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FOLEY LARDNER
ATTORNEYS AT LAW

205662



June 19, 2002

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W. Room 700
Washington, D.C. 20006

Re: Finance Docket No. 34177
Iowa, Chicago & Eastern Railroad Corporation -- Acquisition and
Operation Exemption -- Lines of I&M Rail Link, LLC

Dear Secretary Williams:

Enclosed for filing in the above identified proceeding are an original and ten copies of the Comments of Metra, the Commuter Rail Division of the Regional Transportation Authority of Northeast Illinois.

Also enclosed with this letter is a diskette containing the text of Metra's Comments in Microsoft Word 97 format. Please date stamp the extra copy of this letter and enclosure provided and return same to us for our files.

Sincerely yours,

Robert P. vom Eigen

RVE/dmo
Enclosures

ENTERED
Office of the Secretary
JUN 19 2002
Part of
Public Record

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**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.**

Finance Docket No. 34177

**Iowa, Chicago & Eastern Railroad Corporation
- Acquisition and Operation Exemption
Lines of I&M Rail Link, LLC**

COMMENTS OF METRA



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The Commuter Rail Division of the Regional Transportation Authority of Northeast Illinois d/b/a "Metra", through its undersigned counsel, offers the following comments concerning the Notice of Exemption filed by the Iowa, Chicago & Eastern Railroad Corporation ("IC&E") in accordance with the Board's procedural order served in this docket on June 12, 2002.

Metra has questions about IC&E's acquisition of the assets of I&M Rail Link, LLC ("IMRL") and the related transactions that will result in the control of IC&E by the Dakota, Minnesota & Eastern Railroad Corporation. Metra is concerned about the impacts which these transactions may have upon the 33.8 mile line of railroad owned by Metra between milepost 40.3 at Almora (or Pingree Grove) Illinois and milepost 6.5 at Cragin Junction, Illinois that is heavily used by Metra in its provision of commuter service between Chicago and Elgin (hereinafter designated as the "Line").

IMRL has trackage rights over that Line, and IC&E's Notice of Exemption represents that these rights are among the incidental trackage rights that it will acquire on or after June 28,

2002. See Notice at 3 and Exhibit A at 2. The Notice is misleading to the degree it implies that the only precondition to completing the transactions contemplated by the Notice is the passage of the requisite 21-day period under 49 CFR §1150.45(e). To the contrary, in order for it to continue the IMRL freight service into the Chicago terminal, IC&E must first obtain Metra's written consent to the assignment of the trackage rights. Discussions concerning Metra's consent to the assignment of these rights commenced only on June 12, 2002, and Metra has received only limited and incomplete information concerning the planned operations over the Line and no information concerning the financial resources available to the new entity to meet its trackage rights obligations. It is very doubtful that Metra's questions in this regard can be resolved by June 28, and it is possible that Metra may not ever grant its consent to the assignment.

Pending resolution of its concerns, Metra has by letter, dated June 19, 2002, instructed the Canadian Pacific Railway ("CP") which dispatches the Line, not to admit IC&E trains on to the Line until Metra has notified CP that it has granted its consent to the assignment. A copy of the Metra letter is attached hereto as Exhibit A.

To the degree IC&E, the Board, state governments or shippers regard access by IC&E to Chicago terminal via this Metra-owned Line to be an important (or essential) matter that should (or must) be resolved prior to consummation of the other aspects of the asset sales transaction, then consideration should be given to delaying the effective date of the transaction or the authority to consummate it until Metra and IC&E have completed their discussions.

Statement of Metra's Interest

Metra is the commuter rail authority serving the Chicago metropolitan area, and it handles more than 300,000 passenger trips each business day in 705 trains serving 241 stations. Metra transports 22,400 passengers each day in 58 trains in its Chicago – Elgin service. In 1987,

the Regional Transportation Authority ("RTA") an Illinois municipal corporation, acquired the Line from CMC Real Estate Corp, as successor in interest to the Trustee of the Milwaukee Road estate, subject to the right of CP's access to the Line for freight transportation purposes. Shortly thereafter, RTA conveyed its interest in the Line to Metra. CP was granted the right to admit an additional freight carrier to the Line, provided the admission did not materially interfere with Metra's operations and the third party accepted the financial obligations set forth in trackage rights agreements between Metra and CP. Assignment of rights under the agreement between CP and Metra can only occur with Metra's prior written consent. CP, in turn, specifically conditioned the grant of the trackage rights in 1997 to IMRL on IMRL's promise that it would obtain Metra's prior written consent prior to any assignment of those rights.

Metra has a range of concerns and questions about the parties which share the lines that it uses for the provision of commuter rail services. These concerns include but are not limited to: safe interaction of crews and trains on the Line; interference with commuter train service; impacts of future traffic on the Line's structures and capital improvements; operating credentials of the company's management and employees; safety record of the other railroads under common control of the owner of the new owner; financial strength of the new entity to assume responsibility for operating and capital expenses that are owed under the agreements governing use of the Line.

