

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED

Office of Proceedings

May 13, 2014

Part of

Public Record

E.I. DUPONT DE NEMOURS & COMPANY

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Defendant.

Docket No. NOR 42125

**NORFOLK SOUTHERN RAILWAY COMPANY’S REPLY TO MOTION FOR
EXTENSION OF PAGE LIMIT**

Norfolk Southern Railway Company (“NS”) respectfully submits this Reply to E.I. du Pont de Nemours and Company’s (“DuPont’s”) Motion for Extension of Page Limit for Petitions for Reconsideration of the Board’s final Decision in this case (served with appendices March 24, 2014) (“Decision”). NS opposes DuPont’s Motion, which requests that the Board more than double the page limit for petitions for reconsideration from 20 pages to 50 pages. 49 C.F.R. §1115.3(d).

As both the Board and DuPont have acknowledged, this case is unprecedented in its complexity and size,¹ resulting in a very large record. Collectively, the parties have submitted over 2,800 pages of narrative argument and evidence in this proceeding, as well as hundreds of exhibits and thousands of workpapers. Both parties also submitted lengthy briefs. Moreover, the parties have filed extensive requests for Technical Corrections to the Decision, which obviates the need to address those issued in a reconsideration petition. In short, the record in this case has

¹ See, e.g., DuPont Motion for Extension of Page Limit, STB Docket No. 42125 at 2, 3 (filed May 9, 2014) (noting that this is the “largest SARR ever presented”); Decision, STB Docket No. 42125 at 2 (served Sept. 11, 2010) (acknowledging the complexity of this proceeding).

been extraordinarily well vetted and has been subjected to extensive analysis and argument by both sides.

In these circumstances, NS respectfully submits that there is no reason to grant DuPont's request for authority to exceed the 20-page limit established by the Board's regulations for petitions for reconsideration. The Board already has before it more than enough data and narrative evidence. The case has been thoroughly scrutinized by all parties. The purpose of petitions for reconsideration is to address changed circumstances, new evidence or material errors in the decision, not to open up the entire case for re-argument. *See* 49 C.F.R. § 1115.3(b). Any petitions for reconsideration should be limited to the 20-pages provided in the regulations.

In the event that the Board disagrees with NS and allows petitions for reconsideration to exceed the 20-page maximum specified by Section 1115.3(d), NS requests that in the interests of fundamental fairness and to permit an appropriate response to arguments made in such petitions, the Board clarify that replies to any petitions for reconsideration be afforded the same number of pages as those permitted for the petitions themselves.

For the foregoing reasons, DuPont's motion for the extension of page limits for petitions for reconsideration should be denied. Alternatively, should the Board rule that such petitions may exceed the 20 page limit specified by the regulations, the Board should make clear that replies to such petitions shall be permitted an equal number of pages.

Respectfully submitted,



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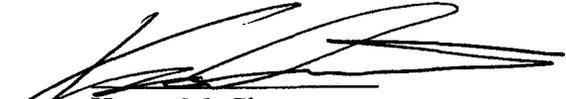
Dated: May 13, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May, 2014, I caused a copy of the foregoing

Reply to Motion for Extension of Page Limit to be served by email and U.S. Mail upon:

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