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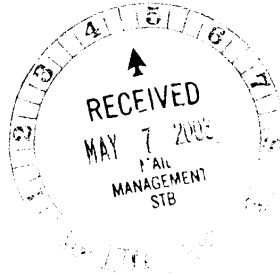
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May 7, 2003

VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



RE: Finance Docket No. 34335
*Keokuk Junction Railway Co.--Feeder Railroad Development Application--
-Line Of Toledo, Peoria & Western Railway Corporation Between La
Harpe And Hollis, IL*

Dear Secretary Williams:

Enclosed for filing in the above-referenced docket, please find an original and eleven copies of Keokuk Junction Railway Co.'s "Motion for Protective Order." The document is also included on the enclosed diskette.

Please date stamp one copy and return it to the messenger for our files.

If you have any questions about this matter, please contact me at (202) 274-2953.

Sincerely,

William A. Mullins

Enclosures

ENTERED
Office of Proceedings

MAY 07 2003

**Part of
Public Record**

207759

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

FINANCE DOCKET NO. 34335

**KEOKUK JUNCTION RAILWAY CO.
--FEEDER RAILROAD DEVELOPMENT APPLICATION--
LINE OF TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION
BETWEEN LA HARPE AND HOLLIS, IL**

MOTION FOR PROTECTIVE ORDER

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Attorneys for Keokuk Junction Railway
Co.**

Dated: May 7, 2003

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

FINANCE DOCKET NO. 34335

**KEOKUK JUNCTION RAILWAY CO.
--FEEDER RAILROAD DEVELOPMENT APPLICATION--
LINE OF TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION
BETWEEN LA HARPE AND HOLLIS, IL**

MOTION FOR PROTECTIVE ORDER

Keokuk Junction Railway Co. ("KJRY" or "Applicant") hereby moves the Surface Transportation Board ("STB" or "Board") to issue a protective order in the form attached hereto as Attachment 1, pursuant to 49 C.F.R. § 1104.14 and Part 1151.

On April 9, 2003, KJRY filed a feeder railroad development program application pursuant to 49 U.S.C. Section 10907 (2000) and 49 C.F.R. Part 1151 (2002), to acquire the line of railroad currently owned by Toledo, Peoria & Western Railway Corporation ("TP&W") extending between the line's junction with KJRY at Milepost 194.5 at LaHarpe, IL and Milepost 118.5 at Hollis, IL, at or near the junction with Union Pacific Railroad. As part of its application, KJRY offered to grant TP&W trackage rights over the portion of the track east of Milepost 123.0 to continue serving existing shippers.

The proposed protective order is necessary to facilitate discovery and submission of information to the Board. The terms of contracts, shipper-specific traffic data, and other confidential or proprietary information will likely be sought or produced in connection with the Application. Issuance of the requested protective order ensures that such information and data

produced by any party in response to a discovery request or otherwise will be used solely for the purposes of this proceeding and not for any other business or commercial use. Thus, the requested protective order will facilitate the prompt and efficient resolution of this proceeding.

The proposed protective order follows the pattern of other, similar orders issued by the Board in the past several years,¹ but excludes provisions of standard paragraph No. 2 for sharing information among applicants, inasmuch as there is only one applicant. Appropriate adjustments have also been made to accommodate the Board's recent ruling in *Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology*, STB Ex Parte 638 (STB served April 3, 2003). The form of the order is appropriate to this proceeding to ensure that confidential material disclosed as a result of this proceeding will be used only in connection with this proceeding, and not for any other business or commercial purpose. The Board should adopt the proposed order forthwith to effectuate efficient processing of KJRY's Application.

WHEREFORE, KJRY respectfully requests that the Board issue a protective order in the form attached hereto, directing that all information submitted in this proceeding which is labeled

¹ See, e.g., *Dakota, Minnesota & Eastern Railroad Corporation and Cedar American Rail Holdings, Inc. - Control - Iowa, Chicago & Eastern Railroad Corporation, Petition for Protective Order*, Finance Docket No. 34178 (STB served Aug. 14, 2002); *Canadian National Railway Company, Grand Trunk Corporation, et. al. - Control and Merger - Wisconsin Central Transportation Company et. al.*, Finance Docket No. 34000 (STB served Feb. 5, 2001); *Canadian National Railway Company, Grand Trunk Western Railroad Incorporated, Illinois Central Railroad Company, Burlington Northern Santa Fe Corporation, and the Burlington Northern and Santa Fe Railway Company - Common Control*, Finance Docket No. 33842 (STB served Jan. 12, 2000); *Canadian National Railway Company, et. al. - Control - Illinois Central Corporation, et. al.*, Finance Docket No. 33556, Decision No. 1 (STB served Feb. 26, 1998); and *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation*, Finance Docket No. 33388, Decision No. 1 (STB served Apr. 16, 1997).

by the submitting party as "Confidential" or "Highly Confidential" be withheld from full public dissemination in accord with the terms of the proposed order.

