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October 7, 2024

VIA ELECTRONIC FILING & EMAIL [MILSS@STB.GOV](mailto:MILSS@STB.GOV)

ENTERED  
Office of Proceedings  
October 7, 2024  
Part of  
Public Record

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
U.S. Surface Transportation Board  
395 E. Street, S.W.  
Washington, DC 20423-0001

Re: Proposed Procedural Schedule Submitted by Petitioner Pilesgrove Township  
Docket No.: FD 36770  
Township of Pilesgrove in re SMS Rail Service, Inc.

Dear Ms. Brown:

Kindly accept this correspondence in lieu of a more formal filing by Petitioner Township of Pilesgrove in response to the STB Board's September 13, 2024, decision granting Petitioner's request for review of the matter and requesting that Petitioner along with other counsel submit a proposed briefing schedule. Please be advised that all counsel took part on a phone conference on October 1, 2024, however, counsel for Respondent SMS suggested what Petitioner Township of Pilesgrove believed to be a more complex briefing schedule than that required. As such, each counsel agreed to submit their own proposal for consideration by the STB and deference will be given to the STB.

Petitioner, Township of Pilesgrove, has provided to the STB through its initial filing what it believes constitutes an opening statement in its request for a declaratory order on the preemption issues and has requested review and clarification. If said filing does not constitute an opening statement or if the Board desires an additional statement in that regard, please advise and set forth a schedule indicating and allowing for same. While Petitioner Township of Pilesgrove has not had any experience in prior proceedings in front of the STB, the scheduling proposal as proposed below follows suit as if the initial petition was the opening statement and is based on Petitioner's review of procedural schedules imposed by the Board in other declaratory order cases.

As such, Petitioner proposes the following schedule, which is in line with that being requested by the Township of Mannington and which allows for a thirty (30) day interval between submissions:

1. SMS Reply Brief due November 15, 2024;
2. Township of Pilesgrove and Mannington Rebuttal Briefs due December 20, 2024.

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It is further respectfully submitted by Petitioner Pilesgrove Township that the procedural scheduling should neither account for nor allow public intervention / public hearing as same does not seem appropriate for actions of this nature. Of course, if the STB board feels that such intervention is appropriate then Petitioner defers to the STB and its authority.

Thank you for your kind consideration.

Respectfully Submitted,

*/s/ Ekaterine N. Eleftheriou*

Ekaterine N. Eleftheriou  
Attorney for the Township of Pilesgrove

Enclosures

cc: Robert A. Klein, Esq. (Attorney for SMS Rail Line, Inc.)  
Frank Hoerst, Esq. (Attorney for SMS Rail Line, Inc.)  
David Avedissian, Esq. (Attorney for SMS Rail Line, Inc.)  
William L. Horner, Esq. (Solicitor, Mannington Township)  
Karin Wood, Esq., (Salem County Counsel)

**CERTIFICATION OF SERVICE**

I certify that I have this day served copies of this document upon all parties of record (and as noted above) in this proceeding by e-mail correspondence which is consistent with 49 CFR 1104.12(a).

*/s/ Ekaterine N. Eleftheriou*

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Ekaterine N. Eleftheriou

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October 7, 2024