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July 24, 2015

VIA E-FILING

Cynthia T. Brown, Chief
 Section of Administration, Office of Proceedings
 Surface Transportation Board
 395 E Street, SW
 Washington DC 20423-0001

Re: Petition of Norfolk Southern Railway Company To Institute A Rulemaking Proceeding To Address Abuses of Board Practices, EP 727; Norfolk Southern Railway Company – Acquisition and Operation – Certain Rail Lines of The Delaware and Hudson Railway Company, Inc., FD 35873

Dear Ms. Brown:

On July 21, 2015, Samuel J. Nasca, filed Supplemental Comments requesting oral argument in the EP 727 proceeding and in the transaction and discontinuances that are the subject of two embraced proceedings.¹ Should the Board decide that oral argument is necessary with respect to the proposed rulemaking in EP 727, Norfolk Southern Railway Company (“NS”) shall gladly participate as necessary to inform the Board’s decision whether to initiate the rulemaking proceeding. However, NS objects to the request for oral argument in the embraced D&H South Proceeding.

¹ Although not shown as being filed in the embraced dockets, Mr. Nasca’s Supplemental Comments purports to embrace FD 35873, Norfolk Southern Railway Company – Acquisition and Operation – Certain Rail Lines of The Delaware and Hudson Railway Company, Inc. (“D&H South Proceeding”) and AB 156 (Sub-No. 27X), Delaware and Hudson Railway Company, Inc. – Discontinuance of Trackage Rights Exemption – In Broome County, NY; Middlesex, Essex, Union, Somerset, Hunterdon, and Warren Counties, NJ; Cumberland, Chester, Luzerne, Perry, York, Lancaster, Northampton, Lehigh, Carbon, Berks, Montgomery, Northumberland, Dauphin, Lebanon, and Philadelphia Counties, PA; Harford, Baltimore, Anne Arundel, and Prince George’s Counties and Baltimore City, MD; The District of Columbia; Arlington County, and the City of Alexandria, VA (“D&H Discontinuance”).

The Board approved NS's acquisition of 282 miles of rail line owned by the Delaware and Hudson Railway Company in Decision No. 6, served on May 15, 2015, in the D&H South Proceeding because of the overwhelming public benefits of the transaction and the lack of any competitive concerns. Nonetheless, three meritless petitions for reconsideration² have been filed and are currently pending in that proceeding. Nasca requests consolidation of the D&H South Proceeding with EP 727 and the D&H Discontinuance proceeding in order to hold oral argument on all three proceedings. These requests should be rejected because the three proceedings are procedurally and factually incompatible.³ Additionally, Nasca has not asserted any reasons to justify oral argument in the other proceedings and his request was untimely.⁴

Respectfully submitted,



William A. Mullins
Attorney for Norfolk Southern Railway Company

cc: Parties of Record

² PPL Energy Plus, LLC, CNJ Rail Corporation, and Mr. Nasca each filed petitions for reconsideration on June 4, 2015.

³ See Union Pacific Railroad Company – Petition for Declaratory Order, STB Docket No. 34090 (STB served Nov. 9, 2001) (refusing to consolidate proceedings because separate proceedings were procedurally incompatible).

⁴ 49 CFR §1116.1(c).