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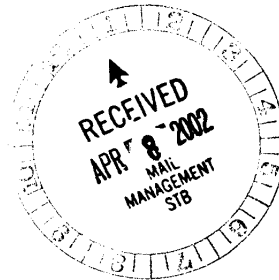
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DD # 0101919002 April 8, 2002

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington, DC 20423



RE: Finance Docket No. 34193, *Toledo, Peoria & Western Railway Corporation—
Corporate Family Merger Exemption*

Dear Secretary Williams:

Enclosed for filing are the original and 10 copies of a Verified Notice of Exemption, a \$1,300 filing fee, and three 3.5-inch IBM-compatible floppy diskettes with the file Notice of Exemption.doc. Also enclosed are 20 additional copies of the maps.

Please time and date stamp the extra copy of this letter and the Notice and return it with our messenger.

If you have any questions, please contact me.

Respectfully submitted,

Louis E. Gitomer

ENTERED
Office of the Secretary

APR 8 2002

Public Record

Enclosures

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SURFACE
TRANSPORTATION BOARD

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SURFACE
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PORTLAND, OREGON

WASHINGTON, D.C.

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34193

TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION—
CORPORATE FAMILY MERGER EXEMPTION

VERIFIED NOTICE OF EXEMPTION

Gary A. Laakso, Esq.
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RailAmerica, Inc.
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(561) 994-6015

Louis E. Gitomer, Esq.
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Washington, D.C. 20005
(202) 638-3307

Attorneys for: TOLEDO, PEORIA &
WESTERN RAILWAY CORPORATION

Dated: April 8, 2002

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34193

TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION—
CORPORATE FAMILY MERGER EXEMPTION

VERIFIED NOTICE OF EXEMPTION

The Toledo, Peoria & Western Railroad Corporation ("TPWRR"), a New York corporation, Marksman Corp. ("Marksman"), a Delaware corporation, and the Toledo, Peoria & Western Railway Corporation ("TPWRY"), a New Jersey corporation (collectively the "Railroad"), and Florida Rail Lines, Inc., a Delaware corporation ("Florida Rail"), pursuant to 49 C.F.R. §§ 1180.2(d)(3) and 1180.4(g), file this Verified Notice of Exemption from the prior approval requirements of 49 U.S.C. § 11323 with the Surface Transportation Board (the "STB"). This Verified Notice of Exemption is being filed to permit Florida Rail, TPWRR, and TPWRY to merge into Marksman, with the surviving Delaware corporation being renamed Toledo, Peoria & Western Railway Corporation. TPWRR, TPWRY, and Marksman are all Class III railroads in the same corporate family. Florida Rail is not a railroad, but does control TPWRR, Marksman, and TPWRY. Florida Rail, TPWRR, Marksman, and TPWRY are engaging in a corporate reorganization.

a. **1180.6(a)(1)(i).** A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

The Toledo, Peoria & Western Railroad Corporation directly controls Marksman Corp., which in turn directly controls the Toledo, Peoria & Western Railway Corporation, all at 1990 East Washington Street, East Peoria, IL 61611, 309-698-2600.¹

This is a transaction within a corporate family. Florida Rail, TPWRR, and TPWRY will merge into Marksman. After the merger, Marksman will change its name to Toledo, Peoria & Western Railway Corporation and remain a Delaware corporation. Four corporations will be reduced to one. This transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The transaction will reduce corporate overhead and duplication by eliminating three corporations while retaining the same assets to serve customers.

The Railroad operates about 311.2 miles of railroad in the States of Indiana and Illinois.

The Railroad owns and operates 175.4 miles of rail line between Kenneth, IN, milepost 6.1E, and the Indiana-Illinois Stateline, milepost 61.3 (55.2 miles), between the Indiana-Illinois Stateline, milepost 0.0, and East Peoria, IL, milepost 108.0 (108.0 miles), between Crandall, IL, milepost 43.4, and Morton, IL, milepost 48.3 (4.9 miles), East Peoria, IL, milepost 108.0, and P&PU Junction, milepost 109.4 (1.4 miles), between Hollis, IL, milepost 118.6, and SF&L Junction, IL, milepost 123.0 (4.4 miles), and the Kolbe Industrial line between milepost 121.5 and milepost 123 (1.5 miles).

