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207934

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May 30, 2003

ENTERED
Office of Proceedings

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

MAY 30 2003
Part of
Public Record

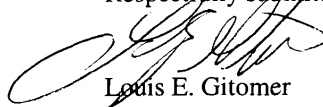
RE: Finance Docket No. 34335, *Keokuk Junction Railway Company.—Feeder
Railroad Development Application—Line of Toledo, Peoria and Western Railway
Corporation between La Harpe and Hollis, IL*

Dear Secretary Williams:

Enclosed for filing are the original and ten copies of the Responses to Discovery Requests of Keokuk Junction Railway Company by the Toledo, Peoria and Western Railway Corporation, and three diskettes with the file Discovery Response.doc.

Please time and date stamp the extra copy of this letter and the Response and return it with our messenger. If you have any questions, please contact me.

Respectfully submitted,



Louis E. Gitomer

Enclosures



ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34335

207934

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

TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION RESPONSES TO
DISCOVERY REQUESTS OF KEOKUK JUNCTION RAILWAY COMPANY

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Attorneys for: TOLEDO, PEORIA AND
WESTERN RAILWAY CORPORATION

Dated: May 30, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34335

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

TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION RESPONSES TO
DISCOVERY REQUESTS OF KEOKUK JUNCTION RAILWAY COMPANY

Toledo, Peoria and Western Railway Corporation (“TP&W”) responds to the Discovery Requests of Keokuk Junction Railway Company (“KJRY”) served on May 15, 2003 and received on May 16, 2003 (the “Discovery Request”).

GENERAL RESPONSES

The following general responses are made with respect to all of the discovery requests.

1. TP&W has conducted a reasonable search for responsive documents and information to respond consistent with the stated objections.¹
2. Where objections have been raised to the scope of the request, TP&W is willing to discuss searching for and producing documents or information covered by a more limited request taking into account the stated objection.
3. Production of information or documents does not necessarily imply that they are relevant to this proceeding, and is not to be construed as waiving any applicable objection.

¹ Thus, any response that states that responsive documents are being produced is subject to the General Objections, so that, for example, any documents subject to attorney-client privilege or the work product doctrine are not being produced.

GENERAL OBJECTIONS

The following general objections are made with respect to all of the discovery requests. Any additional specific objections are stated at the beginning of the response to each discovery request.

1. TP&W objects to production of, and is not producing, documents or information subject to the attorney-client privilege, the work product doctrine, or administratively confidential documents or information.

2. TP&W objects to production of, and is not producing, documents prepared in connection with, or information relating to, possible settlement of this or any other matter.

3. TP&W objects to production of, and is not producing, public documents or information that is readily available, including but not limited to documents on public file at the Surface Transportation Board ("STB"), the Securities and Exchange Commission, or any other government agency or court, or that have appeared in newspapers or other public media.

4. TP&W objects to the production of, and is not producing, information or documents that are as readily attainable by the KJRY from its own files.

5. TP&W objects to the production of, and is not producing, information or documents containing confidential or sensitive commercial information, including information subject to disclosure restrictions imposed by law in other proceedings or by contractual obligation to third parties, and that is of insufficient materiality to warrant production here even under a protective order.

6. TP&W objects to the production of, and is not producing, information or documents to the extent they are sought in a form not maintained by TP&W in the regular course of business and are not readily available in the form requested, on the ground that such documents or information could only be developed, if at all, through unduly burdensome and oppressive special studies, which are not ordinarily required and which TP&W objects to performing.

7. TP&W objects to KJRY' Definitions and Instructions to the extent that they seek to impose requirements that exceed those specified in the applicable discovery rules and guidelines.

DISCOVERY REQUESTS

In accord with the foregoing definitions and instructions, please produce the following information:

DISCOVERY REQUEST NO. 1

State for each shipment of freight handled by TP&W to or from any point on the Line during calendar years 2000, 2001 and 2002 the amount of revenue earned by TP&W for handling that shipment.

Response:

TP&W objects to Discovery Request No. 1 as being overly broad and unduly burdensome.

TP&W further objects to Discovery Request No. 1 in that it is not relevant to the case-in-chief presented by KJRY which rejects the calculation of going concern value based upon KJRY's novel, unconstitutional, unsubstantiated, and unjustified trackage rights theory.

