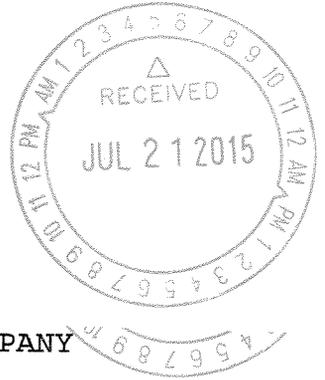


ORIGINAL

Before the  
SURFACE TRANSPORTATION BOARD



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Ex Parte No. 727<sup>\*/</sup>

PETITION OF NORFOLK SOUTHERN RAILWAY COMPANY  
TO INSTITUTE A RULEMAKING PROCEEDING  
TO ADDRESS ABUSES OF BOARD PRACTICES

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SUPPLEMENTAL COMMENTS

ENTERED  
Office of Proceedings  
July 21, 2015  
Part of  
Public Record

GORDON P. MacDOUGALL  
1025 Connecticut Ave., N.W.  
Washington DC 20036

Attorney for Samuel J. Nasca

July 21, 2015

\*/Embraces Finance Docket No. 35873, Norfolk Southern Railway Company-Acquisition and Operation-Certain Rail Lines of The Delaware and Hudson Railway Company, Inc.; and Docket No. AB-156 (Sub-No. 27), Delaware and Hudson Railway Company, Inc.-Discontinuance of Trackage Rights.

Before the  
SURFACE TRANSPORTATION BOARD

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Ex Parte No. 727

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SUPPLEMENTAL COMMENTS

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Preliminary Statement

Samuel J. Nasca,<sup>1/</sup> for and on behalf of SMART/Transportation Division, New York State Legislative Board (SMART/TD-NY), submits these supplemental comments in response to the Petition of Norfolk Southern Railway Company To Institute a Rulemaking Proceeding to Address Abuses of Board Process, filed May 26, 2015 (NSR Petition), and to the letter-comments by an individual practitioner,<sup>2/</sup> Association of Transportation Law Professionals, three rail carriers,<sup>3/</sup> and an individual.<sup>4/</sup>

It is clear that the NSR petition is directed to proceedings

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<sup>1/</sup>New York State Legislative Director for SMART/TD, with offices at 35 Fuller Road, Albany, NY 12205.

<sup>2/</sup>Michael F. McBride, Esq.

<sup>3/</sup>Kansas City Southern Railway Company (KCS), CSX Transportation, Inc. (CSXT), and Union Pacific Railroad Company (UP).

<sup>4/</sup>James Riffin.

currently pending at the agency, namely, F.D. No. 35873, Norfolk Southern Railway Company-Acq. & Oper.-Certain Rail Lines of The Delaware and Hudson Railway Company, Inc. (NS/D&H), and Docket No. AB-156 (Sub-No. 27), Delaware and Hudson Railway Company, Inc.-Discontinuance of Trackage Rights Exemption (D&H Discon.), particularly with respect to the contentions and activities of James Riffin, an active party in both proceedings. However, an understanding of the unprecedented request for a rulemaking directed to the activities of at most one or two individuals, requires examination of the NS/D&H and D&H Discon. proceedings undergoing review by the Board.

SMART/TD-NY believes it would be most helpful for the Board and for the transportation industry to assign for oral argument this request for rulemaking by NSR and other major rail parties KCS, CSXT, UP, along with an important law association; and to combine such oral argument at the same day with the NS/D&H and D&H Discon. cases.

Respectfully submitted,



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Washington DC 20036

July 21, 2015

Attorney for Samuel J. Nasca

Certificate of Service

I hereby certify I have served a copy of the foregoing upon all parties of record, and also those parties of record in F.D. No. 35873 and AB-156 (Sub-No. 27), by first class mail postage-prepaid.

Washington DC



Gordon P. MacDougall