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SERVICE DATE – FEBRUARY 21, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36629

RAIL LINK, INC.—
PETITION FOR DECLARATORY ORDER

Decided: February 20, 2025

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, however, Reed filed a motion to stay and hold this proceeding in abeyance. Reed stated 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 (Court of Appeals) challenging the District Court's referral of this matter to the Board. Among other things, Reed argued that a stay is appropriate because his petition is likely to succeed and a stay would avoid duplicative litigation efforts.

By order dated October 28, 2022, the Board directed Rail Link to reply to Reed's motion and held this proceeding in abeyance to allow the Board to consider the arguments presented. In a November 14, 2022 reply, Rail Link argued that Reed's motion should be dismissed as an untimely collateral attack on the Board's September 19, 2022 order. Alternatively, Rail Link argued that Reed has failed to show that a stay is appropriate.

As proceedings in the Court of Appeals have continued while this proceeding has been in abeyance, Reed will be directed to provide an update on the status of his petition for writ of mandamus in the Court of Appeals. Specifically, Reed must address whether his pending motion to stay this proceeding is mooted by the denial of his petition for writ of mandamus, and whether the Board should remove this proceeding from abeyance. See In re Reed, No. 01-22-00794-CV (Tex. App.—Houston Oct. 25, 2022).

It is ordered:

1. Reed is directed to file, by March 13, 2025, an update on the status of his petition for writ of mandamus in the Court of Appeals as set forth in this decision, including a copy of any decision(s) pertaining to such petition.

2. This decision is effective on its service date.

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