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BEFORE THE SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 35359

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PACIFIC RIM RAILWAY COMPANY, INC.  
-ACQUISITION AND OPERATION EXEMPTION-  
CITY OF KEOKUK

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SUPPLEMENTAL PETITION TO REVOKE

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Daniel A. LaKemper  
General Counsel  
Keokuk Junction Railway Co.  
1318 S. Johanson Road  
Peoria, Illinois 61607  
Tel.: (309) 697-1400

Dated: April 13, 2010.

BEFORE THE SURFACE TRANSPORTATION BOARD

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CITY OF KEOKUK

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SUPPLEMENTAL PETITION TO REVOKE

NOW COMES the KEOKUK JUNCTION RAILWAY CO. ("KJRY") and hereby respectfully supplementally Petitions the Board to revoke the exemption of Pacific Rim Railway Company, Inc. ("PRIM") in the above-referenced docket, and in support, states as follows:

KJRY's original petition to revoke or reject the exemption alleged that PRIM's Petition contained false and/or misleading statements.

PRIM admitted in its Reply in Opposition that at least one statement in the Petition was false.<sup>1</sup> PRIM then submits that the false statement is not "material." While it is difficult to imagine a more material statement in an acquisition proceeding, than a false statement that there is an agreement to acquire, PRIM's Reply raises a more troubling issue.

In its original filing, KJRY noted that PRIM's Attorney, Thomas F. McFarland verified the Petition, rather than an officer of PRIM. We are now told that "The principal of PRIM was of the mistaken impression that PRIM and the City had reached an agreement..."

While it is tempting to question why that “principal” remains undisclosed,<sup>2</sup> the more serious issue is that it was Attorney McFarland who stated under oath in the Verification to the Petition that “he has knowledge of the facts stated in the Notice of Exemption and that those facts are true and correct.” Attorney McFarland has now impeached his own Verification. In fact, he did not have such knowledge, and was apparently relying on false statements, or, at least, false impressions, of this anonymous “principal.”

PRIM now suggests that the Board should ignore the improper verification, not to mention the alleged false impressions of the still-undisclosed “principal,” and find that the mere desire of this entity with no history and anonymous owners and officers is enough to merit an acquisition and operation exemption over a key piece of infrastructure – one of a handful of operating common carrier railroad bridges over the Mississippi River. Allowing petitioners to make false statements about agreements would open up the possibility that the Board’s exemptions could be granted willy-nilly to anyone who decides to file a Petition falsely claiming they have an agreement to acquire any track in country, leaving the Board’s record littered with bogus exemptions.

Mayor Marion has advised KJRY that this process was initiated by an unsolicited proposal by Mr. Burroughs. That proposal is being reviewed by a committee of the City Council, but there are no active negotiations with PRIM. Mayor Marion does not expect the proposal will be accepted by the City.

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1 KJRY alleges a second sentence is misleading, which PRIM denies.

2 KJRY is informed and believes the “principal” is Mr. Craig Burroughs, and he, of course, may not wish to have the Board scrutinize his past record in the railroad industry, particularly his past involvement with the Mississippi River Bridge at Keithsburg, Illinois.

The Board should revoke this exemption *ab initio*. As the Board observed in *James Riffin d/b/a Northern Central Railroad – Acquisition and Operation Exemption – In Baltimore City, MD.*, (FD No. 34982, Decided October 5, 2007), “An Agreement need not be completed when a party files its notice, however, to qualify for the class exemption, the Board needs enough information to support the conclusion that some understanding exists between the parties...” In this case PRIM has given the Board’s false information about the status of its acquisition attempt. How can the Board reach a conclusion that there is an understanding between the parties based upon false information, let alone false information verified by a person who now admits he lacked knowledge of? PRIM makes a mockery of the Board’s procedures by suggesting that the Board grant such an exemption.

WHEREFORE, KJRY respectfully requests that the Board revoke the Exemption of Pacific Rim Railway Company, Inc. in the above-captioned docket.

Respectfully submitted,



Daniel A. LaKemper, Esq.  
General Counsel  
Keokuk Junction Railway Co.  
1318 S. Johanson Road  
Peoria, Illinois 61607  
Tel.: (309) 697-1400

CERTIFICATE OF SERVICE

I certify that on April 13, 2010, I served the foregoing by electronic transmission, or if e-mail was unavailable, by United States Mail, postage fully prepaid, on each of the parties of record, at their address as disclosed by the filings of record in the above-referenced proceedings.



Daniel A. LaKemper, Esq.  
General Counsel  
Keokuk Junction Railway Co.  
1318 S. Johanson Road  
Peoria, Illinois 61607  
Tel.: (309) 697-1400

VERIFICATION

I, J. Michael Carr, verify under penalty of perjury, that I have read the above and foregoing Petition and that it is true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this Verification.

Executed: April 13, 2010

A handwritten signature in black ink that reads "J. Michael Carr". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

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J. Michael Carr, President  
Keokuk Junction Railway Co.