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SERVICE DATE – DECEMBER 23, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42131

CANEXUS CHEMICALS CANADA L.P.

v.

BNSF RAILWAY COMPANY

ORAL ARGUMENT

Decided: December 23, 2011

The Surface Transportation Board will hold oral argument on Tuesday, January 17, 2012, at 9:30 a.m., in the hearing room at the Board's headquarters located at 395 E Street, S.W., Washington, DC. The argument will address Canexus Chemicals Canada L.P. v. BNSF Railway Company, Docket No. NOR 42131. The oral argument will be open for public observation, but only counsel for the parties will be permitted to present argument.

Canexus Chemicals Canada L.P. (Canexus) has filed a complaint asking the Board to issue an order compelling BNSF Railway Company (BNSF) to establish common carrier rates and service terms between North Vancouver, B.C., and Kansas City, Mo., and between Marshall, Wash., and Kansas City, Mo. Currently, BNSF is hauling Canexus shipments of chlorine from North Vancouver and Marshall to Kansas City in joint line service under temporary rates. According to the complaint, BNSF interchanges with Union Pacific Railroad Company (UP) in Kansas City and the shipments are hauled by UP to their final destinations in Illinois, Texas, and Arkansas.¹ This dispute arises from BNSF's position that, in the future, it will carry the chlorine only as far as Spokane, Wash. (for movements originating from Marshall), and Portland, Or. (for movements originating from North Vancouver), where it will interchange with UP. Canexus and UP object to BNSF's proposed interchange points.

To preserve rail service, as BNSF temporary rates were set to expire, the Board issued an emergency service order directing BNSF to provide service while the Board adjudicates the merits of this case. Canexus Chemicals Canada L.P. v. BNSF Ry., FD 35524 et al. (STB served Oct. 14, 2011). In that same decision, the Board issued a procedural schedule for opening statements, replies, and rebuttals. Subsequently, BNSF offered to provide service voluntarily and the Board found that, with such service in place, the emergency service order could be terminated.

¹ On November 3, 2011, in its opening statement, Canexus noted that since the filing of its May 25, 2011 complaint, its contract with UP has been amended to add 2 additional end users located in Louisiana and Missouri.

On November 3, 2011, UP, Canadian Pacific Railway Company (CP),² and Canexus filed opening statements. BNSF filed a reply on November 23, 2011. Canexus and UP filed rebuttals on December 5, 2011.

By January 12, 2012, each party shall submit to the Board the name of the counsel who will be presenting argument and the name of the party counsel will be representing. CP is invited to participate in the argument, but is not required to do so. Canexus and UP shall have 30 minutes to present their argument and BNSF shall have 30 minutes to present its argument. Canexus and UP, in their filings, shall advise the Board how they choose to divide their time and shall address the requested time reserved for rebuttal, if any.

Counsel for the parties shall check in with Board staff in the hearing room prior to the argument.

A video broadcast of the oral argument will be available via the Board's website at <http://www.stb.dot.gov>, under "Information Center"/"Webcast"/"Live Video" on the home page.

Instructions for Attendance at Argument

The STB requests that all persons attending the argument use the Patriots Plaza Building's main entrance at 395 E Street, S.W. (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present oral arguments. The building will be open to the public at 7:00 a.m., and participants are encouraged to arrive early. There is no public parking in the building.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign-in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; then pass through a metal detector. Persons choosing to exit the building during the course of the argument must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes likewise will be collected from those exiting the argument upon its conclusion.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the Internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room or in the building's main lobby.

The Board's hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245 by the close of business on January 16, 2012.

² CP was identified by BNSF as a possible participant in an alternative routing for Canexus' traffic.

For further information regarding the oral argument, contact Amy Ziehm, (202) 245-0391. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Oral argument in this proceeding will be held on January 17, 2012, at 9:30 a.m. in the Surface Transportation Board Hearing Room, at 395 E Street, S.W., Washington, DC, as described above.
2. By January 12, 2012, the participants shall submit to the Board the names of the counsel who will be presenting argument and the name of the party counsel will be representing. Canexus and UP, in their filings, also shall advise the Board how they choose to divide their time and address the requested time reserved for rebuttal, if any.
3. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.