Respectfully submitted,



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Attorneys for the Keokuk Junction Railway
Co.

Dated: May 7, 2003

ATTACHMENT 1

SERVICE DATE - _____, 2003

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34335

KEOKUK JUNCTION RAILWAY CO.
--FEEDER RAILROAD DEVELOPMENT APPLICATION--
LINE OF TOLEDO, PEORIA & WESTERN RAILWAY CORPORATION
BETWEEN LA HARPE AND HOLLIS, IL

PROTECTIVE ORDER

Keokuk Junction Railway Co. ("KJRY" or "Applicant"), by petition submitted May 7, 2003, seeks a protective order in connection with the filing of its feeder railroad development program application pursuant to 49 U.S.C. Section 10907 (2000) and 49 C.F.R. Part 1151 (2002), to acquire the line of railroad currently owned by Toledo, Peoria & Western Railway Corporation ("TP&W") extending between the line's junction with KJRY at LaHarpe, IL at Milepost 194.5 and Milepost 118.5 at Hollis, IL, at or near the junction with Union Pacific Railroad. Applicants assert that the Protective Order is necessary to facilitate any discovery and the preparation of submissions to the Board by protecting the confidentiality of materials reflecting the terms of contracts, shipper-specific traffic data, and other confidential and/or proprietary information in the event that such materials are sought to be produced. The request for a protective order is similar to those in other recent cases,² but excluding provisions for

² See, e.g., *Canadian National Railway Company, Grand Trunk Corporation, et. al. - Control and Merger - Wisconsin Central Transportation Company et. al.*, Finance Docket No. 34000 (STB served Feb. 5, 2001); *Canadian National Railway Company, et. al. - Control - Illinois Central Corporation, et al.*, Finance Docket No. 33556, Decision No. 1 (STB served Feb. 26, 1998); *CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc.*

sharing information among applicants inasmuch as there is only one applicant. Appropriate adjustments have been made to accommodate the Board's recent ruling in *Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology*, STB Ex Parte 638 (STB served April 3, 2003). Issuance of the requested Protective Order ensures that confidential, proprietary or commercially sensitive information and data produced by any party in response to a discovery request or otherwise will be used solely for purposes of this proceeding and not for any other business or commercial use. The requested Protective Order will also facilitate the prompt and efficient resolution of the proceeding, and accordingly is granted. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The motion for protective order is granted and the parties to this proceeding must comply with the Protective Order in the Appendix.
2. This decision is effective on the service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

and Consolidated Rail Corporation, Finance Docket No. 33388, Decision No. 1 (STB served Apr. 16, 1997).

APPENDIX A

1. For purposes of this Protective Order:

(a) "Application" means an application filed in STB Finance Docket No. 34335 seeking authorization for Keokuk Junction Railway Co. ("KJRY" or "Applicant"), pursuant to 49 U.S.C. Section 10907 (2000) and 49 C.F.R. Part 1151 (2002), to acquire the line of railroad currently owned by Toledo, Peoria & Western Railway Corporation ("TP&W") extending between the line's junction with KJRY at Milepost 194.5 at LaHarpe, IL and Milepost 118.5 at Hollis, IL, at or near the junction with Union Pacific Railroad.

(b) "Confidential Documents" means documents and other tangible materials containing or reflecting Confidential Information.

(c) "Confidential Information" means traffic data (including but not limited to waybills, abstracts, study movement sheets, and any documents or computer tapes containing data derived from waybills, abstracts, study movement sheets, or other data bases, and cost workpapers), the identification of shippers and receivers in conjunction with shipper-specific or other traffic data, the confidential terms of contracts with shippers, confidential financial and cost data, and other confidential or proprietary business information.

(d) "Designated Material" means any documents designated or stamped as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" in accordance with paragraph 5 or 6 of this Protective Order, and any Confidential Information contained in such materials.

(e) "Proceedings" means those before the Surface Transportation Board ("Board") concerning the application in STB Finance Docket No. 34335, and any related

proceedings before the Board, and any judicial review proceedings arising from STB Finance Docket No. 34335 or from any related proceedings before the Board.

2. To the extent that any meetings, conferences, exchanges of data, or other cooperative efforts between representatives of KJRY, TP&W or their affiliates are held and carried out for purposes of these Proceedings, such meetings, conferences, exchanges of data and other cooperative efforts are deemed essential for the conduct and disposition of such Proceedings and will not be deemed a violation of 49 U.S.C. 10907, or any other relevant provision of the ICCTA Termination Act of 1995 ("ICCTA").

