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November 4, 2004

Re: STB Finance Docket No. 34599 – Ohio Valley Railroad Corporation and Mid-America Locomotive and Car Repair, Inc. – Petition for Expedited Relief for Service Emergencies Pursuant to 49 C.F.R §§1146 and 1147 – Rebuttal to CSX Transportation, Inc.

Hon. Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Bldg., #711
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

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Dear Sir:

Enclosed for filing, in the above captioned proceeding, please find the original and ten copies of the Ohio Valley Railroad Company's Rebuttal to CSX Transportation, Inc.

Please date stamp and return a copy of this letter in the enclosed self addressed, stamped envelope to indicate the Board's receipt of this Petition.

Very truly yours,

VUONO & GRAY, LLC



Richard R. Wilson, Esq.
Attorney for Ohio Valley Railroad Co. and
Mid-America Locomotive & Car Repair, Inc.

RRW/bab

Enclosures

xc: David Konschnik, Director – Office of Proceedings

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BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. 34599

**OHIO VALLEY RAILROAD CORPORATION AND MID-AMERICA LOCOMOTIVE
AND CAR REPAIR, INC. - PETITION FOR EXPEDITED
RELIEF FOR SERVICE EMERGENCIES PURSUANT TO 49 C.F.R. §1146 AND 1147**

REBUTTAL TO CSX TRANSPORTATION, INC.

ENTERED
Office of Proceedings

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Public Record

Richard R. Wilson, Esq.
Vuono & Gray, LLC
2310 Grant Building
Pittsburgh, PA 15219
412-471-1800
Attorney for Ohio Valley Railroad, Co.
And Mid-America Locomotive and
Car Repair, Inc.

Dated: November 4, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. 34599

**OHIO VALLEY RAILROAD CORPORATION AND MID-AMERICA
LOCOMOTIVE AND CAR REPAIR, INC. - PETITION FOR EXPEDITED
RELIEF FOR SERVICE EMERGENCIES PURSUANT TO 49 C.F.R. §1146**

REBUTTAL TO CSX TRANSPORTATION, INC.

Pursuant to 49 C.F.R. §1146.1(b)(3), Petitioners file the following rebuttal statement to the Response of CSX Transportation, Inc. Petitioners understand that CSX Transportation, Inc. ("CSXT") would prefer to avoid the controversy between OVR and ISW. However, as indicated in Exhibits H and I submitted by Petitioners to the Board in their October 21, 2004 Petition for Expedited Relief, OVR has demonstrated its entitlement to statutory interchange with CSXT by virtue of the easement for that purpose obtained from its predecessor in interest, Evansville Terminal Company. When OVR filed its Notice of Exemption with the Board, it expected to establish appropriate and efficient interchange operations with ISW for traffic moving via ISW to CSXT. However, as is evidenced by ISW's unilateral and improper removal of switch connections, that has not proved to be the case.

ISW has represented to the Board that it is willing to reinstall a switch connection, but inquiries by OVR to ISW as to when this reconnection will take place have, to date, gone unanswered. (Exhibit A) Accordingly, contrary to representations made by CSXT in its responsive pleading, this matter has not been resolved and it does not appear that it will be resolved without an order from the Board. Indeed, in the absence of the

competitive incentive provided by a direct interchange with CSXT, ISW will not establish efficient interchange operations or commercial arrangements with OVR that will facilitate interstate rail transportation.

Finally, OVR is prepared to undertake necessary interchange arrangements with CSXT within OVR's facilities at Harwood Yard under terms outlined by CSXT in its Reply.

WHEREFORE, OVR and Mid-America respectfully request that the Board order the immediate reinstallation of both switch connections between OVR and ISW, confirm OVR and CSXT's right of direct interchange, and issue an order directing OVR and CSXT to establish interim interchange arrangements.

Respectfully submitted,

VUONO & GRAY, LLC

By: 
Richard R. Wilson
Attorney for Ohio Valley Railroad Co. and
Mid-America Locomotive & Car
Repair, Inc.

Main Identity - Backup

From: "William E. Gray" <william.e.gray@worldnet.att.net>
To: "Shane Cullen at Pioneer HQ" <scullen@pioneer-railcorp.com>
Sent: Friday, October 29, 2004 2:16 PM
Attach: DRAFT-Interchange Agreement ISW-OVR 2004.doc
Subject: 1.) ISW connection to OVR 2.) Proposed Interchange Agreement ISW-OVR

Mr. Cullen,

Would you be able to provide me with a timeframe of when ISW/Pioneer Railcorp will re-install the improperly removed connections between our railroads? It is obvious that these connections are needed so we may interchange traffic and produce revenue for each of our companies.

In the future I would greatly appreciate advance notice of any significant actions ISW might take that would have such a profound negative impact on my railroad. While email is usually the best way to reach me, in an emergency situation you may contact me on my mobile phone, that number is (412) 736-5359.

While I understand there may be many issues from a variety of past owners and parties, my company--Ohio Valley Railroad Company (OVR)--has no interest in continuing these non-productive feuds. I am hopeful that our companies will be able to conduct business in concert with one another and with the rest of our industry in order to serve our customers.

Enclosed please find a proposed Interchange Agreement between our two companies. Kindly review this document and then comment back to me with any proposed changes so we may put the Agreement into effect.

I look forward to working together.

Regards,
Bill Gray
President
Ohio Valley Railroad Company
william.e.gray@att.net

EXHIBIT A

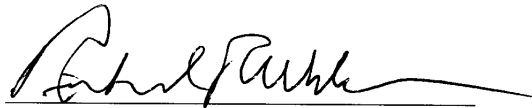
11/2/2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 4th day of November, 2004 served a copy of the Ohio Valley Railroad Corporation Petition for Expedited Relief for Service Emergencies Pursuant to 49 to 49 C.F.R. §1146 and 1147 Reply to New Matter of CSX Transportation, Inc. Emergency Petition for Expedited Relief upon the following by First Class United States Mail, postage prepaid:

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