The Railroad operates 135.8 miles between: (1) Peoria, IL, milepost 52.3, and Galesburg, IL, milepost 0.0 (52.3 miles), pursuant to trackage rights over The Burlington Northern and Santa

¹ TPWRR is directly controlled by Florida Rail Lines, Inc., 5300 Broken Sound Boulevard, N.W., Boca Raton, FL 33487, which in turn is directly controlled by RailAmerica Transportation Corp., which is directly controlled by Palm Beach Rail Holding, Inc., a wholly-owned subsidiary of RailAmerica, Inc.

Fe Railway Company; (2) East Peoria, IL, milepost 403.3, and Crandall, IL, milepost 410.6 (7.3 miles), pursuant to trackage rights over the Norfolk Southern Railway Company; (3) P&PU Junction, IL, milepost 109.4, and Iowa Junction, milepost 113.9 (4.5 miles), pursuant to trackage rights over Peoria and Pekin Union Railway Company; (4) Iowa Junction, IL, milepost 113.9, and Hollis, IL, milepost 118.6 (4.7 miles) pursuant to trackage rights over Union Pacific Railroad Company; (5) Logansport, IN, milepost 0.0E, and Kenneth, IN, milepost 6.1E (6.1 miles), Monterey, IN, milepost 183.0M, and North Judson, IN, milepost 199.0M (16 miles), and Kenneth, milepost 0.0W, and Winimac, milepost 20.0W (20 miles), pursuant to a Lease Agreement with Cargill, Inc.; and (6) Reynolds, IN, milepost Q88.4, and LaFayette, IN, milepost Q113.3 (24.9 miles), pursuant to operating rights granted by CSX Transportation, Inc.

Counsel to whom questions concerning the transaction can be addressed are: Gary A. Laakso, Esq., Vice President Regulatory Counsel, RailAmerica, Inc., 5300 Broken Sound Boulevard N.W., Boca Raton, FL 33487, (561) 994-6015, and Louis E. Gitomer, Esq., Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, D.C. 20005, (202) 638-3307.

b. **1180.6(a)(1)(ii).** The proposed time schedule for consummation of the proposed transaction.

Florida Rail, TPWRR, and TPWRY intend to merge into Marksman on or after April 15, 2002.

c. **1180.6(a)(1)(iii).** The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

The merger of Florida Rail, TPWRR, and TPWRY into Marksman is intended to simplify the corporate structure and reduce overhead costs incurred by the existence of the four entities instead of one.

d. **1180.6(a)(5).** A list of the State(s) in which any part of the property of each applicant carrier is situated.

TPWRR, TPWRY, and Marksman operate in the two states of Illinois and Indiana.

e. **1180.6(a)(6). Map (Exhibit 1).** Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

See Exhibit 1.

f. **1180.6(a)(7)(ii). Agreement (Exhibit 2).** Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.

The Agreement and Plan of Merger necessary to effectuate the merger of Florida Rail, TPWRR, and TPWRY into Marksman is in Exhibit 2.

g. **Labor Protection.**

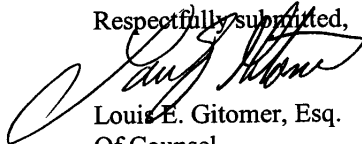
Under 49 U.S.C. § 11326(c), labor protection is not to be imposed since Florida Rail is not a railroad, and TPWRR, TPWRY, and Marksman are all class III railroads, and the surviving company will also be a class III railroad.

h. Environmental and Historical documentation.

This transaction qualifies for classification under 49 C.F.R. §1105.6(c)(2) and thus
neither an Environmental Assessment nor a Historic Report is required to be filed.