3. If the Application is disapproved by the Board, or if the Application is approved but acquisition is not effected, then all Confidential Documents (other than file copies of pleadings and other documents filed with the Board and retained by outside counsel for a party to these proceedings) that are exchanged between KJRY and TP&W but which are not otherwise available to them pursuant to their reporting responsibilities for securities, tax and other purposes, must be destroyed or returned to the party originating the Confidential Information contained or reflected in such Confidential Documents. With respect to parties other than KJRY and TP&W, if the Application is disapproved by the Board, or if the Application is approved but acquisition is not effected, then all Confidential Documents, other than file copies of pleadings and other documents filed with the Board and retained by outside counsel for a party to these proceedings, must be destroyed or returned to the party originating the Confidential Information contained or reflected in such Confidential Documents.

4. If any party to these Proceedings determines that any part of a discovery request or response, of a transcript of a deposition or hearing, or of a pleading or other paper filed or served in these Proceedings contains Confidential Information or consists of Confidential Documents, then that party may designate and stamp such Confidential Information and

Confidential Documents as "CONFIDENTIAL." Any information or documents designated or stamped as "CONFIDENTIAL" shall be handled as provided for hereinafter.

5. Any party producing material in discovery to another party to these Proceedings, or submitting material in pleadings or other documents filed or served, may in good faith designate and stamp particular Confidential Information, such as material containing shipper-specific rate or cost data or other competitively sensitive or proprietary information, as "HIGHLY CONFIDENTIAL." Any information or documents so designated or stamped shall be handled as provided hereinafter.

6. Information and documents designated or stamped as "CONFIDENTIAL" may not be disclosed in any way, directly or indirectly, or to any person or entity except to an employee, counsel, consultant, or agent of a party to these Proceedings, or an employee of such counsel, consultant, or agent, who, before receiving access to such information or documents, has been given and has read a copy of this Protective Order and has agreed to be bound by its terms by signing a confidentiality undertaking substantially in the form set forth at Exhibit A to this Order.

7. Information and documents designated or stamped as "HIGHLY CONFIDENTIAL" may not be disclosed in any way, directly or indirectly, to any employee of a party to these Proceedings, or to any other person or entity except to an outside counsel or outside consultant to a party to these Proceedings, or to an employee of such outside counsel or outside consultant, who, before receiving access to such information or documents, has been given and has read a copy of this Protective Order and has agreed to be bound by its terms by signing a confidentiality undertaking substantially in the form set forth at Exhibit B to this Order.

8. Any party to these Proceedings may challenge the designation by any other party of information or documents as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL" by

filing a motion with the Board or with an administrative law judge or other officer to whom authority has been lawfully delegated by the Board to adjudicate such challenge(s).

9. Designated Material may not be used for any purposes other than these Proceedings, including without limitation any business, commercial, strategic, or competitive purpose.

10. Any party who receives Designated Material in discovery shall destroy such materials and any notes or documents reflecting such materials (other than file copies of pleadings or other documents filed with the Board and retained by outside counsel for a party to these Proceedings) at the earlier of: (1) such time as the party receiving the materials withdraws from these Proceedings, or (2) the completion of these Proceedings, including any petitions for reconsideration, appeals, or remands.

11. No party may include Designated Material in any pleading, brief, discovery request or response, or other document submitted to the Board, unless the pleading or other document is submitted under seal, in a package clearly marked on the outside as "Confidential Materials Subject to Protective Order." See 49 C.F.R. § 1104.14. All pleadings and other documents so submitted shall be kept confidential by the Board and shall not be placed in the public docket in these Proceedings except by order of the Board or of an administrative law judge or other officer in the exercise of authority lawfully delegated by the Board.

12. No party may include Designated Material in any pleading, brief, discovery request or response, or other document submitted to any forum other than this Board in these Proceedings unless (1) the pleading or other document is submitted under seal in accordance with a protective order that requires the pleading or other document to be kept confidential by that tribunal and not be placed in the public docket in the proceeding, or (2) the pleading or other document is submitted in a sealed package clearly marked, "Confidential Materials Subject to

Request for Protective Order," and is accompanied by a motion to that tribunal requesting issuance of a protective order that would require the pleading or other document be kept confidential and not be placed in the public docket in the proceeding, and requesting that if the motion for protective order is not issued by that tribunal, the pleading or other document be returned to the filing party.

