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## SURFACE TRANSPORTATION BOARD

### DECISION

STB Finance Docket No. 34310

#### KEOKUK JUNCTION RAILWAY COMPANY—ALTERNATIVE RAIL SERVICE—LINE OF SF&L RAILWAY, INC.

Decided: February 14, 2003

On January 21, 2003, Keokuk Junction Railway Company (KJRY) filed a petition under 49 U.S.C. 11123 and 49 CFR part 1146 for authority to provide alternative rail service on a 71.5-mile segment of rail line in Illinois between milepost 194.5 at La Harpe and milepost 123.0 at Peoria (the La Harpe Line or Line) that is not currently being operated. The then owner of the operating easement over the Line, SF&L Railway, Inc. (SF&L), filed a reply in opposition to the petition. Toledo, Peoria and Western Railway Corporation (TP&W) filed a reply, and KJRY filed a rebuttal. KJRY's petition will be denied.

### BACKGROUND

SF&L acquired the operating easement over, and the rail, ties, and certain improvements on, the La Harpe Line from TP&W pursuant to a class exemption invoked in SF&L Railway, Inc.—Acquisition and Operation Exemption—Toledo, Peoria and Western Railway Corporation, STB Finance Docket No. 33995. A related notice of exemption filed by Messrs. Kern W. Schumacher and Morris H. Kulmer in Kern W. Schumacher and Morris H. Kulmer—Continuance in Control Exemption—SF&L Railway, Inc., STB Finance Docket No. 33996, allowed them to continue in control of SF&L when it became a rail carrier. We subsequently revoked the exemptions and ordered SF&L to reconvey its interest in the La Harpe Line to TP&W in a decision served on October 17, 2002 (SF&L-La Harpe).

On January 31, 2003, we issued a decision addressing SF&L's petition to reopen and reconsider the SF&L-La Harpe decision. Specifically, we ordered SF&L to reconvey the La Harpe Line to TP&W by February 10, 2003; clarified the amount of the reconveyance price; dismissed as moot the petition for exemption to abandon the La Harpe Line that SF&L had filed in SF&L Railway, Inc.—Abandonment Exemption—in Hancock, McDonough, Fulton and Peoria Counties, IL, STB Docket No. AB-448 (Sub-No. 2X); and denied a motion filed by TP&W to substitute itself for SF&L in that proceeding. On February 10, 2003, SF&L informed us that it had transferred the La Harpe Line back to TP&W pursuant to our order.

DISCUSSION AND CONCLUSION

Part 1146 is intended to “handl[e] requests for localized immediate service relief,” Expedited Relief for Service Inadequacies, 3 S.T.B. 968, 972 n.11 (1998). The Board may prescribe alternative rail service if it finds “that, over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by the incumbent carrier.” 49 CFR 1146.1(a). Relief under part 1146 is subject to both a reappraisal requirement after the initial 30-day period and a maximum 270-day time limit.

In its petition, KJRY indicates that there has been no rail service on the La Harpe Line since it was embargoed by SF&L on October 18, 2002, and that shippers and the public support the resumption of rail service. KJRY’s request for relief, however, has been eclipsed by SF&L’s reconveyance of the La Harpe Line to TP&W, and TP&W’s reply to KJRY’s petition. In that reply, TP&W stated that it is “ready, willing and able to resume operations over the Line,” and that it “plans to restore service to the Line once it is reacquired from SF&L.” TP&W Reply at 4-5. Indeed, based on a hi-rail inspection of the Line conducted on November 12-13, 2002, TP&W stated that it “would terminate the embargo . . . and be able to operate the Line at [Federal Railroad Administration] Class 1 speeds with minimal investment while [STB Docket No. AB-448 (Sub-No. 2X)] is pending or while [it] makes other arrangements to sell, abandon, or continue to operate the Line in whole or in part.” Id. at 4 (footnote omitted).

In view of TP&W’s assurances, it appears likely that rail service to the La Harpe Line will be restored speedily. Accordingly, we need not consider KJRY’s petition at this time. KJRY’s petition will be denied without prejudice to resubmission if rail service over the La Harpe Line is not restored after reconveyance.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. KJRY’s petition to provide alternative rail service is denied without prejudice as specified above.

2. This decision is effective on February 14, 2003.

By the Board, Chairman Nober, Vice Chairman Burkes, and Commissioner Morgan.

Vernon A. Williams  
Secretary