

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35316

ALLIED ERECTING AND DISMANTLING, INC.,
AND ALLIED INDUSTRIAL DEVELOPMENT CORPORATION
—PETITION FOR DECLARATORY ORDER—
RAIL EASEMENTS IN MAHONING COUNTY, OHIO

Decided: September 3, 2010

By petition filed on November 2, 2009, Allied Erecting and Dismantling, Inc., and Allied Industrial Development Corporation (collectively Allied) requested that the Board institute a declaratory order proceeding to resolve a dispute between Allied and Ohio Central Railroad System (Ohio Central)¹ regarding Ohio Central's use of 2 easements traversing Allied's property in eastern Ohio. In a decision served on June 23, 2010 (corrected on June 25, 2010), the Board instituted a declaratory order proceeding to resolve certain questions related to the dispute, and established a procedural schedule.

On August 26, 2010, Ohio Central filed a letter requesting an extension of the procedural schedule set forth in the Board's June 25, 2010 decision. Ohio Central states that it makes its request jointly with Allied and that both parties require the extension due to the volume of discovery and disputes related thereto. Under Ohio Central's proposed extension, Allied's opening statement would be due November 22, 2010, Ohio Central's reply would be due December 22, 2010, and Allied's rebuttal would be due January 10, 2011.

The extension request is reasonable and will be granted.

In its August 26 letter, Ohio Central also asks the Board to confirm the understanding of Allied and Ohio Central that the Board will not perform any calculation of damages or determine the amount of Allied's damages, if any. Ohio Central states that based upon this understanding,

¹ According to Ohio Central, Ohio Central Railroad System is a trade name used for limited business purposes by certain commonly controlled railroads including the following named respondents in this matter: Ohio Central Railroad, Inc.; Ohio & Pennsylvania Railroad Company; Warren & Trumbull Railroad Company; Youngstown & Austintown Railroad, Inc.; Youngstown Belt Railroad Company; and Mahoning Valley Railway Company. These entities are collectively referred to as Ohio Central.

the parties have agreed not to conduct further discovery in this proceeding on the amount of damages.

The parties are correct that the scope of the proceeding does not include the calculation of damages. Therefore, the parties do not need to submit evidence addressing that issue.

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

It is ordered:

1. The revised procedural schedule is as follows:

November 22, 2010	Allied's opening statement is due.
December 22, 2010	Ohio Central's reply and comments of Youngstown & Southern Railway Company are due.
January 10, 2011	Allied's rebuttal is due.

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

3. A copy of this decision will be served on:

The Honorable Maureen Sweeney
Ohio Court of Common Pleas Judge
Court of Common Pleas—Mahoning County, Ohio
120 Market Street
Youngstown, OH 44503-1700

The Honorable Dennis Sarisky
Ohio Court of Common Pleas Magistrate
Court of Common Pleas—Mahoning County, Ohio
120 Market Street
Youngstown, OH 44503-1700

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.