

ACTING CHAIRMAN MILLER ANNOUNCES PROCESS TO STREAMLINE DISCOVERY DISPUTES

Acting Chairman Deb Miller announced today that the Surface Transportation Board has entered into an agreement with the Federal Energy Regulatory Commission to employ FERC Administrative Law Judges (ALJs) to perform some Board-assigned adjudicatory functions.

Under this agreement, the STB—which has no ALJs of its own—has the ability to employ FERC ALJs to resolve discovery disputes and other matters arising in the adjudication process. The Director of the Board’s Office of Proceedings will decide which matters to refer to FERC ALJs on a case-by-case basis. Like the STB, FERC is an independent, bipartisan, adjudicatory body with jurisdiction over certain economic-regulatory matters.

The purpose of this effort is to more quickly resolve disputes that arise in the adjudicatory process, particularly disputes regarding whether a party must turn over evidence to other parties under the rules of discovery. FERC ALJs are experts in evidentiary matters, and because they have flexibility in how they hear legal arguments and are able to devote more attention to narrower issues, they are able to make decisions on discovery disputes swiftly.

“I believe that the STB’s agreement to employ the expertise of ALJs from the Federal Energy Regulatory Commission, a sister agency with a similar mandate, will result in quicker handling of cases while still preserving a sound process,” Acting Chairman Deb Miller said. “This will be a great benefit to all of the Board’s stakeholders.”

Under the STB’s rules, the FERC ALJs’ decisions may be appealed to the Board, but will be granted only to correct a clear error of judgment or to prevent manifest injustice.

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