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Hon. Vernon Williams
Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20024

Re: (1) PYCO -- FLA -- SAW, F.D. 34890; 219214
(2) KJRY -- FLA -- SAW, F.D. 34922; 219215
(3) Hanson Ag -- Alt. Serv. -- SAW, F.D. 34985; 219216
(4) PYCO -- Alt. Serv. -- SAW, F.D. 34889 219217

Letter dated April 27, 2007 filed by Pioneer Railcorp d/b/a Keokuk Junction Railway in above proceedings

Dear Mr. Secretary:

This letter, on behalf of PYCO Industries, responds to the letter dated April 27 filed by Pioneer Railcorp d/b/a Keokuk Junction Railway ("Pioneer/KJRY") in the above dockets.

PYCO is authorized to state that Hanson Aggregates and Hanson Aggregates WRP ("Hanson"), the applicant for alternative service in F.D. 34985 and historically the second largest shipper after PYCO on the SAW system, joins in this response. See email attached, Mr. Hyer (Hanson GC) to PYCO counsel.

In its April 27 letter, Pioneer/KJRY states that it has no "specific position" on any matter pending before this agency. Instead, Pioneer/KJRY, professing to be motivated by the long-term interest of shippers other than PYCO, urges prompt resolution of the pending feeder line applications and commends itself to this agency as "earn[ing] the opportunity" to provide such service.

PYCO, as primary shipper on the lines of incumbent provider South Plains Switching, Ltd. (SAW), certainly appreciates the very late expression of concern by Pioneer/KJRY about service to shippers. Unfortunately, Pioneer/KJRY's own tactics are causing the delays it decries while self-servingly offering itself as a

solution.

But for Pioneer/KJRY's action in filing two "competing feeder line applications" (and by its vigorous motion practice against PYCO and failure to cooperate in reasonable and timely discovery) thus prolonging the feeder line proceeding, the Board had indicated that the situation in Lubbock would have been resolved by Thanksgiving of 2006.[1] In this sense, Pioneer/KJRY is the chief cause for delays in resolution of the pending proceedings. In any event, Pioneer/KJRY's self-serving claims about providing adequate service are belied not only by its own actions in prolonging the feeder line proceeding here, but also (a) by the numerous complaints and issues arising from the actions of Pioneer subsidiaries elsewhere,[2] (b) by the fact that whereas PYCO has submitted letters or other expressions of actual support by more than half the shippers on the line,[3] Pioneer/KJRY has been unable to submit any letter of support,[4]

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[1] See, e.g., Decision in F.D. 34890, at p. 2, served July 21, 2006 (granting delay requested by Pioneer/KJRY over objection of PYCO, but restating that the goal is a "final decision on the feeder line applications prior to the expiration of the [Part 1146] alternative service authorization on October 23, 2006"); Decision in F.D. 34890 and related dockets, at p. 9, served August 3, 2006 (restating procedural schedule in order to permit resolution of feeder line application before October 23, 2006); Decision in F.D. 34890 served August 16, 2006, at p. 4 (rejecting delay sought by Pioneer/KJRY because it would delay feeder line resolution until after October 23, 2006); Decision in F.D. 34890 and related dockets, served August 18, 2006 (delaying all dates 30 days at the request of SAW).

[2] E.g., "PYCO Industries, Inc.'s Reply to KJRY Motion to Strike Portions of PYCO's Rebuttal and Renewed Request for Sanctions against KJRY," filed in F.D. 34890 and 34922 on or about Oct. 31, 2006 (renews request for sanctions against KJRY for failure to respond to PYCO's discovery requests concerning complaints and litigation over service by Pioneer subsidiaries including KJRY, and attaching documents showing numerous complaints and litigation concerning Pioneer subsidiaries).

[3] Most of the shipper comments are found in "Compilation of Shipper Comments" filed by PYCO in F.D. 34890, on or about August 2, 2006. The comments support PYCO's feeder line application. None support and most oppose that of Pioneer/KJRY.

[4] At least nine shippers are on record as opposed to the Pioneer/KJRY feeder line application. See pleading cited in note 3. The Pioneer/KJRY application may be the first instance of a feeder line application that lacks any shipper support.

and (c) by the fact that PYCO's alternative service provider (West Texas & Lubbock) is doing a great job already and is prepared to take equally good care of all shippers on SAW's lines should PYCO's feeder line application in F.D. 34890 be granted.

The letter which Pioneer/KJRY filed in all the above dockets is an improper pleading. The letter itself does not appear to ask for relief, it supplies no new evidence or changed circumstance justifying a reopening, and it is not a legitimate reply to any pending pleading,[5] save possibly to the last "supplement" by SAW in F.D. 34899,[6] but Pioneer/KJRY is neither a party nor has an interest in that proceeding (and Pioneer/KJRY is not a party and has no interest in F.D. 34985 either). In short, the record in the various proceedings in which Pioneer/KJRY has filed either is closed, or Pioneer/KJRY lacks standing or party status, or both. For all these reasons, PYCO, joined by Hanson, objects to the letter. It should be stricken from the record.

By my signature below, I hereby certify service on the date above upon all parties of record.

Respectfully submitted,

Charles H. Montange
for PYCO Industries, Inc.

Attachment (email confirmation from Hanson)

cc. All parties of record per service list (w/att.)

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[5] 49 C.F.R. § 1104.13 (replies within 20 days, no replies to replies).

[6] We do not think it tendered in reply to that, for Pioneer/KJRY questions whether PYCO's prompt reply was timely, (see Pioneer/KJRY Letter at p. 1 note 1), but this remark of Pioneer/KJRY necessarily then calls into question whether Pioneer/KJRY was timely, or, worse for Pioneer/KJRY, indicates that the Pioneer/KJRY's Letter was an improper [49 C.F.R. § 1104.13(c)] reply to PYCO's reply.

c.montange

From: "Hyer, Michael (Las Colinas) NA" <Michael.Hyer@hanson.biz>
To: "c.montange" <c.montange@verizon.net>
Sent: Tuesday, May 01, 2007 1:16 PM
Subject: Pioneer/KJR-April 27 letter

Mr. Montange,

I have reviewed the proposed response to the April 27 letter filing by Pioneer/KCR. Hanson joins in that response and you are authorized to so state to the STB in the filing.

Let me know if you have any questions.

Regards,

Mike Hyer

Please note my new contact information effective October 2, 2006
Address, phone and fax numbers have changed –

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This message and any attached documents contain information from the General Counsel of Hanson Building Materials America, Inc. that may be confidential and/or privileged. If you received this transmission in error, please notify the sender immediately by reply e-mail and then delete this message. Thank you.

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