



Office of the General Counsel

Surface Transportation Board
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Meeting under Section 5, STB Reauthorization Act

April 20, 2023

Present: Members Fuchs, Hedlund, Oberman, and Schultz
Staff Jonathon Binet, William Brennan, LeRonda Brooks, Rachel Campbell,
Mai Dinh, Ellen Erichsen, Sarah Fancher, Jessica Grunberg, Kim Hillenbrand,
Frederick Horne, Craig Keats, Elizabeth McGrath, Victoria Miller, Shelia
Perry, Robert Plum, Janie Sheng, Michael Small, Charles Vance, Scott
Zimmerman

Topic: Docket No. NOR 42179, Navajo Transitional Energy Company, LLC
v. BNSF Railway Company

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

Navajo Transitional Energy Company, LLC (NTEC), in NOR 42178, filed an application for an emergency service order pursuant to 49 U.S.C. § 11123 or, in the alternative, for preliminary injunctive relief pursuant to 49 U.S.C. § 1321(b)(4). NTEC also filed a complaint, in NOR 42179, Navajo Transitional Energy Company v. BNSF Railway Company, seeking damages and declaratory and injunctive relief based on allegations that BNSF Railway Company (BNSF) has violated its common carrier obligation, has engaged in unfair trade practices, and has failed to provide safe and adequate car service. Both the complaint and the application allege that BNSF has failed to provide adequate service to transport export coal from NTEC's Spring Creek Mine in Wyoming to the Westshore Terminals facility at Roberts Bank, British Columbia, Canada. At this meeting, staff briefed Board Members on the emergency service and preliminary injunctive filings by the parties and options for next steps.