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SERVICE DATE – OCTOBER 28, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36629

RAIL LINK, INC.—
PETITION FOR DECLARATORY ORDER

Decided: October 28, 2022

On August 4, 2022, Rail Link, Inc. (Rail Link), filed a petition for declaratory order requesting that the Board institute a proceeding and establish a procedural schedule to address whether Rail Link is a common carrier subject to the Board's jurisdiction. That question was referred to the Board by the District Court of Harris County, Texas (District Court) in a case where a Rail Link employee, Demaree Reed, has asserted a personal injury claim against Rail Link under the Federal Employers' Liability Act, 45 U.S.C. §§ 51-60 (FELA). See Reed v. Ineos Americas LLC, No. 2019-29955 (Tex. Dist. Ct., 215th Jud. Dist., Harris County July 7, 2022).

By order dated September 19, 2022, the Board instituted a declaratory order proceeding and established a procedural schedule. Accordingly, Rail Link filed its opening statement on October 11, 2022.

On October 26, 2022, Reed filed a motion to stay and hold this proceeding in abeyance. Reed states that on October 25, 2022, he filed a petition for writ of mandamus in the Court of Appeals for the First District of Texas in Houston, which challenges the District Court's referral of this matter to the Board. Among other things, Reed argues that a stay is appropriate because his petition is likely to succeed and a stay would avoid duplicative litigation efforts.

To provide sufficient time for the Board to fully consider the arguments presented, the declaratory order proceeding will be held in abeyance until further order of the Board. Rail Link will be directed to file a reply to Reed's motion by November 17, 2022.

It is ordered:

1. The declaratory order proceeding is held in abeyance until further order of the Board.
2. Rail Link is directed to file a reply to Reed's motion by November 17, 2022.
3. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.