

EXPEDITED CONSIDERATION REQUESTED

233455
ENTERED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Office of Proceedings
December 5, 2012
Part of Public
Record

EXPEDITED CONSIDERATION REQUESTED

SUNBELT CHLOR ALKALI PARTNERSHIP)

Complainant,)

v.)

NORFOLK SOUTHERN RAILWAY COMPANY)

Defendant.)

Docket No. NOR 42130

**NORFOLK SOUTHERN RAILWAY COMPANY'S CONSENT
MOTION TO MODIFY PROCEDURAL SCHEDULE**

**James A. Hixon
John M. Scheib
David L. Coleman
Christine I. Friedman
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510**

**G. Paul Moates
Paul A. Hemmersbaugh
Terence M. Hynes
Matthew J. Warren
Marc A. Korman
Hanna M. Chouest
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000
(202) 736-8711 (fax)**

Counsel to Norfolk Southern Railway Company

Dated: December 5, 2012

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

SUNBELT CHLOR ALKALI PARTNERSHIP)

Complainant,)

v.)

NORFOLK SOUTHERN RAILWAY COMPANY)

Defendant.)

Docket No. NOR 42130

**NORFOLK SOUTHERN RAILWAY COMPANY'S UNOPPOSED
CONSENT MOTION FOR MODIFICATION OF PROCEDURAL SCHEDULE**

Defendant Norfolk Southern Railway Company ("NS") hereby moves the Board to modify the procedural schedule in the above-captioned case, to provide NS an additional 20 days to file its Reply Evidence. NS also proposes a similar 23-day extension to the deadline for Complainant SunBelt Chlor Alkali Partnership ("SunBelt") to file its Rebuttal Evidence and a 21-day extension in the due dates for Final Briefs. The Rebuttal Evidence and Final Briefs extensions essentially preserve the time intervals in the Board's existing procedural schedule, which was established by a Decision served on November 1, 2012. Counsel for SunBelt has authorized counsel for NS to state that SunBelt does not object to this Motion.

Under the Board's current procedural schedule for this maximum rate reasonableness case, Complainant SunBelt filed its Opening Evidence on August 1, 2012, after receiving a 60-day extension to the procedural schedule, which NS did not oppose. *See Decision, SunBelt v. NS*, STB Docket No. NOR 42130 (served April 25, 2012). On October 23, 2012, NS requested and received a 14-day extension to the schedule due to the extremely close proximity in the filing dates for Reply Evidence in this case and in *E.I. du Pont de Nemours & Co. v. NS*, STB Docket

EXPEDITED CONSIDERATION REQUESTED

No. NOR 42125 (“*DuPont*”). See Decision, *SunBelt v. NS*, STB Docket No. NOR 42130 (served Nov. 1, 2012). SunBelt did not oppose that modification to the procedural schedule.

The short additional 20-day extension NS presently seeks is similarly predicated on the close proximity between NS Reply Evidence in STB Docket No. NOR 42125, just filed on November 30, 2013, and the present case. The short, eighteen day period between the two major filing deadlines is extremely close for cases of this complexity. See *DuPont v. NS*, STB Docket No. NOR 42125, at 2 (Jan. 13, 2012) (describing the *DuPont* rate case, as a proceeding of “unusual scope and complexity.”). Counsel, witnesses, and experts for NS in the *DuPont* case are the same as those in the present case. And, it took longer than NS had anticipated to finalize the Reply Evidence in that case, which impeded and delayed somewhat those counsel and experts’ efforts to complete the Reply Evidence in the instant proceeding.

There are also several other ongoing Board proceedings in which counsel and experts for NS in this case are actively engaged, including *M&G Polymers v. CSX Transportation*, STB Docket No. 42123, and *Rate Regulation Reforms*, STB Ex Parte No. 715. Comments on behalf of CSXT in the *M&G Polymers* case were filed last week addressing the Board’s proposal to apply the new “limit price” market dominance test, and counsel for NS herein also represent both NS and CSXT in *Rate Regulation Reforms*, STB Ex Parte No. 715 (July 25, 2012), in which reply comments are due to be filed on December 7, 2012.

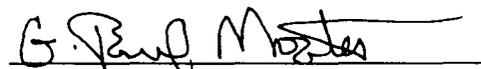
In sum, NS requests a modest 20-day extension, including the year-end holidays, as an adjustment and allowance for the confluence of due dates in important matters pending before

EXPEDITED CONSIDERATION REQUESTED

the Board. Accordingly, NS requests that the Board modestly modify the procedural schedule as follows:

	Due Date Under Current Procedural Schedule	Due Date Under Proposed Amended Procedural Schedule
NS's Reply Evidence	December 18, 2012	January 7, 2013
SunBelt Rebuttal Evidence	April 22, 2013	May 15, 2013
Final Briefs	May 24, 2013	June 14, 2013

Respectfully submitted,



G. Paul Moates
Paul A. Hemmersbaugh
Terence M. Hynes
Matthew J. Warren
Marc A. Korman
Hanna M. Chouest
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000
(202) 736-8711 (fax)

James A. Hixon
John M. Scheib
David L. Coleman
Christine I. Friedman
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

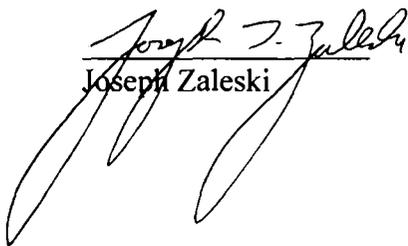
Counsel to Norfolk Southern Railway Company.

Dated: December 5, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December 2012, I caused a copy of the foregoing Norfolk Southern Railway Company's Consent Motion To Modify Procedural Schedule to be served by email and U.S. Mail upon:

Jeffrey O. Moreno
Thompson Hine LLP
1919 M Street, N.W., Suite 700
Washington, D.C. 20036


Joseph Zaleski