Without waiving any objection, TP&W states that documents responsive to Discovery Request No. 1 are available. TP&W has preliminarily classified these documents as highly confidential and will make them available upon compliance with the Protective Order served in this proceeding by the Surface Transportation Board on May 16, 2003.

DISCOVERY REQUEST NO. 2

Identify for each shipment of freight handled by TP&W to or from any point on the Line during calendar years 2000, 2001 and 2002, the point where TP&W received the car (either from a shipper or in interchange) and the point where the car left TP&W's possession (either by interchange to another carrier or by delivery to a shipper or receiver), and whether each point named was an origin or destination of the shipment or a point of interchange with another carrier.

Response:

TP&W objects to Discovery Request No. 2 as being overly broad and unduly burdensome and as being vague and ambiguous.

Without waiving any objection, TP&W states that documents responsive to Discovery Request No. 2 are available. TP&W has preliminarily classified these documents as highly confidential and will make them available upon compliance with the Protective Order served in this proceeding by the Surface Transportation Board on May 16, 2003.

DISCOVERY REQUEST NO. 3

State the expenses incurred by TP&W in handling each shipment of freight handled by TP&W to or from any point on the Line during calendar years 2000, 2001 and 2002, including but not limited to labor, equipment and fuel costs, switching charges, trackage rights fees and car expense.

Response:

TP&W objects to Discovery Request No. 3 as being overly broad and unduly burdensome; and as being vague and ambiguous.

TP&W further objects to Discovery Request No. 3 in that it would require TP&W to conduct a special study to prepare the information requested in that TP&W does not maintain the information in the form requested by KJRY.

Without waiving any objection, TP&W states that documents responsive to Discovery Request No. 2 are available. TP&W has preliminarily classified these documents as highly

confidential and will make them available upon compliance with the Protective Order served in this proceeding by the Surface Transportation Board on May 16, 2003.

DISCOVERY REQUEST NO. 4

List all expenditures made by TP&W during calendar years 2000, 2001 and 2002, for maintenance, repair or rehabilitation of the Line.

Response:

TP&W objects to Discovery Request No. 4 as being overly broad and unduly burdensome; as requesting confidential or other information that is either not relevant or reasonably calculated to lead to the discovery of admissible evidence or is insufficiently relevant to warrant search and production; and as being vague and ambiguous.

Without waiving any objection, TP&W states that documents responsive to Discovery Request No. 4 are available. TP&W has preliminarily classified these documents as highly confidential and will make them available upon compliance with the Protective Order served in this proceeding by the Surface Transportation Board on May 16, 2003.

DISCOVERY REQUEST NO. 5

Provide a detailed breakdown of all expenditures believed by TP&W to be necessary to rehabilitate the Line to a condition at which TP&W would be able to operate with reasonable efficiency; *i.e.*, at a minimum FRA Class 1 track condition.

Response:

TP&W objects to Discovery Request No. 5 as being overly broad and unduly burdensome and as being vague and ambiguous.

Without waiving any objection, TP&W states that documents responsive to Discovery Request No. 5 are available. TP&W has preliminarily classified these documents as highly

confidential and will make them available upon compliance with the Protective Order served in this proceeding by the Surface Transportation Board on May 16, 2003.

DISCOVERY REQUEST NO. 6

Produce all documents containing information responsive to each of the preceding requests.

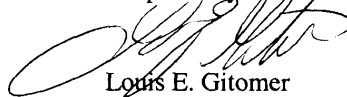
Response:

TP&W objects to Discovery Request No. 6 as being overly broad and unduly burdensome and as being vague and ambiguous, and for all of the reasons set forth in TP&W's objections to Discovery Requests Nos. 1-5.

Without waiving any objection, TP&W states that documents responsive to Discovery Request No. 6 are available. TP&W has preliminarily classified these documents as highly confidential and will make them available upon compliance with the Protective Order served in this proceeding by the Surface Transportation Board on May 16, 2003.

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Respectfully submitted,



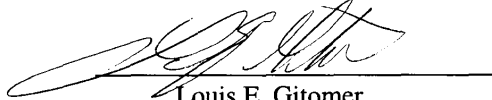
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Attorneys for: TOLEDO, PEORIA AND
WESTERN RAILWAY CORPORATION

Dated: May 30, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served by messenger on all parties of record in STB Finance Docket No. 34335.



Louis E. Gitomer
May 30, 2003