Gary A. Laakso, Esq.
Vice President Regulatory Counsel
RailAmerica, Inc.
5300 Broken Sound Boulevard N.W.
Second Floor
Boca Raton, FL 33487
(561) 994-6015

Respectfully submitted,



Louis E. Gitomer, Esq.
Of Counsel
BALL JANIK LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorneys for: TOLEDO, PEORIA &
WESTERN RAILWAY CORPORATION

Dated: April 8, 2002

EXHIBIT 1

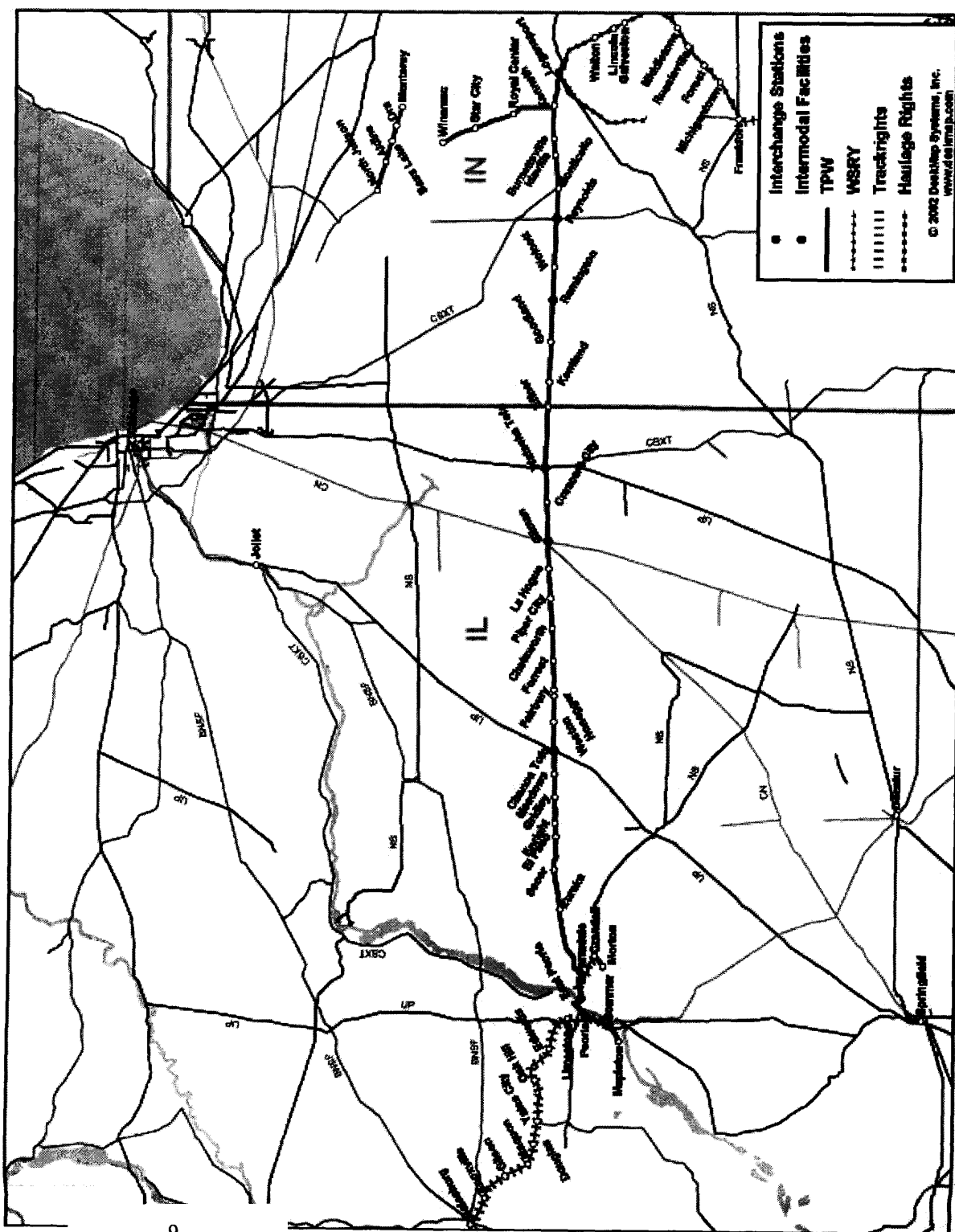


EXHIBIT 2

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "Agreement") is made and entered into as of the 28th day of March, 2002, by and between Florida Rail Lines, Inc., a Delaware corporation ("FRL"), and Toledo, Peoria & Western Railroad Corporation, a New York corporation ("TP&WRR"); Toledo, Peoria & Western Railway Corporation, a New Jersey corporation ("TP&WRY") and Marksman Corp., a Delaware corporation, (the "Surviving Corporation"). The Surviving Corporation, FRL, TP&WRR and TP&WRY shall hereafter at times be collectively referred to as the "Constituent Corporations."

In consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE I.

MERGER OF FRL, TP&WRR AND TP&WRY INTO SURVIVING CORPORATION

1.01. On the Effective Date (as hereinafter defined), FRL, TP&WRR and TP&WRY shall be merged with and into the Surviving Corporation, and the separate existence of the FRL, TP&WRR and TP&WRY shall cease. The Surviving Corporation shall continue its corporate existence under, and shall be governed by, the laws of the State of Delaware. The Surviving Corporation shall change its name to Toledo, Peoria & Western Railway Corp. after the Effective Date.

1.02. This Agreement shall be submitted for approval to the shareholders of (i) the Surviving Corporation in the manner prescribed by and in accordance with the laws of the State of Delaware, (ii) FRL in the manner prescribed by and in accordance with the laws of the State of Delaware; (iii) TP&WRR in the manner prescribed by and in accordance with the laws of the State of New York, and (iv) TP&WRY in the manner prescribed by and in accordance with the laws of the State of New Jersey. If this Agreement is approved by the shareholders of the Constituent Companies in the manner prescribed by and in accordance with the laws of the States of their respective incorporations, and by their respective shareholders in the manner prescribed by and in accordance with the laws of their respective incorporations, such filings in the form required shall be delivered to the Secretary of States of Delaware, New York and New Jersey, and a Certificate of Merger in the form required under Section 252 of the Delaware General Corporation Law shall be delivered to the Secretary of State of Delaware. The merger of FRL, TP&WRR and TP&WRY with and into the Surviving Corporation shall become effective at 11:59 p.m., Eastern Standard Time, on April 15, 2002 (the "Effective Date").

1.03. The Board of Directors of each of the Constituent Corporations has adopted and approved this Agreement in the manner prescribed by and in accordance with the laws of the States of their respective incorporations.

ARTICLE II

STATUS OF SHARES; MANNER OF CONVERSION

2.01. There are presently outstanding One Thousand (1,000) shares of no par value common stock of the Surviving Corporation (hereinafter referred to as the "Surviving Corporation Common Stock"). FRL presently has One Hundred (100) shares of no par value common stock ("FRL Common Stock"); TP&WRR presently has One Thousand (1,000) shares of no par value common stock ("TP&WRR Common Stock"); and TP&WRY presently has One Hundred (100) shares of no par value common stock ("TP&WRY Common Stock").

2.02. On the Effective Date, each share of the FRL Common Stock, TP&WRR Common Stock and TP&WRY Common Stock shall automatically be cancelled, and the Surviving Corporation Common Stock shall continue unchanged and be the issued and outstanding capital stock of the Surviving Corporation. The Shareholders of FRL, TP&WRR and TP&WRY shall receive no consideration of any kind for their respective Common Stock.

ARTICLE III

EFFECT OF MERGER

3.01. The Board of Directors and Officers of the Surviving Corporation as of the Effective Date shall continue as the Board of Directors and Officers of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Certificate of Incorporation and Bylaws and the Delaware General Corporation Law.

3.02. The Certificate of Incorporation and the Bylaws of the Surviving Corporation in effect on the Effective Date shall continue to be the Certificate of Incorporation and the Bylaws of the Surviving Corporation after the Effective Date, until altered, amended or repealed as provided therein or by the Delaware General Corporation Law.

3.03. On the Effective Date, the Surviving Corporation shall possess all the rights, privileges, powers and franchises as well of a public or private nature, and be subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; and all the rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, and all debts due to either of the Constituent Corporations on whatever account, and all other things in action or belonging to each of such corporations shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective Constituent Corporations, and the title to any real estate vested by deed or otherwise in any of such Constituent Corporations shall not revert or be in any way impaired by reason of the merger of the Constituent Corporations; but all rights of creditors and all liens upon any property of any of said Constituent Corporations shall be preserved unimpaired, and all debts, liabilities and duties of the respective Constituent

Corporations shall attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts, liabilities and duties have been incurred or contracted by it.