The IC&E's parent intends to construct a line of railroad to the Powder River Basin that according to DM&E estimates filed in Finance Docket No. 33407 would generate 9 million tons of coal traffic to the Chicago gateway in the first year of operation and 24 million tons per year

by the sixth year of operation.¹ This traffic alone could generate the need to move an additional four, 135 car unit trains per day through the Chicago terminal. How much of this or the other estimated traffic generated by DM&E's Powder River Basin project would actually make its way to the Metra-owned Line is at this time unknown to Metra, but there is little doubt that the Line will be affected.² Also unknown is the extent to which this traffic might conflict with Metra's commuter services. However, to the extent heavily loaded unit trains of coal operate over the Line utilized by Metra, additional capital programs will be needed to address the premature deterioration induced by the increased loadings and the added structural requirements for the Line, and Metra needs to negotiate appropriate understandings concerning those needed improvements at this time, and not later.

Financial strength is an important consideration as well. To the degree CP admitted IMRL to the Line, Metra could look to the financial strength of that carrier to backstop the obligations incurred on behalf of its admittee. However, in the context of an assignment by IMRL to a third party, it is up to Metra to negotiate protections to secure its interests in the context of any consent it may grant to the assignment. These and other matters will take time to resolve, and the parties have just begun the process.

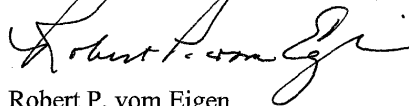
Metra seeks no specific relief in this proceeding at this time, but reserves the right to request that this Board to reopen the exemption proceeding if it should discover other matters

¹ See Application of DM&E in Finance Docket 33407, Appendix 2, Verified Statement of Charles E. Mann, Table 4.

² See Application of DM&E in Finance Docket No. 33407, Exhibit D, Operating Plan at 17.

relevant to the Board's jurisdiction over transactions of this kind. Of course, Metra will apprise the Board of the results of its negotiations with IC&E once they have progressed to conclusion.

Respectfully submitted,



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Counsel for Metra

Michael Noland
General Counsel
Metra
547 West Jackson Boulevard
Chicago, Illinois 60610
(312) 322-6699

Dated: June 19, 2002

EXHIBIT A



547 W. Jackson Blvd.

Chicago, Illinois 60661

Telephone: 312-322-6900

TTY# 1-312-322-6774

June 19, 2002

VIA FACSIMILE AND REGULAR MAIL

Mr. Jim Bender, Director
Interline Management - Chicago/Detroit and West
Canadian Pacific Railway
1200 Jorie Boulevard - Suite 225
Oakbrook, IL 60523

Re: Assignment of Rights by I&M Rail Link to Metra's West Line

Dear Mr. Bender:

The Iowa, Chicago & Eastern Railroad Corporation ("IC&E") has filed a notice of exemption with the Surface Transportation Board in Finance Docket No. 34177, in which it identifies certain assets which I&M Rail Line ("IMRL") has agreed to sell or assign to it, including trackage rights which CP has granted to IMRL over Metra's West Line between MP 40.3 near Pingree Grove, Illinois and MP 6.5 at the division of ownership and connection between Metra and the Belt Railway Company of Chicago at Cragin Junction. As you know, under the 1985 Trackage Agreement, as amended, between CP and Metra governing this segment of track, CP rights and obligations cannot be assigned without Metra's prior written consent. Similarly, under the 1997 Trackage Rights Agreement between CP and IMRL governing this segment of track, IMRL is not permitted to assign its rights over this track without Metra's prior written consent.

Although discussions have recently commenced concerning the proposed assignment by IMRL of its rights to IC&E, Metra has serious concerns about the assignment of these rights. It is not likely that those concerns will be fully resolved by June 28, 2002, the first date upon which IC&E says it may proceed with the purchase of assets. Therefore, Metra hereby instructs that IC&E not be permitted access to Metra's West Line until and unless Metra further notifies you in writing of the successful resolution of Metra's concerns and its approval of the assignment of IMRL's trackage rights.

Should you have any questions or concerns over the foregoing instruction, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Tidwell'.

Richard Tidwell
Deputy Executive Director

cc: Diane P. Gerth, Esq.
Michael Noland, Esq.

Metra is the registered service mark for the Northeast Illinois Regional Commuter Railroad Corporation.

TOTAL P.02

CERTIFICATE OF SERVICE
PURSUANT TO 49 C.F.R. § 1150.35(c)

In accordance with the requirements of 49 C.F.R. § 1150.35(c), I hereby certify that on this 19th day of June, 2002, a copy of the foregoing Comments of Metra was served by first class mail, postage prepaid, upon:

Hon. Thomas J. Vilsack
Governor
State of Iowa
State Capitol, First Floor
Des Moines, IA 50319

Ms. Peggy A. Baer
Office of Rail Transportation
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

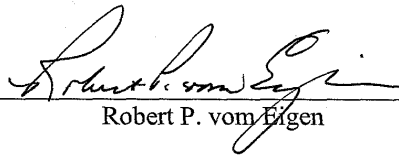
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Robert P. vom Eigen

(*)To be served by facsimile.