

SERVICE DATE – DECEMBER 6, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36770

TOWNSHIP OF PILESGROVE, N.J.—PETITION FOR DECLARATORY ORDER

Decided: December 6, 2024

By decision issued on September 13, 2024, in response to a petition by the Township of Pilesgrove, N.J. (Pilesgrove), the Board instituted a declaratory order proceeding to determine whether and to what extent 49 U.S.C. § 10501(b) preempts certain local and state laws regarding land use and land development by SMS Rail Service, Inc. (SMS). Twp. of Pilesgrove, N.J.—Pet. for Declaratory Ord., FD 36770 (STB served Sept. 13, 2024). That decision also granted a petition to intervene filed by the Township of Mannington, N.J. (Mannington). Id.

On October 24, 2024, a procedural schedule was adopted. Twp. of Pilesgrove, N.J.—Pet. for Declaratory Ord., FD 36770 (STB served Oct. 24, 2024). The procedural schedule established, among others, the following deadlines:

- SMS’s reply evidence and argument, and submissions by other interested persons, are due by December 9, 2024; and
- Rebuttal statements by Pilesgrove and Mannington, and SMS’s response to submissions by other interested persons, are due by January 7, 2025.

On December 5, 2024, SMS requested to extend the deadline for its reply to December 16, 2024, citing health issues of counsel for SMS. SMS further suggests that the deadline for submissions by other interested persons be similarly extended. On December 6, 2024, Pilesgrove and Mannington replied individually to SMS’s extension request. Both Pilesgrove and Mannington request that, if the Board grants SMS’s one-week extension, they be given an additional week to file their rebuttals to account for the delay in receiving SMS’s reply. The townships also request that the December 9 deadline for submissions by any interested parties other than SMS not be extended.

SMS’s request is reasonable and will be granted. In the interest of maintaining the relative periods of time between deadlines as reflected in the original schedule, both deadlines will be extended one week for all participants: SMS’s reply evidence and argument and submissions by other interested persons will be due by December 16, 2024; rebuttal statements by Pilesgrove and Mannington and SMS’s response to submissions by other interested persons will be due by January 14, 2025.

It is ordered:

1. The procedural schedule is modified as follows:

- SMS's reply evidence and argument and submissions by other interested persons are due by December 16, 2024; and
- Rebuttal statements by Pilesgrove and Mannington and SMS's response to submissions by other interested persons are due by January 14, 2025.

2. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.