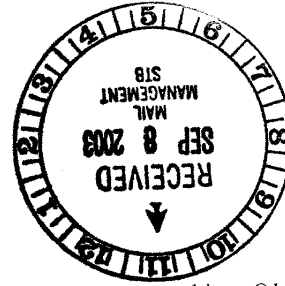


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September 8, 2003

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

ENTERED
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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 page 13 of the Motion to Compel Discovery Responses of the Toledo, Peoria and Western Railway Corporation that was filed on Friday September 5, 2003. In reviewing copies of the Motion, it appears that page 13 was inadvertently omitted during the copying process. We apologize for any inconvenience to the Board.

Please time and date stamp the extra copy of this letter and page 13 and return them with our messenger. If you have any questions, please contact me.

Respectfully submitted,

Louis E. Gitomer
Attorney for: Toledo, Peoria and Western
Railway Corporation

Enclosures

cc: Mr. Mullins
Mr. MacDougall



constructions, and similar transactions. In 1993, the ICC denied an application because the agency believed that no conditions could sufficiently mitigate the unsafe condition arising out of the proposed construction of the rail line.” *Safe Implementation of Board-Approved Transactions*, STB Ex Parte No. 574 (STB served December 1, 1997) (the “*Safety ANPR*”). This feeder line proceeding is one of the similar transactions that the Board was referring to in the *Safety ANPR*. If KJRY and Pioneer have the stellar safety record they claim in the Response, then they should be proud of that record and glad to share it with the public and the Board. However, if there are safety problems with Pioneer and KJRY, then those are issues which the Board must be made aware of in making its PC&N ruling. Either way, TP&W contends that the safety history of Pioneer and KJRY is highly relevant to the PC&N requirements of the statute and respectfully request that the Board compel response and production in response to TP&W’s discovery requests.

Another factor weighing in the PC&N test as far as future operations are the conditions sought by the acquiring entity. In answer to Interrogatory No. 20, KJRY and Pioneer respond, as they did in the Application, that “... KJRY and Pioneer do not anticipate any future conditions at this time.” Interrogatory No. 20 was designed to reach behind the similar statement made in the Application so that TP&W, the Board, and the shippers on the Line would be advised of any preconditions that KJRY and Pioneer might seek. The response evades the interrogatory. TP&W requests the Board compel KJRY and Pioneer to publicly disclose any conditions that they might seek under 49 U.S.C. § 10907(d) and (g)(1), including but not limited to prescribed trackage rights, regulatory exemption in whole or in part, preconditions on shippers, etc. TP&W