13. No party may present or otherwise use any Designated Material at a Board hearing in these Proceedings, unless that party has previously submitted, under seal, all proposed exhibits and other documents containing or reflecting such Designated Material to the Board, to an administrative law judge or to another officer to whom relevant authority has been lawfully delegated by the Board, and has accompanied such submission with a written request that the Board, administrative law judge or other officer (a) restrict attendance at the hearing during any discussion of such Designated Material, and (b) restrict access to any portion of the record or briefs reflecting discussion of such Designated Material in accordance with this Protective Order.

14. If any party intends to use any Designated Material in the course of any deposition in these proceedings, that party shall so advise counsel for the party producing the Designated Material, counsel for the deponent, and all other counsel attending the deposition. Attendance at any portion of the deposition at which any Designated Material is used or discussed shall be restricted to persons who may review that material under the terms of this Protective Order. All portions of deposition transcripts or exhibits that consist of, refer to, or otherwise disclose Designated Material shall be filed under seal and be otherwise handled as provided in paragraph 11 of this Protective Order.

15. To the extent that materials reflecting Confidential Information are produced by a party in these Proceedings, and are held and/or used by the receiving person in compliance with paragraphs 1, 4, or 5 above, such production, disclosure, holding, and use of the materials and of

the data that the materials contain are deemed essential for the disposition of this and any related Proceedings and will not be deemed a violation of 49 U.S.C. §10907 or of any other relevant provision of the ICCTA.

16. All parties must comply with all of the provisions of this Protective Order unless the Board or an administrative law judge or other officer exercising authority lawfully delegated by the Board determines that good cause has been shown warranting suspension of any of the provisions herein.

17. Nothing in this Protective Order restricts the right of any party to disclose voluntarily any Confidential Information originated by that party, or to disclose voluntarily any Confidential Documents originated by that party, if such Confidential Information or Confidential Documents do not contain or reflect any Confidential Information originated by any other party.

18. All parties must file a public version of any submission filed with the Board. Simultaneous to the filing of the public version all parties shall file any Highly Confidential or Confidential Version as applicable. Any discovery materials that are not required to be filed with the Board must be served on counsel and parties as appropriate with a public version and Highly Confidential or Confidential Version as applicable. The Confidential Version may be served on the reviewing party in electronic format only. In lieu of preparing a Confidential Version, the filing party may provide to outside counsel for the reviewing party a list of all "highly confidential" information that must be redacted from its Highly Confidential Version prior to review by in-house personnel. The outside counsel for the reviewing party must then redact that material from the Highly Confidential Version before permitting its client to review the submission.

Exhibit A

UNDERTAKING -- CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order served on _____, 2003, governing the production and use of Confidential Information and Confidential Documents in STB Finance Docket No. 34335, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any Confidential Information or Confidential Documents obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in STB Finance Docket No. 34335, any related proceedings before the Surface Transportation Board, and/or any judicial review proceedings in connection with STB Finance Docket No. 34335 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed Undertakings in the form hereof, and that at the conclusion of this proceeding (including any proceeding on administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting materials designated or stamped as "CONFIDENTIAL," other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that Applicant or other parties producing Confidential Information or Confidential Documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Signature

Dated: _____

Exhibit B

UNDERTAKING -- HIGHLY CONFIDENTIAL MATERIAL

I, _____, am outside [counsel] [consultant] for _____,
for whom I am acting in this proceeding. I have read the Protective Order served on _____, 2003, governing the production and use of Confidential Information and Confidential Documents in STB Finance Docket No. 34335, understand the same, and agree to be bound by its terms. I agree not to use or to permit the use of any Confidential Information or Confidential Documents obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in STB Finance Docket No. 34335, any related proceedings before the Surface Transportation Board, or any judicial review proceedings in connection with STB Finance Docket No. 34335 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed Undertakings in the form hereof.

I also understand and agree, as a condition precedent to my receiving, reviewing, or using copies of any information or documents designated or stamped as "HIGHLY CONFIDENTIAL," that I will take all necessary steps to assure that said information or documents be kept on a confidential basis by any outside counsel or outside consultants working with me, that under no circumstances will I permit access to said materials or information by employees of my client or its subsidiaries, affiliates, or owners, and that at the conclusion of this proceeding (including any

proceeding on administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting information or documents designated or stamped as "HIGHLY CONFIDENTIAL," other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

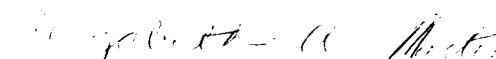
I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that Applicant or other parties producing Confidential Information or Confidential Documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Signature of Outside Counsel or Consultant

Dated: _____

CERTIFICATE OF SERVICE

I, Elizabeth A. Martin, hereby certify that on this 7th day of May, 2003, I served a copy of the foregoing Motion for Protective Order upon all required parties of record, by first class mail, postage prepaid.


Elizabeth A. Martin