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SEC

SERVICE DATE - MARCH 24, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34483

SMS RAIL SERVICE, INC. –  
PETITION FOR DECLARATORY ORDER

Decided: March 23, 2004

On March 4, 2004, SMS Rail Service, Inc. (SMS) filed a petition for declaratory order to resolve an alleged dispute between it and Norfolk Southern Railway Company (NS) concerning SMS's common carrier status and the provision of rail service to SMS-served customers located within an industrial complex in Paulsboro, NJ. Subsequently, on March 5, 2004, SMS filed a motion for a protective order, which the Board granted in a decision served March 15, 2004.

By a letter filed by counsel for SMS on March 18, 2004, SMS and NS jointly request that the proceeding be held in abeyance for a period of 30 days. If their request is granted, the parties intend that NS's responsive pleading would not be due until April 26, 2004, and its production of documents (pursuant to SMS's discovery requests) would not be due until April 30, 2004. In support of their request, the parties state that they are engaging in discussions which could lead to an amicable resolution of their disagreements.

The parties' request to hold this proceeding in abeyance is reasonable and will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The joint request of SMS and NS to hold this proceeding in abeyance is granted as set forth above.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary