



Southwest Association of Rail Shippers
Coronado, CA
September 28, 2023

Karen Hedlund
Vice Chair
Surface Transportation Board



“The statements of Ms. Hedlund do not represent the opinions of the Surface Transportation Board or any of its other Members. “

Navajo
Transitional
Energy
Company v.
BNSF
Docket No. NOR
42178



Application filed for
Emergency Service
Order

- Separate Complaint for breach of Common Carrier Obligation (NOR 42179)

BNSF filed appeal in
Fifth Circuit Court of
Appeals

STB Brief filed. NTEC
brief due a week later,
and BNSF reply brief due
after that

23 June

30 Aug.

14 Apr.

28 July

25 Oct.

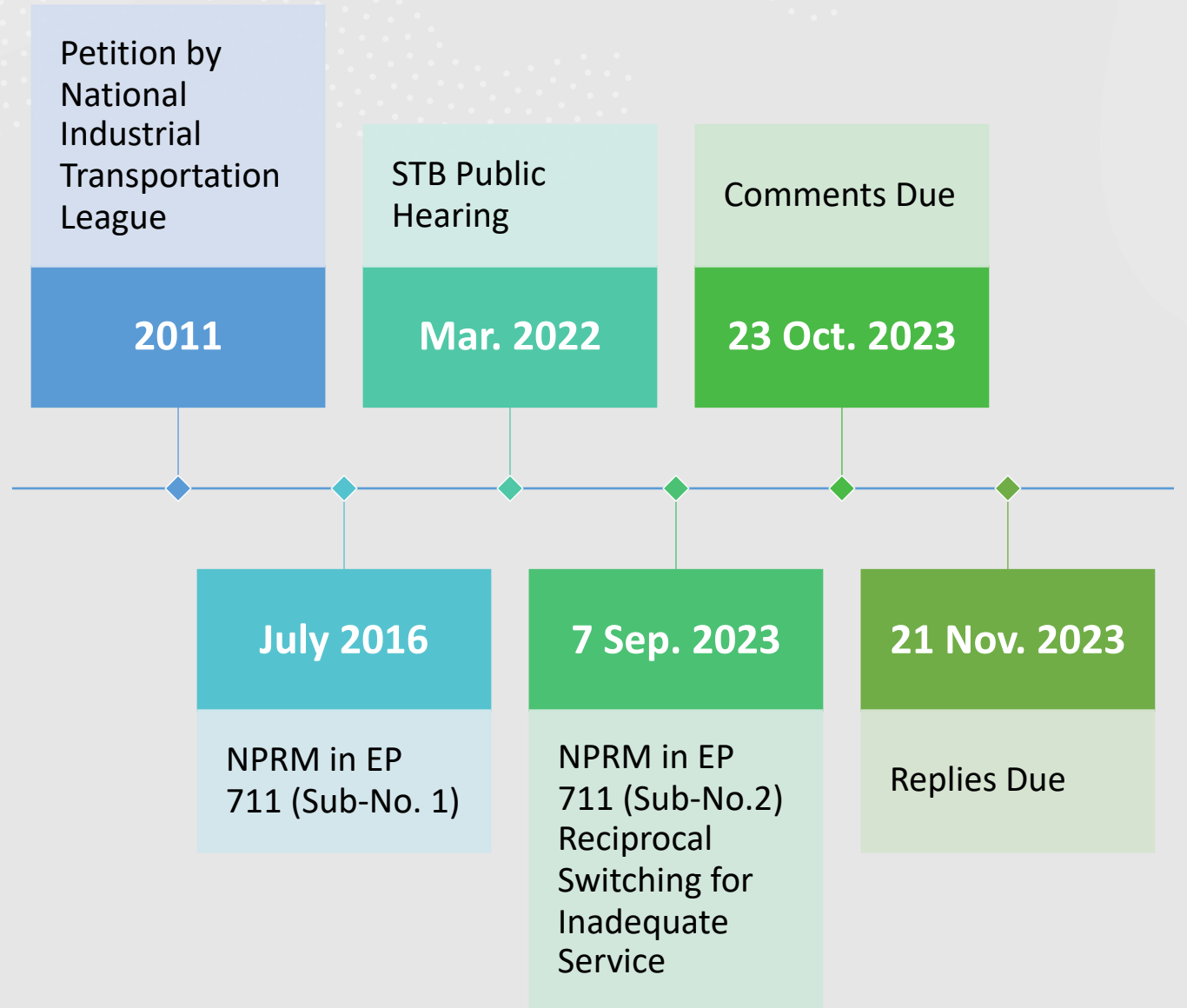
STB issued Preliminary
Injunction

Court of Appeals denied
BNSF petition to stay
and expedite appeal



EP 711 Reciprocal Switching

History of Proceedings in EP 711





Performance Standards

- Service Reliability - at least 60% of shipments arrive within 24 hours of the Original Estimated Time of Arrival.
- Service Consistency - shipper eligible for relief if the average transit time for a shipment increased by a certain percentage—potentially 20% or 25%—as compared to the average transit time for the same 12-week period during the previous year.
- Inadequate Local Service - carrier would fail the standard if the carrier had an Industry Spot and Pull success rate of less than 80%, over a period of 12 consecutive weeks, in performing local deliveries and pick-ups within the applicable service window.

The Board recognizes that stakeholders may have broader views of what actions the Board should consider undertaking with respect to the residual application of part 1144, as well as the application of other competitive access statutes, regulations, and caselaw. In light of the approach proposed in the new part 1145, the Board welcomes comment on what other actions, if any, it should consider with respect to competitive access and, in particular whether it should further broaden the application of the public interest prong of § 11102.




“Terminal Area”

- A *commercially cohesive area* in which two or more railroads engage in the local collection, classification, and distribution of rail shipments for purposes of line-haul service.
- Characterized by *multiple points of loading/unloading* and yards for such local collection, classification, and distribution.
- A terminal area (as opposed to main-line track) must contain and *cannot extend significantly beyond recognized terminal facilities*, such as freight or classification yards.
- A point of origin or final destination on the rail system is *not suitable* for a prescribed switching arrangement *if the point is not integrated* into or, using existing facilities, reasonably cannot be integrated into the incumbent rail carrier’s terminal-area operation.

Terminal Trackage Rights?

Upon the prescription of terminal trackage rights, the incumbent rail carrier would be replaced in providing local service, whereas under a reciprocal switching agreement the carrier could be replaced in providing line-haul service. The Board seeks comment on whether it should provide for the prescription of terminal trackage rights for failure to meet the ISP standard, either in place of a separate path to a prescription of a reciprocal switching agreement in those circumstances or as an additional path that would be open to the petitioner.



Hearings before the STB in 2022- 2023

- Amtrak Gulf Coast Access – Feb 15-16
Apr 4-6, 18-19, May 9,11, 2022 –
tentative settlement
- Reciprocal Switching (EP 711 Sub-
No.1) - March 15-16, 2022
- Urgent Issues in Freight Rail (EP 770) –
April 26-27, 2022
- Union Pacific Embargoes – December
13-14
- CP/KCS Merger (FD 36500) –
September 28-30 – final on April 15,
2023
- NTEC – BNSF - May 10, 2023



Rulemakings

- Service Emergency Rule (EP 762)
- Reciprocal Switching (EP 711 Sub-No.2)
- Small Dispute Arbitration (EP 765)
- Final Offer Rate Review (EP 755)

Advisory Committees

- RSTAC
- RETAC
- National Grain Car Council
- To come: Passenger Rail Advisory Committee