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April 27, 2015

Ms. Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

VIA ELECTRONIC FILING

RE: STB Finance Docket No. 35873
Norfolk Southern Railway Company – Acquisition and
Operation – Certain Rail Lines of the Delaware and Hudson
Railway Company, Inc.

Dear Ms. Brown:

Delaware and Hudson Railway Company, Inc. (D&H) objects to the April 15, 2015 submission by East of Hudson Freight Service Task Force, Inc. ("Task Force") in the above proceeding.

The Task Force's submission constitutes a reply to a reply which is prohibited by 49 C.F.R. § 1104.13(c) and no legitimate purpose would be served by accepting the unauthorized filing here. As explained in D&H's Reply Comments (filed March 31, 2015), the Task Force is seeking a condition to address preexisting concerns that are not exacerbated or otherwise related to the transaction and therefore are beyond the scope of the Board's conditioning authority. The Task Force's unauthorized reply to a reply does not dispute this threshold issue and therefore has no bearing on the Board's consideration of its request in this proceeding.

Moreover, although the Task Force asks the Board for leave to file its unauthorized reply to a reply based on alleged "inaccuracies," the Task Force's filing primarily rehashes and expands the same arguments that it made in its January 20, 2015 Request for Conditions ("Request"), only this time with alleged factual support (much of which is itself inaccurate) and in twice the number of pages. Such support could have and, under the Board's rules, should have been included in its Request. In any event, the alleged inaccuracies are more in the nature of disagreements over the conclusions to be drawn about the state of competition east of the Hudson rather than a disputation of the underlying facts and do not justify supplemental rounds of filing.

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Accordingly, while D&H takes issue with much of the substance of the Task's Force's reply to a reply, it does not intend further response and asks the Board to deny the Task Force's request for leave to file.

Sincerely,

STINSON LEONARD STREET LLP

A handwritten signature in dark ink, appearing to read "David F. Rifkind", written in a cursive style.

David F. Rifkind

DFR/pva

Cc: Parties of Record

CERTIFICATE OF SERVICE

I, David F. Rifkind, hereby certify that I transmitted a copy of the foregoing correspondence to the following parties by First Class United States mail and by e-mail where an e-mail address is included on the Board's official service list on this 27th day of April 2015.


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