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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of:	:	Case No. 10-1278-RR-CSS
The Complaint of Ohio State	:	<u>ANSWER OF RESPONDENT</u>
Legislative Board, United	:	<u>NORFOLK SOUTHERN</u>
Transportation Union,	:	<u>RAILWAY COMPANY</u>
Complainant,	:	D. Casey Talbott (0046767)
	:	Counsel of Record
vs.	:	Mark W. Sandretto (0079536)
	:	EASTMAN & SMITH LTD.
Norfolk Southern Railway Company,	:	One SeaGate, 24 th Floor
	:	P.O. Box 10032
Respondent.	:	Toledo, Ohio 43699-0032
	:	Telephone: (419) 241-6000
	:	Fax: (419) 247-1777
	:	Attorneys for Respondent
	:	Norfolk Southern Railway Company

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For its Answer to the Complaint (dated August 30, 2010 and file-stamped September 1, 2010) submitted on behalf of Complainant State Legislative Board, United Transportation Union ("UTU"), Respondent Norfolk Southern Railway Company ("Norfolk Southern") states as follows:

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1. In response to the first (unnumbered) paragraph, Norfolk Southern admits that, pursuant to Chapters 4905 and 4907 of the Revised Code, the Public Utilities Commission of Ohio (the "Commission") is vested with certain power and jurisdiction over railroads and, further, that the UTU has submitted a letter to the Commission raising certain allegations which speak for themselves; Norfolk Southern submits that the letter is both procedurally and substantively deficient as a complaint and, in any event, denies that the allegations contained in the letter are well-founded and, assuming well-founded, that the Commission would have subject matter jurisdiction over the allegations. Norfolk Southern denies any and all other allegations contained in this paragraph.

2. In response to the second, third, and fourth (unnumbered) paragraphs, Norfolk Southern denies specifically that it has "permitted unsafe and hazardous walking/tripping conditions to arise" and that it has failed to "establish or maintain an adequate vegetation control program," and denies any and all further allegations set forth in these paragraphs.

3. In response to the fifth and sixth (unnumbered) paragraphs, Norfolk Southern denies knowledge of the existence of the "Weed Order" referenced by the UTU; further, Norfolk Southern denies that the Commission's intervention, assuming jurisdiction, would be timely, warranted, and/or necessary. Norfolk Southern denies any and all further allegations set forth in these paragraphs.

4. Norfolk Southern denies the allegations set forth in the seventh (unnumbered) paragraph.

FIRST AFFIRMATIVE DEFENSE

5. The UTU's Complaint fails in whole or in part to state a claim against Norfolk Southern upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

6. The UTU's Complaint is deficient on its face, and should be dismissed.

THIRD AFFIRMATIVE DEFENSE

7. The Commission lacks subject matter jurisdiction over the allegations contained in the UTU's Complaint.

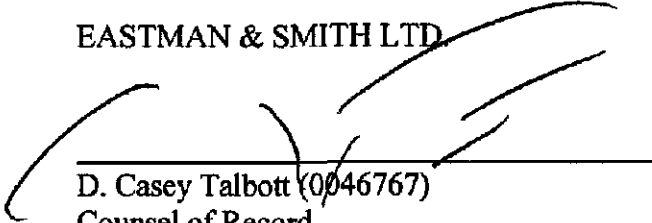
FOURTH AFFIRMATIVE DEFENSE

8. The UTU's Complaint is preempted by federal law.

WHEREFORE, Norfolk Southern respectfully requests that the Commission dismiss the UTU's Complaint.

Respectfully submitted,

EASTMAN & SMITH LTD.

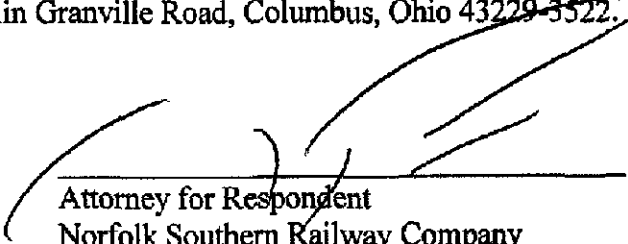


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Attorneys for Respondent
Norfolk Southern Railway Company

PROOF OF SERVICE

This is to certify that a copy of the **Answer of Respondent Norfolk Southern Railway Company** was sent by ordinary U.S. mail this 21st day of September, 2010 to Luther G. Newsom, Chairman and State Legislative Director, Ohio State Legislative Board, United Transportation Union, Suite 245, 2021 East Dublin Granville Road, Columbus, Ohio 43229-3522.



Attorney for Respondent
Norfolk Southern Railway Company