

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36261

BALLARD TERMINAL RAILROAD COMPANY, L.L.C.—
PETITION FOR DECLARATORY ORDER

Decided: January 30, 2019

On December 12, 2018, Ballard Terminal Railroad Company, L.L.C. (BTRC), filed a petition for declaratory order. BTRC seeks an order holding that the City of Seattle (City) is prohibited under 49 U.S.C. § 10501(b) from “removing or reconfiguring track actively used by [BTRC],” from “relocating an active drive-lane of a City street so that it is directly on top of an active rail line,” and from “making roadway improvements adjacent to the active rail line.” (Pet. 3.) Pursuant to 49 C.F.R. § 1104.13(a), replies to BTRC’s petition were due by January 2, 2019. In its petition, however, BTRC asked the Board to set January 23, 2019, as the due date for replies to its petition and February 13, 2019, as the due date for rebuttals. (*Id.* at 6-7.)

On December 18, 2018, the City submitted a letter also asking the Board to extend the deadline for replies to January 23, 2019. In its letter, the City opposes BTRC’s request to set a deadline for rebuttals. The City argues that the Board should first decide whether to institute a declaratory order proceeding before ordering additional pleadings.

Due to the partial shutdown of the Federal government from December 22, 2018, through January 25, 2019, all deadlines requiring the submission of material to the Board, including the deadlines in this proceeding, were tolled. The request by both parties to set January 23, 2019, as the deadline for replies will be denied as moot.

Replies to BTRC’s petition are due by February 4, 2019.¹ Filings Submitted or Due to Be Submitted During the Partial Fed. Gov’t Shutdown, EP 751 (STB served Jan. 28, 2019). BTRC’s request to set a rebuttal deadline of February 13, 2019, will be denied.

It is ordered:

1. Replies to the petition for declaratory order are due by February 4, 2019.
2. The parties’ request to extend the deadline for replies to January 23, 2019, is denied as moot.

¹ On January 28, 2019, the City filed a reply in opposition to the petition for declaratory order.

3. BTRC's request to set a rebuttal deadline of February 13, 2019, is denied.
4. This decision is effective on its service date.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.