that NS has no objection to providing all interested parties until July 21, 2015 to reply to the NS Petition, as requested herein.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Michael F. McBride'.

Michael F. McBride
An Attorney and STB Practitioner

cc: John Scheib, Esq., Norfolk Southern Railway Company