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FOR CASE 16-1608-RR-RCP

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**Toledo, Lake Erie & Western Railway & Museum, Inc.**

P.O. Box 168, Waterville, OH 43566-0168

(419) 878-2177 \* [www.flew.org](http://www.flew.org)

August 18, 2016

Mr. Kerry K. Sheets  
Public Utilities Commission of Ohio  
180 East Broad St.  
Columbus, OH 43215-3793

**Case No. 16-1608-RR-RCP**

Dear Mr. Sheets;

Toledo Lake Erie & Western Railway and Museum, Inc. (TLEW) wishes to file an objection regarding the above identified case.

As cited in the information provided in the Journal Entry for this case, Aaron Behrman noted that the State Route 295 crossing is a 2 lane roadway, that rails are missing from the crossing and that the area is overgrown with brush.

All crossings that have been the subject of case filings for similar reasons are on 55 MPH roadways. We have had several opportunities to observe traffic at this crossing, and we have not noticed any issues with school buses or hazmat vehicles causing traffic issues making their required safety stops because this action is *expected*. Only one rail was missing, having been damaged due what can only be determined as at least one strike by a snowplow during the winter of 2014-2015, and subsequently causing a hazard that warranted its removal in June 2015. The crossing was rehabilitated August 13-17, allowing improved driving conditions for vehicle traffic, and to allow train movements to resume at this location. Vegetation abatement is on-going, although at a slower rate than we have targeted due to issues controlling equisetum grass that is prevalent in this particular area.

We intend to resume limited operations over this crossing in the near future, and have concerns over confusion as to how the "Exempt" status would be applied by the vehicles it affects. We have noted, and reported, on several occasions of the failure of hazmat-placarded vehicles to reduce speed, let alone stop, at this and a couple other crossings on our line. This could bring about an incident, where a vehicle driver used to not being attentive fails to heed any visual or audible warnings at the crossing when a train is approaching or crossing the intersection.

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In our opinion, our main line does not fit the requirements as provided in 49 CFR 392.10 (b)(1) (4) or (5). We are not a streetcar line, industrial switching line within a business district, or an industrial or spur line. We also have no crossings that qualify to be posted as "abandoned". We do currently conduct "motorcar excursions" which carry passengers over a section of our mainline outside the scope of this petition.

At this time TLEW does not feel it is in the best interest to declare this crossing "Exempt" as requested in this petition. Resuming operations would cause the Commission to re-evaluate this and other crossings that have been declared "Exempt" and could result in confusion to the drivers of those vehicles required to stop, which in itself could pose additional safety hazards as cited earlier.

We hope the Commission takes our concerns into consideration and chooses not to grant "Exempt" status at this crossing.

Thank you for the opportunity to voice our objection and concerns regarding this matter.

Sincerely yours,

Duane Karam  
President

Rick Westphal  
Vice President