802 F.2d 975, 978 (7th Cir.1986); *United States v. Diebold, Inc.*, 369 U.S. 654, 655, 82 S.Ct. 993, 994, 8 L.Ed.2d 176 (1962). The first issue which we must address is the extent to which the Soo Line assumed the obligations of the Milwaukee Road.

14 It is undisputed that the substantive issues in this case are governed by the law of Illinois. The Soo Line purchased the rail assets of the Milwaukee Road. Under Illinois law, the general rule is that a corporation which purchases the assets of another corporation does not assume the liabilities of the seller. *Shaw v. Republic Drill Corp*., 810 F.2d 149, 150 (7th Cir.1987); *Green v. Firestone Tire & Rubber Co.,* 122 Ill.App.3d 204, 77 Ill.Dec. 591, 594, 460 N.E.2d 895, 898 (1984). However, there are recognized exceptions to the general rule. The exception that is relevant here provides that the liabilities are assumed if there is an express agreement by the purchaser to assume the liabilities. *Nguyen v. Johnson Mach. & Press Corp*., 104 Ill.App.3d 1141, 60 Ill.Dec. 866, 868, 433 N.E.2d 1104, 1106 (1982).

15 Paragraph 12(g) of the APA is an express agreement by the Soo Line to assume the liabilities of the Milwaukee Road relating to the railroad. This agreement encompasses the claim which UTI asserts in its complaint. However, paragraph 13(a)(iii) of the APA clearly states that notwithstanding any other provision (i.e. paragraph 12(g)), the Soo Line does not assume liability for claims arising prior to the filing for reorganization by the Milwaukee Road. Thus, the combination of Illinois law and the provisions of the APA lead to the result that the Soo Line can be liable for UTI's claim only if it arose after the Milwaukee Road filed for reorganization.

16 Accordingly, the case before us turns on the issue of when the claim by UTI against the Soo Line arose. The district court granted the Soo Line's motion for summary judgment because it held that the claim arose when the Milwaukee Road attempted to withdraw from the ICC proceedings and failed to participate in the joint petition, which occurred before the Milwaukee Road filed for reorganization. UTI now argues that the claim did not arise until the ICC approved the unit-train concept, which was after the Milwaukee Road filed for reorganization.

17 UTI was the non-moving party on the motion for summary judgment. Its complaint alleged that in September of 1977, the Milwaukee Road filed a motion to withdraw from the joint petition before the ICC and refused to further participate in the proceedings which indicated its intention to breach the contract with UTI. The complaint also alleged that the issuance of an order by the ICC approving the unit-train concept was the only condition precedent to the implementation of the contract. The facts relating to the Milwaukee Road's withdrawal from the ICC petition are essentially undisputed.

18 Given these facts, we agree with the holding of the district court that the Milwaukee Road did not exercise good faith under the contract by attempting to hinder the occurrence of the condition precedent in the contract. Under Illinois law, where a party's obligation is subject to a condition precedent, a duty of good faith and fair dealing is imposed upon that party to cooperate and to not hinder the occurrence of the condition. *Grill v. Adams*, 123 Ill.App.3d 913, 79 Ill.Dec. 342, 346, 463 N.E.2d 896, 900 (1984) (citing Restatement (Second) of Contracts Sec. 205, Explanatory Notes Sec. 245 comment a, at 258 (1981)). A breach of the duty of good faith and fair dealing is a breach of contract. *Raprager v. Allstate Ins. Co.*, 183 Ill.App.3d 847, 132 Ill.Dec.