

members that qualify for them. Members will continue to have opportunities to qualify for similar credits based on market participation not tied to NOM. Moreover, the proposed changes are designed to reward market-improving behavior by providing new credit tiers based on various measures of such behavior, which may encourage other market venues to provide similar credits to improve their market quality. Thus, the Exchange does not believe that the proposed credits will impose any burden on competition, but may rather promote competition.

Similarly, the changes to the existing credits for transactions in Tape B Securities do not impose a burden on competition because the Exchange's execution services are completely voluntary. All similarly situated members are equally capable of qualifying for the credits if they choose to meet the volume requirements, and the same credits will be paid to all members that qualify for them. In addition, the credits for transactions in Tape B securities are designed to reward market-improving behavior, and the proposed changes are designed to better align the requirements for the credits with the actual credits.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2017-002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2017-002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2017-002, and should be submitted on or before February 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-01295 Filed 1-19-17; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Meeting of the Advisory Committee on Veterans Business Affairs

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Advisory Committee Meeting.

SUMMARY: The U.S. Small Business Administration (SBA) is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Advisory Committee on Veterans Business Affairs. The meeting is open to the public.

DATES: Thursday, March 9, 2017, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: Eisenhower Conference Room B, located on the concourse level, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs (ACVBA). The ACVBA is established pursuant to 15 U.S.C. 657(b) note, and serves as an independent source of advice and policy recommendations to the Administrator of the SBA. The purpose of this meeting is to discuss the formation and growth of small business concerns owned and controlled by veterans and service disabled veterans, to focus on strategic planning, and provide updates on past and current events.

Additional Information: This meeting is open to the public. Advance notice of attendance is requested. Anyone wishing to attend and/or make comments to the ACVBA must contact SBA's Office of Veterans Business Development no later than March 6, 2017 at veteransbusiness@sba.gov. Comments for the record will be limited to five minutes in the interest of time and to accommodate as many participants as possible. Written comments should also be sent to the above email no later than March 6, 2017. Special accommodation requests

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 200.30-3(a)(12).

should also be directed to SBA's Office of Veterans Business Development at (202) 205-6773 or veteransbusiness@sba.gov. For more information on veteran owned small business programs, please visit www.sba.gov/veterans.

Dated: January 11, 2017.

Miguel J. L. Heureux,
SBA Committee Management Officer.

[FR Doc. 2017-00951 Filed 1-19-17; 8:45 am]

BILLING CODE 8025-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36075]

The Illinois State Toll Highway Authority—Petition for Declaratory Order

By petition filed on November 23, 2016, the Illinois State Toll Highway Authority (Tollway) seeks a declaratory order confirming that, in its effort to acquire permanent and temporary easements for the construction of five highway bridges over railroad tracks owned and operated by Soo Line Railroad Company, d/b/a Canadian Pacific Railway (CP) in Chicago, Ill., the Tollway's state law eminent domain authority is not preempted by federal law under 49 U.S.C. 10501(b). The Tollway seeks expedited consideration and has submitted a procedural schedule that provides for comment by CP as well as a period for public comment.

On December 9, 2016, CP filed a "limited reply" in opposition to the Tollway's request for a declaratory order and proposed procedural schedule. CP argues that the Tollway disregards the fact that the construction of the five highway bridges would lock the layout of the tollway into an alignment that goes across and through CP's Bensenville Yard. Therefore, CP asserts that the scope of this proceeding should be broadened to consider the ramifications that the Tollway's project would have on the Bensenville Yard. CP also requests that the Board allow limited discovery and proposes a procedural schedule that allows for discovery, CP's substantive reply, and public comment.¹ In the event the Board

¹ On December 21, 2016, the Tollway filed a motion for leave to file a surreply to CP's December 9, 2016 limited reply. On January 3, 2016, CP filed a motion for leave to file a reply to the Tollway's surreply. The Board will grant both motions and will consider the filings in the interest of compiling a more complete record. See *City of Alexandria, Va.—Pet. for Declaratory Order*, FD 35157 (STB served Nov. 6, 2008) (allowing reply to reply "[i]n the interest of compiling a full record"); *Denver & Rio Grande Ry. Historical Found.—Pet. for Declaratory Order*, FD 35496, slip op. at 3 (STB served Feb. 23, 2012).

were to disallow discovery, CP proposes an alternative procedural schedule, with replies due on February 23, 2017.