ARTICLE IV.

MISCELLANEOUS

4.01. The merger provided for herein may be abandoned, prior to the Effective Date, by the Boards of Directors of the Constituent Corporations in the exercise of their sole and independent discretion without the approval or authorization of the shareholders of the Constituent Corporations.

4.02. This Agreement may be amended by the parties hereto, at any time before or after approval of the merger by the shareholders of the Constituent Corporations, but, after any such approval, no amendment shall be made that materially adversely affects the rights of such shareholders (other than an abandonment of the merger as provided above) without the further approval of such shareholders. This Agreement may not be amended except by an instrument, in writing signed on behalf of each of the parties hereto.

4.03. If at any time the Surviving Corporation shall consider or be advised that any further assignment or assurance in law or other action is necessary or desirable to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation the title to any property or rights of FRL, TP&WRR and TP&WRY acquired by or as a result of this merger, the proper officers and directors of FRL, TP&WRR and TP&WRY and the Surviving Corporation, respectively, shall be, and they hereby are, severally and fully authorized to execute and deliver such deeds, assignments and assurances and take such other action as may be necessary or proper in the name of FRL, TP&WRR and TP&WRY or the Surviving Corporation to vest, perform or confirm title to such property or rights in the Surviving Corporation and otherwise carry out the purposes of this Agreement.

4.04. This Agreement is made pursuant to and shall be governed by the laws of the State of Delaware, except to the extent that the laws of the States of New York or New Jersey are applicable hereto.

IN WITNESS WHEREOF, the undersigned parties hereto have duly executed this Agreement as of the date first above written.

FLORIDA RAIL LINES, INC.,
a Delaware corporation

By: Jack F. Conser
Name: Jack F. Conser
Title: Senior Vice President

**TOLEDO, PEORIA & WESTERN
RAILROAD CORPORATION, a
New York corporation**

By: *Jack F. Conser*
Name: Jack F. Conser
Title: Senior Vice President

**TOLEDO, PEORIA & WESTERN
RAILWAY CORPORATION, a
New Jersey corporation**

By: *Larry W. Bush*
Name: Larry W. Bush
Title: Vice President

**MARKSMAN CORP., a Delaware
corporation**

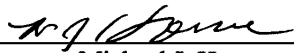
By: *Michael J. Howe*
Name: Michael J. Howe
Title: VP/Treasurer

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CERTIFICATE

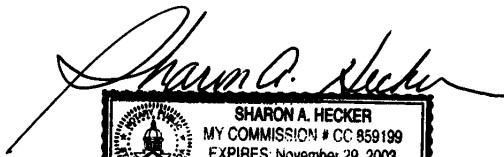
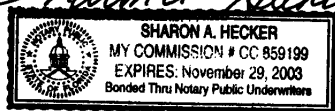
State of Florida)
)ss
County of Palm Beach)

Michael J. Howe, being duly sworn, deposes and says that he is Vice President-Treasurer of Marksman Corp., a Delaware corporation, and that he has read the foregoing, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.



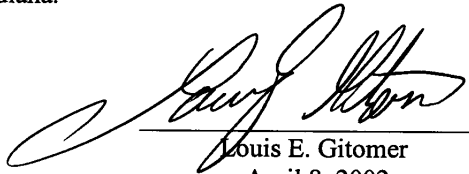
Michael J. Howe

Subscribed and sworn to before me this 4th day of April 2002.

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Verified Notice of Exemption in Finance Docket 34193, Toledo, Peoria & Western Railway Corporation—Corporate Family Merger Exemption, to be served by first class mail, postage pre-paid on the Secretary of the United States Department of Transportation, the Attorney General of the United States, the Federal Trade Commission and the Governor, Public Service Commission, and Department of Transportation of the States of Florida, Illinois, and Indiana.



Louis E. Gitomer
April 8, 2002