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January 24, 2002

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Unit - Suite 700
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of the Secretary

JAN 24 2002

Part of
Public Record



Re: Finance Docket No. 33995 **204573**
*SF&L Railway, Inc.--Acquisition And Operation Exemption--
Toledo, Peoria & Western Railway Corporation--Between La Harpe and Peoria, IL*
and
Finance Docket No. 33996 **204574**
*Kern W. Schumacher and Morris H. Kulmer--
Continuance In Control Exemption--SF&L Railway, Inc.*
and
Finance Docket No. 34143 **204575**
*Keokuk Junction Railway Co. -- Acquisition and Operation Exemption --
West End of Toledo, Peoria and Western Railway Corporation*

Dear Secretary Williams:

Enclosed for filing are an original and ten copies of a Keokuk Junction Railway's "Reply to Motion to Strike" for filing in the above captioned proceedings. Please time and date stamp an extra copy of this document and return it with our messenger.

Please feel free to contact me if you have any questions.

Sincerely yours,

William A. Mullins TJS

William A. Mullins

cc: All counsel of record

ATLANTA • HONG KONG • LONDON • NORFOLK • RICHMOND
TYSONS CORNER • VIRGINIA BEACH • WASHINGTON, D.C.

RS

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of the Secretary

JAN 24 2002

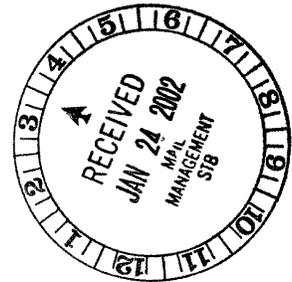
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Public Record

Finance Docket No. 33995 204573

SF&L RAILWAY, INC. -- ACQUISITION AND OPERATION EXEMPTION --
TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION --
BETWEEN LA HARPE AND PEORIA, IL

Finance Docket No. 33996 204574

KERN W. SCHUMACHER AND MORRIS H. KULMER
-- CONTINUANCE IN CONTROL EXEMPTION --
SF&L RAILWAY, INC.



Finance Docket No. 34143 204575

KEOKUK JUNCTION RAILWAY CO.
-- ACQUISITION AND OPERATION EXEMPTION --
WEST END OF TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION

KEOKUK JUNCTION RAILWAY CO.'S
REPLY TO MOTION TO STRIKE

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January 24, 2002

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 33995

**SF&L RAILWAY, INC. -- ACQUISITION AND OPERATION EXEMPTION --
TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION --
BETWEEN LA HARPE AND PEORIA, IL**

Finance Docket No. 33996

**KERN W. SCHUMACHER AND MORRIS H. KULMER
-- CONTINUANCE IN CONTROL EXEMPTION --
SF&L RAILWAY, INC.**

Finance Docket No. 34143

**KEOKUK JUNCTION RAILWAY CO.
-- ACQUISITION AND OPERATION EXEMPTION --
WEST END OF TOLEDO, PEORIA AND WESTERN RAILWAY CORPORATION**

**KEOKUK JUNCTION RAILWAY CO.'S
REPLY TO MOTION TO STRIKE**

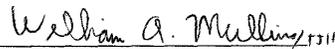
On January 18, 2002, the County of McDonough, City of Macomb, and Joseph C. Szabo ("Petitioners") filed a Motion To Strike the January 10, 2002 letter submission of Keokuk Junction Railway Co. ("KJRY"). KJRY hereby replies to the motion to strike.

Petitioners claim that the January 10 letter was an impermissible reply to a reply and therefore should be stricken in accordance with 49 C.F.R. § 1104.13(c). The January 10 letter was not an impermissible reply to a reply and the motion to strike should be denied. The January 10 letter was filed in reply to the January 7 "Supplement To Petition To Reject Or To Revoke" that had been filed by the County of McDonough, City of Macomb, and Joseph C. Szabo (collectively, "Petitioners") in Finance Dockets No. 33995 and 33996. Petitioners' January 7 filing was a "Supplement" to their petition to reject or revoke. The supplemental pleading raised

numerous issues and introduced evidence into the record for the first time. It was not simply replying to someone else's evidence or argument. The Board's rules specifically allow any party in a proceeding to file a "reply" to "any pleading" unless otherwise prohibited. 49 C.F.R. § 1104.13(a). KJRY's January 10 letter was a reply addressing the issues raised in the supplemental pleading, issues which Petitioners had never before raised or argued in the context of this proceeding. Accordingly, KJRY's January 10 letter was entirely proper under the rules and was not replying to a reply.¹

Indeed, it is the Petitioners' motion to strike, which contains so-called "rebuttal" argument that is an unlawful pleading. Petitioners' motion and rebuttal is nothing more than arguments replying to KJRY's January 10 letter. As such, it should be stricken as an unlawful reply to KJRY's January 10 reply letter. Notwithstanding the illegality of Petitioners' January 18 filing, KJRY does not object to its admissibility at this time. Furthermore, while KJRY disagrees with some of the comments made in Petitioners' January 18 filing, KJRY will not take this opportunity to file its own motion to strike and rebuttal evidence.

Respectfully submitted,



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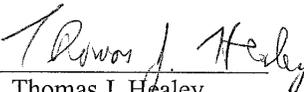
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January 24, 2002

¹ Even if the Board considers the January 10 letter as a reply to a reply, the Board should nonetheless deny the motion to strike and accept the letter in order to clarify the record. Furthermore, as Petitioners' have replied to the merits of the January 10 letter, no party would be prejudiced. See *Arizona Electric Power Cooperative, Inc., v. The Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company*; *Arizona Electric Power Cooperative, Inc., v. The Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company*, STB Docket No. 42058; STB Finance Docket No. 34041 (STB served Dec. 31, 2001)(reply to a reply accepted in the interest of a complete record).

CERTIFICATE OF SERVICE

This is to certify that on this 24th day January 2002, I caused the foregoing "Keokuk Junction Railway Co.'s Reply To Motion To Strike" in Finance Docket Nos. 33995, 33996, and 34143 to be served upon counsel for all known parties of record by first class mail, postage prepaid, or by more expeditious means.



Thomas J. Healey