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August 7, 2003

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

208654

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 Motion to Strike of the Toledo, Peoria and Western Railway Corporation and three diskettes.

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

Respectfully submitted,



Louis E. Gitomer

Enclosures

208654

ORIGINAL

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

MOTION TO STRIKE OF TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION

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Attorneys for: TOLEDO, PEORIA AND
WESTERN RAILWAY CORPORATION

Dated: August 7, 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

MOTION TO STRIKE OF TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION

Toledo, Peoria and Western Railway Corporation (“TP&W”), pursuant to 49 C.F.R. § 1104.6, moves to strike as untimely the Reply by Keokuk Junction Railway Co. (“KJRY”) filed on August 1, 2003.¹

TP&W filed an appeal on July 18, 2003 of the decision in *Keokuk Junction Railway Company—Feeder Railroad Development Application—Line of Toledo, Peoria & Western Railway Corporation Between La Harpe and Hollis, IL*, Finance Docket No. 34335 (STB served July 9, 2003). TP&W appealed an action by the Acting Director of the Office of Proceedings under 49 CFR 1115.1(c) within 10 days of the service of the decision.² Replies to such an appeal were due 10 days after the appeal is due.³

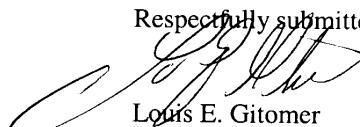
¹ TP&W is filing this Motion to make clear to the Board that it opposes KJRY’s late filing.

² TP&W takes exception to KJRY’s claim that KJRY has presented a *prima facie* case under the statute. The decision served July 9, 2003 did not reach as far as KJRY’s grasp. It merely stated at page 6 that “KJRY has submitted sufficient information in its application as amended to meet the requirements of 49 CFR 1151.3.”

³ In the Reply, KJRY mistakenly argues that the Appeal was filed under 49 C.F.R. § 1115.2. Appeals from employee decisions and the criteria for those appeals clearly fall under 49 C.F.R. § 1115.1(c). TP&W believes that KJRY is wrong in its assertion that any of the provisions of 49 C.F.R. § 1115.2 apply to the Appeal.

Since KJRY is the party urging TP&W to act quickly, TP&W believes that KJRY would have observed the strict deadlines of 49 C.F.R. § 1115.1(c). Instead, KJRY appears to be relying on inapplicable rules so that it can claim that the Reply is timely. KJRY is wrong and its Reply was filed late. Therefore, TP&W respectfully requests the Board to reject the Reply as late filed.⁴

Respectfully submitted,



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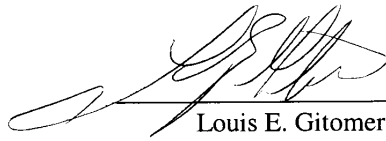
Attorneys for: TOLEDO, PEORIA AND
WESTERN RAILWAY CORPORATION

Dated: August 7, 2003

⁴ TP&W notes that this is the fourth time that KJRY has supplemented the record in this proceeding, while protesting each time that its prior filing was complete.

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served by overnight delivery or more expeditious means on all parties of record in STB Finance Docket No. 34335.



Louis E. Gitomer
August 7, 2003