



Surface Transportation Board
Washington, D.C. 20423-0001

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Office of the General Counsel

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Meeting under Section 5, STB Reauthorization Act

Office of Proceedings

December 30, 2020

July 2, 2020

Part of

Public Record

Present: Members Begeman, Fuchs, and Oberman
Staff Rachel Campbell, Allison Davis, Ellen Erichsen, Amanda Gorski,
Theodore Hunt, Craig Keats, Barbara Miller, Lisa Novins, Valerie Quinn,
Vincent Scalfani, Amy Ziehm, Scott Zimmerman

Topic: Docket No. FD 35692, Eastside Cmty. Rail, LLC – Acquisition &
Operation Exemption – GNP Rly, Inc., and
Docket No. FD 35739, Ballard Terminal R.R. Co., L.L.C. – Lease Exemption
– Eastside Cmty. Rail, LLC

Summary of the Matters Discussed, Prepared by General Counsel Craig Keats:

At this meeting, staff briefed the Board on two petitions by Snohomish County (the County) to revoke the acquisition and operation exemptions for a rail line in Snohomish, Wash., which are before the Board after a remand from the U.S. Court of Appeals for the District of Columbia Circuit in *Snohomish County, Wash. v. STB*, 954 F.3d 290 (D.C. Cir. 2020). In those petitions, the County alleged that the exemptions had been based on false and misleading information regarding ownership of the underlying property easement. The Board denied the petitions, finding that resolution of the ownership issue would require adjudicating questions of state property, contract, and possibly federal bankruptcy law, which should be decided by a court in the first instance. The County appealed, and the reviewing court found that the Board should have considered separately, without necessarily pursuing the state-law easement ownership issue, whether the information presented in support of the requests for authority was misleading under the Board's regulations. Several filings have been submitted with the Board following the remand.

Staff and Board Members discussed the following issues:

1. The history of the proceedings, including the Board's prior decisions and the court's opinion.
2. The filings made in the proceedings since the remand.
3. The procedural posture of the proceedings.
4. Possible next steps.