

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35239

ALLEGHENY VALLEY RAILROAD COMPANY–PETITION FOR DECLARATORY  
ORDER

Decided: September 28, 2009

On April 23, 2009, Allegheny Valley Railroad Company (AVRR) filed a petition for declaratory order to clarify whether a 0.3-mile rail easement between 16<sup>th</sup> Street and 21st Street in Pittsburgh, PA remains an active rail easement. The Buncher Company (Buncher), the owner of the real property over which the purported easement runs, claims that the easement has been abandoned.

On May 13, 2009, the Board instituted a declaratory order proceeding to clarify the issue and established a procedural schedule. Because the parties had not done so in their filings, the Board in a decision served on September 17, 2009, directed Buncher and AVRR to address whether or how the recent ruling by the United States Court of Appeals for the District of Columbia Circuit in Consolidated Rail Corp. v. STB, 571 F.3d 13 (D.C. Cir. 2009), affects this case, including whether the Board has jurisdiction to resolve their dispute. The Board directed Buncher and AVRR to submit their responses by October 2, 2009.

On September 23, 2009, AVRR, with the concurrence of Buncher, filed a request to extend the time to respond until October 9, 2009. AVRR states that its counsel has a conflict that would preclude the timely preparation and filing of its response.

The extension request is reasonable. Accordingly, the time for AVRR and Buncher to submit their responses to the matter addressed in the September 17, 2009 decision is extended to October 9, 2009.

It is ordered:

1. The time for AVRR and Buncher to submit their responses to the matter addressed in the September 17, 2009 decision is extended to October 9, 2009.

2. This decision is effective on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan  
Acting Secretary