As discussed below, the Board will institute a proceeding to consider whether 49 U.S.C. 10501(b) preempts the Tollway's eminent domain authority to acquire the temporary and permanent easements needed to construct highway bridges over CP's rail tracks, as well as to consider the implications of the Tollway's prospective plans to cross or go through the Bensenville Yard.

Background

The construction of the Western Access Interchange, which involves the proposed construction of five highway bridges over CP's railroad tracks, is one stage of the Tollway's Elgin O'Hare Western Access Project (EOWA Project), a multi-stage project to improve the transportation infrastructure near O'Hare International Airport (O'Hare) by creating access to the western side of O'Hare. (Tollway Pet. 2; CP Reply 4.) The EOWA Project involves the construction of an east-west tollway (the Western Access Tollway) that approaches O'Hare from the west and a north-south tollway (the Western Bypass) that would connect I-90 north of O'Hare to I-294 south of O'Hare via the airport's western perimeter. (CP Reply 4.) The Tollway's petition pertains to the Western Access Interchange, which is the planned interchange between these two new tollways.

CP has requested that the Board broaden the scope of this proceeding to consider the southern leg of the Western Bypass, because "construction of the Western [Access] Interchange commits the Western Bypass to an alignment through Bensenville Yard," which is located immediately south of O'Hare and is CP's only rail yard in the Chicago Terminal. (CP Reply 9.) CP states that construction of the Western Access Interchange involves plans to build the highway bridges and a section of the southern leg of the Western Bypass to Irving Park Road, just north of the Bensenville Yard and that the Tollway has already commenced construction on a part of the tollway immediately south of the Bensenville Yard, from I-294 north to the yard's southwest property line. *Id.* Thus, CP argues that it is inevitable that the Tollway will seek to complete the Western Bypass through the Bensenville Yard.

The Tollway states that, while its ultimate goal is to connect the Western Access Tollway to I-294, the current plan is for the Western Access Tollway to stop at Irving Park Road, north of the Bensenville Yard. (Tollway Pet. 30.) The

Tollway states that the phases involving the crossing of the Bensenville Yard are the last two phases of the entire EOWA Project, with construction projected to start no earlier than 2020. (Tollway Pet. 16-17, 30.) The Tollway asserts that CP's objections in this proceeding to these last phases of construction are premature, as the plans for these phases have not developed past the conceptual layout stage, and it would thus be impossible to determine whether the phases would unreasonably interfere with railroad operations. (Tollway Pet. 31.) The Tollway states that "if and when the Tollway elects to pursue this work and [CP] refuses to cooperate, the Tollway will return to the Board with a subsequent petition related to the Bensenville Yard issues." (Tollway Pet. 30.) The Tollway also notes that CP's argument for considering the impact on the Bensenville Yard has been dismissed as premature by the United States District Court for the Northern District of Illinois, see *Soo Line R.R. v. Ill. State Toll Highway Auth.*, Case No. 15-C-10328 (N.D. Ill. Mar. 29, 2016), and CP's appeal of the dismissal is currently pending before the United States Court of Appeals for the Seventh Circuit.

Discussion and Conclusions

The Board has discretionary authority under 5 U.S.C. 554(e) and 49 U.S.C. 1321² to issue a declaratory order to eliminate a controversy or remove uncertainty in a case that relates to the subject matter jurisdiction of the Board. The Board has broad discretion to determine whether to issue a declaratory order. See *Intercity Transp. Co. v. United States*, 737 F.2d 103 (D.C. Cir. 1984); *Delegation of Auth.—Declaratory Order Proceedings*, 5 I.C.C.2d 675 (1989). The Board may also provide guidance to assist other government agencies and courts in appropriate circumstances. See *U.S. Env'tl. Prot. Agency—Pet. for Declaratory Order*, FD 35803 (STB served Dec. 30, 2014); *Mid-Am. Locomotive & Car Repair, Inc.—Pet. for Declaratory Order*, FD 34599 (STB served June 6, 2005). In this case, it is appropriate to institute a proceeding so that the Board can address whether § 10501(b) preempts the Tollway's eminent domain authority to acquire the temporary and permanent easements needed to construct highway bridges over CP's tracks, as well as the potential implications of crossing or going through the Bensenville Yard. The

² The Surface Transportation Board Reauthorization Act of 2015, Public Law No. 114-110, recodified certain provisions of title 49, United States Code, redesignating 49 U.S.C. 721 as § 1321.