

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-556 (Sub-No. 2X)

RAILROAD VENTURES, INC.—ABANDONMENT EXEMPTION—BETWEEN
YOUNGSTOWN, OH, AND DARLINGTON, PA, IN MAHONING AND COLUMBIANA
COUNTIES, OH, AND BEAVER COUNTY, PA

Decided: July 30, 2003

On January 21, 2003, the Columbiana County Port Authority (CCPA) and Central Columbiana and Pennsylvania Railroad Company (CCPR) (collectively referred to as CCPA/CCPR) filed a joint motion seeking final closure of the escrow account that was created by the Board in its decision served on October 4, 2000. After two extensions were granted, on April 4, 2003, Railroad Ventures, Inc. (RVI), filed a reply. On April 21, 2003, CCPA/CCPR filed a petition for leave to file a rebuttal statement to RVI's reply or, in the alternative, a motion to strike a portion of the reply,¹ and tendered its rebuttal statement for filing. CCPA/CCPR asserts that its rebuttal will assist the Board in making its decision as to whether the funds from the escrow account were used properly. On April 30, 2003, RVI filed a response requesting the Board to strike CCPA/CCPR's rebuttal.

CCPA/CCPR's petition will be granted and its rebuttal statement will be accepted for filing. Although a reply to a reply is generally prohibited by 49 CFR 1104.13(c), the Board's rules are construed liberally to ensure a just determination of the issues presented. 49 CFR 1100.3. CCPA/CCPR's rebuttal completes the record, clarifies arguments, and, in the circumstances of this case, will not unduly prolong the proceeding. To prevent any prejudice, however, RVI will be permitted to file an additional response. The scope of this response must be limited to the arguments and evidence presented by CCPA/CCPR in its April 21, 2003 rebuttal. Because CCPA/CCPR's rebuttal will be accepted, its alternative motion to strike a portion of RVI's reply is moot. Also, because RVI is being given the opportunity to respond to CCPA/CCPR's rebuttal, its request to strike the rebuttal will be denied.

¹ The specific material CCPA/CCPR seeks to strike is on pages 4 - 16 of George Wehner's verified statement that was attached to RVI's reply, entitled "II. Personal Knowledge of the Former Youngstown and Southern Railroad Line."

It is ordered:

1. CCPA/CCPR's petition for leave to file a rebuttal statement is granted. The statement tendered on April 21, 2003, is accepted for filing.
2. CCPA/CCPR's motion to strike a portion of RVI's reply is denied.
3. RVI's request to strike CCPA/CCPR's rebuttal is denied.
4. RVI's response is due by August 13, 2003.
5. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary