Ex Parte No. 303

INCREASED FREIGHT RATES AND CHARGES, 1974, NATIONWIDE

Decided January 7, 1975

1. Proposed increases in freight rates and charges found necessary, in part, to enable the respondents to provide adequate and efficient transportation service required in the public interest and, to the extent authorized, found not unjust, unreasonable, or otherwise in violation of the Interstate Commerce Act.
2. Authority granted respondent railroads to establish a 4-percent increase in freight rates and charges, within and between all territories.
3. Authorization of considered increases found not to constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.
4. Substantial progress noted in respondents' updating of tariffs; continuing priority efforts found to be necessary and reporting requirement continued.
5. Service considerations discussed and continued filing of quarterly reports required.
6. Appropriate orders having been entered implementing the Commission's findings herein, proceeding discontinued.

A. C. Armstrong, H. N. Babcock, C. H. Berg, R. W. Bridges, J. J. Burchell, J. T. Clark, J. A. Daily, H. L. DeLung, Jr., L. T. Duerinck, R. S. Emrich III, J. D. Feeney, S. F. Gassner, R. J. Gunning, L. Harris, J. L. Howe III, C. H. Johns, E. A. Kaier, R. W. Kienle, G. H. Kleinberger, R. D. Lalanne, H. B. Latourette, C. N. Marshall, J. P. McCall, D. McDevitt, T. A. Miller, R. F. Munsell, R. J. Murphy, J. J. Nagle, W. J. O'Brien, Jr., J. M. O'Malley, J. J. Paylor, C. H. Peterson, C. C. Rettberg, Jr., A. B. Russ, Jr., S. W. Scully, J. M. Simms, J. F. Smith, J. L. Tapley, W. A. Thie, D. M. Tolmie, W. G. Treanor, D. L. Turkal, J. S. Walker, S. Weinberg, R. E. Zimmerman for respondents.

J. P. Mathis, J. C. Simpson, and *L. Q. Garcia* for the State of California and the Public Utilities Commission of the State of California.

A. G. Grimm for the Department of Agriculture of the State of Missouri.

G. H. Morin for the State of North Dakota Public Service Commission.

J. Finsness for the State of North Dakota Wheat Commission.

R. B. Jacobson for the State of Washington Utilities and Transportation Commission.

O. E. Andersen, M. B. Anderson, W. L. Bailes, Jr., A. N. Baldassari, D. A. Bartsch, C. W. Bath, A. R. Boyd, C. L. Brennan, G. B. Breznay, G. J. Brouilette, O. Callson, D. C. Carter, J. K. Christensen, W. H. Cowles, E. G. Davis, Jr., J. F. Donelan, R. F. Dudley, C. R. Ellenwood, Jr., E. Falk, H. E. Franklin, Jr., H. Gould, J. Guandolo, G. R. Gunter, J. C. Harper, R. Harrington, R. L. Henry, E. N. Hensen, W. Hoffman, W. H. Hollan, J. M. Holt, J. J. Irlandi, D. G. Kettner, J. H. King, J. S. Krzyminski, H. E. Langman, E. Lowe, D. G. MacDonald, K. L. Mallard, S. H. Marshall, C. G. Mathews, J. K. Maser III, P. G. McQuiston, E. L. Merrigan, F. W. Mild, M. L. Moore, Jr., W. J. Myskowski, H. T. Nichols, R. E. Olson, J. O'Malley, Jr., O. K. Petersen, L. B. Pim, A. M. Pougiales, D. Reichert, J. E. Richert, R. R. Sage, C. F. Schwensen, V. R. Smart, R. S. Somogye, J. W. Stanard, J. D. Streeter, S. D. Strauss, F. H. Tolan, W. H. Towle, W. R. Tye, A. T. Udrys, N. L. Underwood, W. D. Wagstaffe, R. W. Walters, C. F. Weiffenbach, H. M. Wick, Jr., J. T. Williams, J. D. Zakrajsheck, and *F. M. Zitto* for protestants.

Report of the Commission

By the Commission:

By petitions filed December 5, 1973, as supplemented on January 2 and January 18, 1974, the respondents, most of the Nation's railroads,[1] and certain water and motor common carriers having joint rates therewith, sought permission to establish on 45 days' notice an increase of 5 percent (4 percent to be applied from, to, and within the South) in the rates and charges applicable to movements of interstate and foreign freight within the United States, subject to certain exceptions and limitations. Requisite modification of outstanding orders, and relief from the provisions of sections 4 and 6 of the Interstate Commerce Act, was also requested. In accordance with Procedures Governing Rail Carrier General Increase Proceedings, 49 CFR 1102, the respondents submitted verified statements in support of their proposal. Upon consideration thereof, the Commission by order dated January 3, 1974, instituted an investigation into the revenue needs of the respondents; Special Permission No. 74-2100 allowed the respondents to publish the proposed tariff schedules, subject to possible suspension. Statements in opposition and replies thereto were filed.

[1] The Long Island Rail Road Company did not join in said petitions

Upon consideration of presentations by the parties, the Commission, by order dated February 20, 1974, suspended the operation of the considered schedules to and including September 21, 1974,[2] but permitted publication of an interim increase of 4 percent, except on recyclable materials, with provision for refunds and subject to maintenance of existing port relationships. Relief from the requirements of section 4 of the act was provided by fourth section order No. 20445. Tariff X-303-A was thereafter filed, effective March 9, 1974.

The Commission issued its preliminary assessment of environmental considerations under the National Environmental Policy Act of 1969, 42 U.S.C. §§ 1321-47 (1970), on July 3, 1974, and after consideration of comments by interested parties, including the Institute of Scrap Iron and Steel, Inc., National Association of Recycling Industries, Inc., Northwestern Steel and Iron Company, and the respondents, an environmental threshold assessment survey was issued on December 3, 1974. Briefs concerning the merits of the proposed increase have been filed by respondents and certain protestants.

Following completion of our investigation in this proceeding, on December 4, 1974, we served an order which permitted continuance of the 4-percent interim increase on a permanent basis. In addition, we found that the rates on commodities moving for purposes of recycling could justly and reasonably be increased by the same amount as other commodities, namely, 4 percent within and between all territories. The higher 5-percent increase proposed by respondents in and between western and eastern territory was found not shown to be just and reasonable; partial cancelation of the schedules was required to conform to the Commission's findings. The purpose of this report is to set forth in more detail the findings of fact and reasons for the conclusions underlying our order.

Due and timely execution of our functions under section 15(7) of the act requires the omission of an initial decision by an Administrative Law Judge. Contentions and requested findings not specifically discussed herein nor reflected in our conclusions or findings have been considered and found not justified. Short titles have beeen used for convenience and the evidence of similar interests have been grouped because of the size of the record. In every instance, however, we have given careful consideration to the views and contentions of each of the parties.

[2] The effective date of the schedules was subsequently voluntarily postponed by the carriers to December 6, 1974.

Rate increase proposed.—Before us in this proceeding is a proposal for nationwide general increases in freight rates and charges subject to the usual general exceptions for demurrage, wharfage, or handling at specified ports, charges for grain storage at certain ports, lighterage service in New York Harbor, and charges for protective services. Exceptions of this nature are set forth in full in appendix A. As indicated therein, a general exception has also been published in connection with traffic moving to, from, or via points on The Long Island Rail Road. Certain specific commodity, annual volume, and unit-train rates have also been excepted from the increase; these exceptions are listed in appendix B.

In support of the proposal, respondents submitted detailed evidence of their financial condition on an individual, territorial, and nationwide basis, and they presented data concerning the cost increases experienced by the carriers since the last general increase. This evidence is discussed below and in appendix C hereto. Evidence in opposition to the proposal was introduced by State agencies, shippers, receivers, and organizations representing various interests which would be affected by the general increase proposal. Protestants' evidence on the issue of revenue need is discussed hereinafter, while the evidence pertaining to particular commodities is set forth in appendix D.

REVENUE NEED

Costs.—As in prior recent general increase cases, the respondents assert that revenue relief is essential to offset increased operating costs. It is their position that cost escalations since the close of the record in Ex Parte No. 295, *Increased Freight Rates and Charges, 1973,* 344 I.C.C. 589, and the need to replenish depleted working capital and generate capital funds, require approval of the proposed increase. The cited cost escalations include a 4-percent wage increase, effective January 1, 1974, rising expenses for materials and fuel, increases in equipment rents, and other items. These costs total $719 million nationwide (eastern district $205 million, southern district $131 million, and western district $383 million). Respondents also refer to an additional $523 million of increased costs which were not met by the 3-percent rate increase authorized in Ex Parte No. 295. Moreover, these figures do not include improved fringe benefits, increase costs of environmental protection, maintenance of way under stricter Department of Transportation track standards, nor the cost of the Association of

American Railroads' interchange rule modifications which require better standards of equipment performance. On the other hand, part of the wage increases will be recovered under contracts for Amtrak intercity passenger service and commuter service operated for various local governmental bodies. In Ex Parte No. 299, *Increases in Freight Rates and Charges—1973*, 346 I.C.C. 305, these reimbursements were shown to amount to 3.6 percent nationwide (5.8 percent eastern district, 2.3 percent southern district, and 2.2 percent western district). Payroll tax increases covered by Ex Parte No. 299 and fuel costs offset by the surcharge established pursuant to Special Permission No. 74-1825 are not included in the increased costs shown in this proceeding.

The requested increase of 5 percent in and between eastern and western territory and 4 percent in the South is estimated to result in maximum gross revenues of $664.2 million nationwide ($235.9 million eastern district, $97.3 million southern district, and $331.0 million western district); other data presented by the respondents was predicated upon a 5-percent increase applied nationwide. Assuming no change in costs or passenger deficit, the respondents estimate a proposed annual net railway operating income of $1,154 million for freight service, with a rate of return on net investment of 3.46 percent nationwide. For an adequate rate of return, which the carriers allege should be 8.64 percent nationwide, they claim that about a 20-percent increase in freight service revenues would be necessary.

Although there is general recognition of the need for increased capital spending, respondents point out that current and past levels of capital outlays have exceeded funds generated from internal sources. The result has been that working capital has been depleted, equipment debt has increased sharply, and many railroads have necessarily turned to lease financing. The increase in equipment rentals reflects a continuing trend toward lease financing by railroads having insufficient cash or credit to acquire equipment, or by carriers lacking the taxable income needed to take advantage of tax incentives related to ownership.

The rail carriers maintain that because of their inadequate net earnings, they should not be required to absorb further cost increases. Productivity gains that might avoid the necessity of increases in rates have apparently not materialized in the rail industry, and the decline in employment is said to actually represent program cutting such as deferred maintenance rather than greater efficiency.

Of the data required under the interim guidelines set forth in our report in Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, at pages 542-551, the rail respondents supplied the information called for in schedule A (financial data) and schedule B (income data). A pro forma statement of proposed revenues and costs at the January 1, 1974, level was submitted, based on traffic data for the 12 months ending September 30, 1973. The carriers maintain that time did not permit compilation of the data required by schedule C (expense and revenue by commodity) and schedule D (expenses and revenues associated with special and accessorial services). As indicated in Ex Parte No. 295, *supra*, the Ex Parte No. 281 procedures are not formal evidentiary requirements but merely guidelines, pending prescription of procedures in Ex Parte No. 290.

The respondents submitted data according to the criteria, then used as a guide, set forth in Ex Parte No. 280, Special Procedures for Tariff Filings under the Wage and Price Stabilization Program. This evidence shows that the proposal would not violate those guidelines. Nor is any appreciable increase in net operating income or rate of return on capital expected, since the revenue yield would be less than cost escalations already experienced, and productivity gains to date have been largely the result of program cutting rather than improved efficiency.

When adjusted for an overstatement of some 7,000 employees in the eastern district[1] and the amount of reimbursements expected from Amtrak, the pertinent cost escalations nationwide total $705.5 million ($195.3 million eastern district, $130 million southern district, and $380.2 million western district), assuming a level of employment equivalent to that on June 30, 1973. Material and fuel price increases were predicated on a comparison between 1972 costs and the level prevailing on October 1, 1973; the data was adjusted to reflect estimated 1974 traffic volume. Other increased costs include depreciation and retirement taxes, State and local taxes, equipment rents, as well as fixed and contingent financing charges. As noted above, the carriers have not included in their showing additional increased costs which also must be taken into account, including costs for environmental protection, increased maintenance of way under higher track standards, and modification of interchange rules. Respondents stress that no cost increases are included which have been considered in other ex parte

[1] Based on Form 298-13 Summaries used by respondents to develop average employment levels.

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proceedings, either by subject matter or by time period here applied.

The respondents' revenue projection is predicated on the traffic level for a 12-month period ending September of 1973. Even assuming a 100-percent gross revenue yield from the proposal, respondents point out that the increase would not offset the cost escalations and overall need for added revenue. An 82-percent yield factor has been utilized in several prior general rate increase proceedings, and although a 92.5-percent yield has been developed by the carriers based on data for the fourth quarter of 1973, the carriers have assumed a 100-percent revenue yield.

Current wage contracts result in periodic wage increases which cannot be offset through greater productivity. As stated above, much of what appears as gain in productivity is in fact the result of cost-cutting measures of the rail carriers, particularly deferred maintenance. Respondents contend that actual improvements in efficiency should be reflected in a healthier maintenance program, rather than as an offset to rate increases or contribution to equity capital.

From the data submitted in conformity with guidelines in Ex Parte No. 281, a comparison can be made between rates of return on shareholders' equity and net investment in railroad property for calendar year 1972 and the actual and the pro forma results for the 12 months ending September 30, 1973. Respondents' data has been adjusted for cost overstatements, including employment levels in the eastern district, and to take into account the reimbursements from Amtrak discussed above. The results are as follows:

TABLE I

Item	United States	Eastern district	Southern district	Western district
	Percent	*Percent*	*Percent*	*Percent*
Return on shareholders' equity				
Calendar 1972	3.01	(3.87)	6.10	5.17
Twelve months ending September 30, 1973	3.38	(3.08)	6.22	5.34
Pro forma year, January 1, 1974, rate and cost levels	1.71	(3.15)	4.22	3.04
Pro forma year, January 1, 1974, costs and proposed rate levels[a]	5.16	1.87	5.95	6.02

Item	United States	Eastern district	Southern district	Western district
	Percent	*Percent*	*Percent*	*Percent*
Return on net investment in railroad property				
Calendar 1972	2.97	0.38	5.42	4.24
Twelve months ending September 30, 1973	2.96	0.54	5.02	4.17
Pro forma year, January 1, 1974, rate and cost levels	2.19	0.67	3.93	2.77
Pro forma year, January 1, 1974, costs and proposed rate levels[a]	4.20	2.65	5.84	4.85

[a] Based on gross revenue yield.

At the interim rate increase level of 4 percent nationwide, as compared with the total increase sought, the return on equity would be reduced by about 0.9 percent and the return on net investment would be reduced by about 0.5 percent. At the interim level, we note that, except in the western district, the proposed rates of return on shareholders' equity are higher than those realized in the 12-month period ending September 30, 1973; the proposed rates of return on net investment would exceed those of that 12-month period in every instance.

Certain Pacific Northwest shipper protestants dispute the respondents' cost evidence. Use of an 82-percent factor is questioned in determining net return from authorized general rate increases. However, as stated above, the rail carriers have assumed a 100-percent revenue yield.

It is alleged that the respondents' revenue projections for the pro forma year are understated by more than $300 million, based on these protestants' comparison of rail revenue projections submitted in December of 1973 with those introduced the following month, including increased tonnage data for the third quarter of 1973. Comparison is also made with lower rail revenue projections in Ex Parte No. 295. These northwest shippers contend that the respondents understated freight revenues by 5.5 percent and railroad operating income by 48.4 percent. Moreover, they state that in Ex Parte No. 299 the railroads projected a 1.5-percent increase in 1974 tonnage, which would provide almost 40 percent of the revenues expected under this proposal. With increased tonnage continuing into 1974, these protestants claim that the respondents' tonnage and revenue projections are unrealistic.

Pro forma statements reflect a comparison, for a 12-month period, of actual expense and revenue levels with actual expense and proposed revenue levels; they reflect what the effect of the proposal would be under then present conditions and do not attempt to predict future results. The respondents point out that the January 1974 data, unlike the data used in the December 1973 computation, included traffic to, from, and within southern territory.

We are urged to consider the fact that a percentage of the proposal, allegedly 25 percent, would go to the Government as additional income tax. However, the significance of this contention is not made clear. The mere fact that a portion of the increase may accrue to the Government in the form of added tax is not sufficient reason for denying an increase which is shown to be justified under the standards of the Interstate Commerce Act. These shippers also maintain that with the proposal, and any Federal loan guarantee bill, the consumer-taxpayer would be assessed for railroad equipment twice, in the form of taxes and increased freight rates. As noted by the respondents, loan guarantees would merely encourage the railroads to incur greater indebtedness; increased revenues would be required to repay those obligations.

The northwest shippers contend that seven bankrupt carriers in the East should not be included within the proposal because of Public Law 93-236, Regional Rail Reorganization Act of 1973, which allegedly would provide these carriers with about twice the revenue contemplated here; however, the respondents point out that only a portion of that amount would be in the form of emergency assistance, and that would be spread over 2 years. The remainder would be interim loans, not grants. While the rate of return on net investment would appear more favorable if data for the seven carriers were eliminated it must be recognized that the financial health of all railroads depends to a great extent upon the ability of the others to contribute to the movement of interline traffic. See Ex Parte No. 295, *supra,* at page 608.

These protestants also maintain that improved labor productivity should be taken into consideration. They state that the aforementioned bill would provide $250 million in public funds to terminate the employment of unnecessary railroad employees; accordingly, it is alleged that all employee costs of the seven bankrupt eastern carriers should be deleted. Deletion of all employee costs for bankrupt railroads based on what may happen in

the future ignores actual expenses presently being experienced. Further, if such a position were to be adopted by the Commission in this proceeding, it would only worsen the financial position of the bankrupt lines.

Protestants assert that, in Ex Parte No. 295, estimates of revenue were grossly understated when the 1972 traffic levels there used are compared with figures for the 12 months ending September 30, 1973. In reply, respondents point out that in each instance the latest reported 12-month period was used, and they attribute the subsequently greater revenue principally to increased traffic, Ex Parte No. 281 increases and intrastate rate increases. It should be noted that the Ex Parte No. 295 increases were in effect for less than 2 months of the latter period.

According to northwestern protestants, increased revenue on export grain traffic received from schedules permitted to become effective in Ex Parte No. 302, Increases in Export Rates On Grain, Grain Products and Related Commodities, 1973, should be deducted from the proposed increases. However, as stated by respondents, the increases in that proceeding were not premised upon evidence used herein. The carriers also stress that the entire rate increase here proposed would be inadequate to cover improvements in service, maintenance, and capital. Reference is made by protestants to rate increases authorized by Special Permission No. 74-1825 to offset rising fuel expenditures, increases which they contend should cover all of the higher fuel costs shown herein. However, respondents are attempting here to recover fuel cost increases, October 1, 1973, over January 1, 1973. The surcharge referred to above involved cost increases subsequent to October 1, 1973, so the carriers' showing is not duplicative. The same is true of contentions by these protestants that increases in other recent general increase proceedings should be taken into account. The evidence in Ex Parte No. 305, for example, involved cost increases subsequent to presentation of evidence in this proceeding. Additionally, only a small portion of the revenues generated by the Ex Parte No. 305 increase is available to meet increased costs, since those funds, over and above the 3 percent specified for increased material and supply costs, must be used by nonbankrupt roads exclusively for reducing deferred maintenance and for delayed capital improvements.

The northwest shippers contend that the respondents' statistical evidence is incomplete, inconsistent, and contains errors sufficient to warrant rejection by the Commission. However, as stated, pro forma computations are not intended as projections; rail carriers may differ as to their revenue needs, and changes in gross revenues do not necessarily mean a significant change in taxable income.

It is argued that the lack of holddowns applied in previous ex parte proceedings justifies rejection of the proposal. In our order dated May 1, 1974, denying a petition seeking the prescription of holddowns, we noted that that request would be dealt with in our final report, and the question of holddowns is discussed later herein.

Financial considerations.—It is crucial that rail carriers offset rising costs in an effort to replenish depleted working capital and generate needed capital funds. Despite record traffic levels, net railroad operating income for the 9 months ending September 30, 1973, declined for all railroads. While operating revenues increased over the comparable period in 1972, $9,956 million compared to $10,883 million in 1973, net railway operating income declined from $582 million in 1972 to $577 million in 1973. For the third quarter of 1973, compared with the same quarter of 1972, class I railroad operating revenues were up 9.7 percent while net railway operating income declined by 7.7 percent.

The ratio of net railway operating income (less fixed and contingent charges) to railway operating revenues, the net profit margin, shows a marked decline as a result of increasing cost levels. While the profit margin has shown some improvement since the deficit year 1970, it has declined from 6.4 percent of revenues in 1953 to 0.5 percent in 1971, 1.5 percent in 1972, and 1.3 percent for the latest 12-month period ending September 30, 1973.

Due to the capital-intensive nature of the railroad industry, large inputs of capital funds are necessary for improvement of the physical plant and replacement of equipment. Estimates of about $3 billion per year over the next 10 years have been made as to the investment capital needed to maintain existing facilities. Internal financing has been the major source of capital funding; however, capital outlays have exceeded such funds, with the result that working capital has been depleted, equipment debt has increased, and many railroads have turned to leasing arrangements. Averaging about $1.3 billion annually, the cash flow generated by the industry falls far short of estimates for required capital expenditures.

Respondents' working capital position has deteriorated. Prior to 1966, net working capital generally exceeded $600 million, which was regarded as the necessary minimum. Net working capital in 1966 for all class I railroads was $276.3 million, and for the 12 months ending September 30, 1973, it stood at $96.5 million. With net

working capital on the decline, debts due within 1 year have been steadily increasing, the bulk consisting largely of installment payments on equipment obligations not subject to refinancing. In contrast to the 96.5 million of net working capital as of September 30, 1973, long-term debt due within 1 year was $630.2 million.

Respondents have shown that continued borrowing to finance equipment purchases has resulted in a $2.1 billion debt increase between 1962 and 1972, with total outstanding equipment debt increasing from $2.5 billion to $4.6 billion in that period. Average interest costs on equipment-purchase obligations outstanding have risen from 3.39 percent in 1962 to 6.72 percent by 1972. In addition, the lack of cash has necessitated the greater use of equipment leasing, with the result that total interest charges and equipment rents have more than doubled, from $735.1 million in 1963 to $1,532.5 million for the 12 months ending September 30, 1973.

Despite the expected benefits of increased traffic and substantial relief from passenger service deficits, respondents assert their rate of return on net investment remains inadequate. The specific question of adequate rate of return is currently being considered by the Commission in Ex Parte No. 271, Net Investment Railroad Rate Base. However, analysis of the respondents' data reveals that borrowing costs exceed the return on investment earned by the railroad industry. Furthermore, the rate of return on shareholders' equity, a primary measure of profitability, remains low for the industry when compared with that earned by other industrial groups, even for the industry's most profitable district, the South. The overall rate of return for all class I railroads was 5.03 percent in 1966; for the 12 months ending September 30, 1973, it was 3.38 percent. Such low returns to investors has lessened the industry's ability to tap the capital market for equity financing and, has placed an even greater dependency on internally generated cash flow and debt financing to service the industry's capital needs.

Conclusions as to revenue needs.—Without consideration of prior cost increases not met by the increase authorized in Ex Parte No. 295, the railroads have shown cost escalations since the close of the record in that proceeding amounting to $719 million annually. As previously discussed, our analysis has disclosed several overstatements which reduce the cost increases to $705.5 million nationwide, and to $195.3 million in the eastern district, $130 million in the southern district, and $380.2 million in the western district. In view of respondents' overall financial condition, it is evident that cost increases of this magnitude cannot be absorbed, and that an affirmative need for additional revenue has been demonstrated. We conclude, therefore, that revenue relief is essential, and that the public interest and the national defense will be adversely affected unless an increase in interstate freight rates and charges is authorized. Without such an increase, we find that the earnings of the respondents will be insufficient to enable them, under honest, economical, and efficient management, to provide adequate and efficient railway transportation service consistent with the public interest and the national transportation policy.

The respondents have established under section 15 of the act that a 4-percent general increase, equally applied to all eommodities moving in and between the various territories, would be just and reasonable. That increase, so applied, conforms to section 1 and would not otherwise contravene the act. We conclude that the respondents have established a need for revenues provided by a nationwide 4-percent increase, such as was authorized, except for recyclable materials, on an interim basis in our order dated February 20, 1974, and we conclude that such a level of increase in freight rates applicable to all commodities, is just, reasonable, and not otherwise unlawful. Based on the carriers' schedule B submission, and traffic data for the 12-month period ended September 30, 1973, we estimate the increase will yield approximately $586.7 million ($200 million eastern district, $101.2 million southern district, and $285.5 million for the western district). The actual annual yield should be somewhat higher in view of increasing traffic levels. Our findings, however, apply to the general bases of rates and charges, and do not preclude interested parties from bringing any maladjustments to our attention for correction.

As part of our investigation in this proceeding, we have fully considered environmental issues, and we have reviewed the entire record in accordance with the policies expressed in the National Environmental Policy Act of 1969. Environmental matters are discussed in depth in our environmental threshold assessment survey issued on December 3, 1974, and the evidence pertaining to particular commodities is analyzed in appendix D of this report. Because of our increasing concern for the quality of the human environment, we initially suspended the proposed increase on recyclables in order that the proposal could be studied before the rate increase became effective. Having completed our study, and balancing the railroads' revenue needs against the minimal effect which the increase would have upon recyclable materials, we have concluded that the same increase should be authorized on

recyclables as on other commodities, and that such action does not constitute a major Federal action significantly affecting the quality of the human environment with the meaning of NEPA.

With regard to the balance of the respondents' proposal, that portion in excess of 4 percent nationwide applicable in and between eastern and western territories on all commodities including recyclables, we conclude that the carriers have failed to sustain their burden of proof. The respondents have not adequately justified the disruption of port, commodity, and territorial relationships which would result from approval of a higher increase with respect to the western and eastern territories than applicable within, to, and from the South. The respondents seek to defend this aspect of the proposal on the ground that the Commission has in several proceedings, including Ex Parte No. 267, approved differing territorial increases. Each case, however, must stand on its own record. In the present instance, the carriers have not made a showing which outweighs the public interest in having uniform increases which avoid disruption of competitive relationships. Compare *Increased Freight Rates, E., W., and S. Territories, 1956*, 300 I.C.C. 633, 686-687. As pointed out by protestants, emergency assistance is available to the bankrupt eastern roads, and all respondents have had the benefit of the increase authorized in Ex Parte No. 305.

Accordingly, on balance, we hold that interstate freight rates and charges may lawfully be increased 4 percent in eastern, western, and southern territories, and interterritorially between such territories, except as may be specifically limited hereinafter, and that proposed increases in excess of that amount have not on this record been shown to be just and reasonable under the Interstate Commerce Act.

Tariff updating.—In response to our admonitions in prior cases, the respondents have made substantial progress in updating their tariffs. The rail carriers in all districts have now updated virtually all tariffs, including both agency and individual publications, through the Ex Parte No. 267 level. A considerable number of tariffs have been updated to reflect the increases authorized in Ex Parte Nos. 281, 295, and 299, and the carriers have also issued a tariff combining the increases presently applicable under X-295B-X-299B and X-303B.

We remind the carriers that authorization of a rate increase carries with it the burden of updating tariffs to reflect such increase at the earliest possible date. We shall continue to watch progress in this area very closely and, as required in our order of December 3, 1974, the respondents are to report the effects of their updating program on a quarterly basis as previously ordered in Ex Parte No. 295, *supra.* A demonstration of substantial and continuous progress in the updating of tariffs will be expected in any future filings of general increase requests.

Service.—A record 847 billion revenue ton-miles of freight were handled in 1973 by the Nation's railroads, compared with 777 billion ton-miles in 1972. The average ton-miles per carload rose to 30,995 for the first 9 months of 1973, an increase of more than 4-percent over the 9-month 1972 average, and an 18-percent increase over the average of 5 years ago. Car utilization, measured by net ton-miles per serviceable freight car day, reached a record 1,608 ton-miles in the first 9 months of 1973, which is 9 percent higher than in the comparable period of 1972. Car-miles per serviceable car day amounted to 57.5 car-miles in 9 months of 1973, 4 percent above the average for the same period of 1972. Net ton-miles per loaded car-mile rose to 48.6 tons for the 1973 period, 1.4 tons better than the corresponding 1972 average. The ratio of loaded car-miles to total car-miles rose to 57.5 percent for the first 9 months of 1973, up from 56.3 percent for the comparable period of 1972.

With regard to car supply, a report by the railroads dated January 1, 1974, shows that rail carriers and private car companies during the first 10 months of 1973 placed orders for 85,808 new or rebuilt cars, including 25,000 covered hoppers. This total is more than twice the orders for the same period in 1972, 39,652 cars; 48,033 cars were received during the 10-month period in 1973, a 15-percent increase over the total of 41,655 cars delivered in the same period of 1972. Railroad capital expenditures for equipment during the first 9 months of 1973 aggregated $671 million, a 1.7-percent increase over equipment expenditures for the first 9 months of 1972.

These statistics and the evidence submitted by individual roads, detailed in appendix C, indicate that some progress in car supply and utilization has been made by the respondents. However, we are not satisfied with the respondents' overall response to our admonition in Ex Parte No. 295 concerning this subject. While numerous railroads submitted evidence of improvements requiring the availability of funds, a lesser number made reference to internal improvements which do not require capital. The respondents must exercise more effective control over operating practices in order to meet the standard of adequate and efficient service required under section 15a of the act. See Ex Parte No. 265-267, *Increased Freight*

Rates, 1970 and 1971, 339 I.C.C. 125, at page 156, and Ex Parte No. 295, *supra,* at page 624. We expect a concentrated effort in this area in the future; the respondents' filing of quarterly reports shall continue to be mandatory, and such reports shall clearly disclose specific efforts to correct deficiences of the nature detailed in the cited ex parte proceedings.

Some protestants have suggested various remedies for service deficiencies. These include the establishment of service standards, earmarking of all or portions of the increase, and penalties such as so-called "reverse demurrage," for service failures. Certain Idaho-Utah parties[4] maintain that the respondents should increase efficiency rather than raise rates. They allege that part of past efforts by the railroads to attract new traffic involved an increase in efficiency. They cite as an example the period 1952 through 1972 when they say turnaround time, for flatcars involved in trailer-on-flatcar and container-on-flatcar movements, was reduced from 22.52 days to 12.57 days. These parties contend that similar improvements in turnaround time could double the effectiveness of existing freight car fleets, reduce overhead costs and reduce or eliminate the need for massive infusions of new capital.

Such remedies are under consideration on a more complete record in Ex Parte No. 270 (Sub-No. 2), Investigation of Railroad Freight Service. Additionally, in Ex Parte No. 305, Nationwide Increase of Ten Percent in Freight Rates and Charges, 1974, specific conditions were imposed with regard to use of the funds in an effort to improve service. We are presently evaluating the results of that action. Under the circumstances, and in view of the modest increase authorized herein, we deem it inappropriate to adopt the sanctions suggested by protestants in this proceeding.

Holddowns.—In their initial statement, Idaho-Utah parties questioned the absence of holddowns in the subject proposal. Subsequently, by petition filed March 4, 1974, these parties requested reconsideration of the Commission's order of February 20, 1974, permitting interim increases of 4 percent applicable without holddowns on agricultural products in the West, citing the holddowns required in Ex Parte No. 295 in support of their position. By order dated May 1, 1974, the Commission denied their petition. On further consideration, we conclude that holddowns on these

[4]Idaho Bean Commission, Idaho Potato Commission, Idaho Wheat Commission, Farmers Grain Cooperative, Idaho Feed and Grain Association, Inc., Idaho Grower-Shipper Association, Inc., Idaho-Oregon Fruit and Vegetable Association, Inc., Potato Processors of Idaho Association, Western Bean Dealers Association, Inc.

commodities are not warranted based on the record in this proceeding. However, we emphasize that our order is not to be construed as approving increases which result in unjust discrimination or undue preference and prejudice, and any situation of this nature should be brought to our attention.

Other parties have requested that various commodities be excepted from full application of the proposed increase. This evidence is discussed in detail in appendix D.

Port relationships.—In all recent general rate increase proceedings, we have recognized the importance of maintaining existing port relationships and the railroads have been required to preserve such relationships whether established by order of the Commission or recognized by custom. Maintenance of existing relationships is required under our order permitting the establishment of interim increases herein and under our order of December 3, 1974.

Port interests oppose the increases sought here on the ground that differing territorial increases on import-export traffic would disrupt port relationships in violation of section 3(1) of the act. It is alleged that even a generally uniform increase is unjustly discriminatory and unduly prejudicial to west coast ports. This contention, advanced by the Puget Sound Traffic Association, is based on the fact that a flat percentage increase amounts to a greater increase in dollars and cents on higher-rated movements to or from more distant ports, thus altering existing rate differentials between the various ports.[1] To avoid this result, a holddown of not more than 10 cents per hundredweight is requested on all line-haul rates and charges applicable to export or import traffic.

In reply to these allegations, the respondents contend that a uniform percentage increase treats all ports in a similar manner and there are no recognized relationships on export-import traffic vis-a-vis Pacific coast and gulf or Atlantic ports. The issue of whether such relationships exist or should exist is under investigation in Ex Parte No. 270 (Sub-No. 1-A), Investigation of Railroad Freight Rate Structure, Export Rates and Charges—Pacific Coast, and hence will not be further considered at this time.

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[1] It is noted that in Ex Parte No. 270 (Sub-No. 1A), Export-Import Rates and Charges—Pacific Coast, these same port interests did not file exceptions to the finding by an Administrative Law Judge that there is not now nor has there ever been an existing, established, recognized, or prescribed relationship on export-import transcontinental traffic between the North Pacific Coast ports, on the one hand, and, the Atlantic or gulf coast ports, on the other hand.

On this record, we conclude that a holddown on export-import traffic, which could further diminish revenues anticipated from the increase, has not been shown to be warranted. As stated in our reports in recent general increase proceedings, whether there exists or should exist a particular relationship in rates on import or export traffic passing through various ports requires careful and detailed consideration of the particular circumstances. Such consideration cannot be accorded within the context of a general increase proceeding where, of necessity, our primary concern must be directed to the general bases of rates and charges. See *United States v. Louisiana*, 290 U.S. 70, 76.

In addition to requesting a holddown on import-export traffic, the Puget Sound Traffic Association alleges that varying territorial increases are disruptive of port relationships and unduly prejudicial to west coast ports. We agree and are authorizing a uniform increase within and between all territories.

We conclude that, in giving effect to the increases herein authorized, the respondents shall maintain and preserve all existing port relationships established by order of the Commission or recognized customs of the trade. Any disruption of such relationships arising out of publication of rates pursuant to authority herein granted is to be promptly corrected.

Ultimate Conclusions and Findings

Upon consideration of the entire record in this proceeding, we conclude and find as follows:

(1) The respondents are in need of additional revenue from freight rates and charges to offset recently incurred operating costs and to provide an improved level of earnings. The public interest and the need of the national defense for a viable transportation system will be adversely affected unless increased freight rates and charges proposed by the respondents in this proceeding, subject to the limitations and exceptions set forth below, are permitted to be continued or put into effect.

(2) Without the additional revenue to be derived from increased freight rates and charges herein authorized, earnings by the respondents would be insufficient to enable them under honest, economical, and efficient management to provide sound, adequate, and efficient railway transportation services consistent with the public interest and the the national transportation policy.

(3) The respondents' freight rates and charges may be increased as proposed, except as noted in the report and as set forth below in

paragraphs 4 through 7, inclusive, said authorization herein granted being void if not exercised on or before March 1, 1975.

(4) In lieu of the general increases proposed in the Tariff of Increased Rates and Charges, X-303, rates and charges may be increased within and between all territories by not more than 4 percent, including rates applicable to recyclable materials, subject to limitations imposed herein.

(5) Rates and charges for accessorial and special services may be increased by not more than 4 percent, in and between all territories, and subject to the exceptions and limitations set forth in appendixes A and B hereto.

(6) Line-haul rates and line-haul charges on export or import traffic may be increased by not more than 4 percent subject to the limitations imposed herein.

(7) On grain and grain products, rate increase tables shall progress in one-half cent increments.

(8) The increased freight rates and charges authorized herein will not exceed a maximum reasonable level, and the revenues derived therefrom will result in earnings and rates of return for the respondent rail carriers, as a whole and by the usual groupings, not in excess of that required to enable them to render adequate and efficient transportation at the lowest cost consistent with the furnishing of such service.

(9) The increased freight rates and charges authorized herein will have no undue adverse effect on either the movement of trafffic by railway or upon the environment, as discussed herein and in our environmental threshold assessment survey attached as appendix A to our order dated December 3, 1974.

(10) Our findings of lawfulness, which are based upon all of the evidence before us, apply to the general bases of rates and charges and will not preclude interested parties from bringing allegations of maladjustment to our attention. The increased freight rates and charges authorized herein are not considered as prescribed within the meaning of the decision in *Arizona Grocery Co.* v. *Atchison, T. & S.F. Ry. Co.*, 284 U.S. 370, and will, in all respects, be subject to complaint and investigation as provided by the act.

Appropriate orders having been entered (1) requiring the cancelation of the schedules under investigation herein found not justified, without prejudice to the establishment and maintenance of schedules in conformity with our findings herein, (2) modifying all our outstanding orders to the extent necessary to permit the maintenance of the increased freight rates and charges herein

authorized; and (3) granting relief from the provisions of section 4 of the act and our tariff publishing rules as may be necessary; this proceeding be, and it is hereby discontinued effective 35 days from the date of service of this report.

COMMISSIONER BROWN, with whom COMMISSIONER DEASON, joins, dissenting in part:

In Ex Parte No. 295 (Sub-No. 1), *Increased Freight Rates and Charges, 1973—Recyclable Commodities*, I dissented with separate expression on the amount of increase to be authorized and recyclables. Likewise, in this proceeding, I dissent and would authorize increase for recyclables not to exceed 2 percent.

VICE CHAIRMAN O'NEAL, dissenting in part:

I would approve the proposed increase insofar as justified by a showing of need, if selectively applied and conditioned upon improved reporting on service performance.

NEED

The majority report's cost justification for the increase sought here does not give sufficient consideration to the nationwide increase of 10 percent granted in Ex Parte No. 305, *Nationwide Increase of Ten Percent in Freight Rates and Charges, 1974*.

The Commission granted the rail carriers a 10-percent rate increase by our order of June 3, 1974, in Ex Parte No. 305. The full 10-percent increase sought by the railroads was granted, although the carriers could only justify an increase of 3 percent on the basis of increased costs. The Commission's cost justification analysis in Ex Parte No. 305 included the interim 4-percent increase authorized by our vote of February 20, 1974, in this proceeding. However, canceling the interim increase would still leave the railroads with the benefits of an increase in Ex Parte No. 305 far in excess of the cost increases experienced since the increases we authorized in Ex Parte No. 295 and in Ex Parte No. 299.

The initial orders in Ex Parte No. 305 placed some restrictions on the expenditures of 7 percent of the increase not justified by increased costs. However, by our order of October 3, 1974, the Commission so liberalized the restrictions of the original order as to bankrupt and marginal roads as to make the terms of the authorized increase indistinguishable from any general ex parte rate increase. Therefore, some discussion of the Commission's prior actions in Ex Parte No. 305 is required. Even with that 10 percent, there are some carriers which can demonstrate a need for additional revenue. That need should not go unmet due to the fact that the industry as a whole cannot demonstrate revenue need. But, individual carriers which can demonstrate neither cost justification nor revenue need should not be permitted to increase their rates just because some other carriers merit and receive increases.

Selective Increases

In my separate expression in Ex Parte No. 295, *Increased Freight Rates and Charges, 1973, Nationwide*, I requested that the following expression of policy be included as a part of that report:

> The Commission in the future will look at petitions for rate increases on a carrier by carrier and commodity by commodity basis. The Commission has initiated an investigation into the rail carrier rate structure in Ex Parte No. 270 motivated in part by the allegations that over time a number of ex parte general rate increases had distorted the rate structure, as noted in our Order of December 15, 1970, initiating the investigation. Pending the completion of that study it is our policy to look more favorably upon petitions for rate increases which are justified on an individual commodity and individual carrier basis than upon petitions for "across-the-board" increases such as the present case.

The Commission has, in the past, commented favorably on increases sought on an individual or selective basis; Ex Parte No. 256, *Increased Freight Rates, 1967*, 329 I.C.C. 854 at 879, and Ex Parte No. 259, *Increased Freight Rates, 1968*, 332 I.C.C. 714 at 715. However, in Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, the Commission appeared to discourage selective increases in general ex parte ratemaking proceedings; that trend has increased to the point where, in this proceeding, many of the customary holddowns and flagouts have been eliminated.

Across-the-board increases obviate very real differences among rail carriers as to changing cost increases and revenue requirements. In some instances these differences result from internal reasons such as differences in management ability, labor productivity, or operating efficiencies. In other cases external factors, such as regional decline or growth, supply or demand for particular commodities, or general economic conditions affect different carriers differently. Whatever the reason for the differences, they should be reflected in the rail rate structure. Failure to adjust rates to reflect these differences results in windfalls for some carriers and shippers and penalties for others, and more importantly, creates inefficiency.

It has been stated that rate differences between competing carriers will adversely affect the carriers setting the higher rates and

the shippers paying them. That situation is not necessarily undesirable. Traffic should be attracted to the carrier which is more efficient and can offer service at lower cost. It should be kept in mind that the Interstate Commerce Act only forbids *unjust* discrimination. Within those limits rate discrimination based on real underlying cost differences would appear to be consistent with the public's interest in transportation responsive to shipper needs.

I believe the present broad brush approach to general ex parte ratemaking invites more invidious competition than if there were submitted for Commission consideration more increase proposals on a carrier-by-carrier, commodity-by-commodity basis. Our increase authorizations are permissive, and individual carriers will decline to apply all or part of the increase to particular movements, often where they are faced with competition from another mode. However, commodity movements with similar cost characteristics which do not enjoy effective economic competition may take the full increase. Such discrimination in ratemaking is much less rational than that based on cost differences.

The Commission is presently engaged in an investigation of the rail freight rate structure in Ex Parte No. 270. However, we should not place an embargo upon modification of the rail rate structure pending completion of that lengthy and complex proceeding. In ex parte rate cases, as in any proceeding, the Commission should require the most detailed evidence available to the parties and make the best decisions possible based on that evidence.

Service

The report contains the statements as to service improvement made by the carriers pursuant to the Commission statements in earlier ex parte rate increase proceedings. The statements often refer to new or rehabilitated equipment and facilities. No doubt these acquisitions or improvements often result in improved service. However, the Commission does not see the debit side of the picture; facilities and equipment also deteriorate. More importantly, we have no idea whether the customers of any particular carrier are experiencing a net improvement in service this year over last year. The report herein and the quarterly reports on service improvements which the Commission receives pursuant to our order of March 4, 1971, in Ex Parte Nos. 265/267 do not show on-time performance, loss and damage experience, improved speed, productivity, or other measure of service. If we are to continue to impose this reporting requirement on the rail carriers, we should modify it so that it will yield useful information.

CONCLUSION

If service reporting were improved I would approve selective increases to the extent justified. In the instant case an approach preferable to that approved by the majority would be to tie the increase to some discernible indicator of financial condition. For example, without attaching any undue importance to rate of return as an indicator and without in anyway attempting to suggest an optimum level of return, the following approach might provide an answer to the current dilemma. The Commission could approve the full increase sought by any rail carrier with a rate of return[1] of less than 5 percent for the 12-month period ending September 30, 1974.[2] Any carrier with a rate of return in excess of that could receive a reduction of 1 percent in its sought increase for every percentage point its rate of return exceeded 5 percent, down to where the level of authorized increase would be reduced to zero.

Increases could, of course, be granted on a commodity-by-commodity as well as on a carrier-by-carrier basis. As I noted in my separate expression in Ex Parte No. 295, the Rail Burden Study analyzes traffic by commodity and by territorial movements, and indicates ratios of revenue to variable cost and to full cost. The Commission could authorize any traffic earning less than full cost to take the full increase, but could limit the authorized level of increase for commodities earning substantially more than full cost. Any carrier wishing to dispute the Burden Study computations of cost-revenue relationships as to particular commodities could submit schedule C and schedule D, Ex Parte No. 281, as the Commission has requested.

[1]Ratio of net railway operating income to net investment in railway property used in transportation service at the beginning of the calendar year 1974.

[2]As reflected in the Interstate Commerce Commission, Bureau of Accounts report, Class I Line Haul Railroads Selected Earnings Data, published November 15, 1974, official notice of which is hereby taken. Any carrier not included in that report may avail itself of the authorized increase by filing information as to its rate of return with the Commission, subject to reveiw by the Commission.

APPENDIX

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APPENDIX A

General exceptions to increase

(a) Charges for demurrage or detention on freight cars and detention charges on mechanically operated refrigerator cars as published in Rule 725, NPFC Tariff 18, ICC 37, except detention charges on heavy-duty flatcars;

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(b) Amounts paid or allowances made by carriers for drayage or other services performed by shippers or receivers of freight;

(c) Rates and charges at or between points in Canada on Canadian domestic traffic, or in Mexico;

(d) Charges for wharfage or handling at ports in Virginia; south Atlantic ports in North Carolina, South Carolina, and Georgia; Florida ports; and gulf ports in Alabama, Louisiana, Mississippi, and Texas; or dumping of coke at Charleston, S.C.;

(e) Charges for loading or unloading of livestock;

(f) Charges for dumping, leveling, tippling, transferring, or trimming coal and coke at gulf ports;

(g) Charges absorbed, in whole in or part, by carriers;

(h) Switching rates and charges absorbed, in whole or in part, by carriers;

(i) Charges for storage of grain in cars at south Atlantic, gulf, and Florida ports;

(j) Rates applicable from, to, or via points on the Long Island Rail Road;

(k) Lighterage service at New York Harbor;

(l) Charges for protective service against heat or cold.

APPENDIX B

Tariffs referred to in items 150-180 of Ex Parte No. 303 and Ex Parte No. 303A—

I.C.C. No.	Non-Application of Increases in Rates and Charges

Item 150-A Cancels item 150 (tariff)

15158 *ATSF Tariff* - unit train rates and provisions on bituminous Coal suitable only for metallurgical or coking purposes from York Canyon, N.M., to Kaiser, Cal.

15269 *ATSF Tariff* - unit train rates and provisions on molten sulphur in tank cars from Rustler Springs, Tex., to Galveston, Tex.

40 *BN Tariff* - annual volume or unit train rates on coal.

5 (same)

136 *BN Tariff*
- (a) In item 110-series, monthly storage rates on pelletized iron ore.
- (b) In item 150-series, under column B, unit train rates on pelletized iron ore.

30 *BN Tariff* - annual volume or unit train rates on coal.

36 *BN Tariff* -

37 *BN Tariff* -

58 *BN Tariff* -

60 *BN Tariff* - annual volume rates on petroleum coke.

64 *BN Tariff* - annual volume or unit train rates on coal.

187 *BN Tariff* - volume on iron ore.

121 *BN Tariff* - annual volume or unit train rates on coal.

162 *BN Tariff* - volume rates on coal.

176 *BN Tariff* - annual volume rates on coal from Belle Ayr, Wyo., to East St. Louis, Ill.

178 *BN Tariff* - unit train rates on coal from Belle Ayr, Wyo., to Pueblo, Colo.

11633 *CNW Tariff*
- (a) in item 325 series, monthly charges applicable on iron ore stored at Escanaba, Mich.
- (b) in item 330 series shown under generic heading ground storage charges to be exempt.
- (c) in item 335 series, handling charge on iron ore at Escanaba, Mich.
- (d) in item 345 series, storage charge on iron ore at Escanaba, Mich.
- (e) in item 655 series, rate on iron ore dust from Escanaba, Mich., to Humbolt Mine, Mich.
- (f) in item 660 series, annual volume rate on iron ore from Empire Mine, Mich., to Escanaba, Mich., published under Column B.
- (g) in item 670 series, annual volume rates on iron ore from Eagle Mills, Humbolt Mine and Republic Mine, Mich., to Escanaba, Mich., published under Column B.

63 *CNW Tariff* - volume rates on coal from Elm, Ill., to Sheboygan, Wis.

A-304 *DMIR Tariff* - in items 10 and 220 series, annual volume rates and storage charges on taconite from the Mesabi Range to Ports of Duluth, Minn., and Superior, Wis., when to points beyond via lake.

A-326 *DMIR Tariff* - in items 50 and 220 series, annual volume rates and storage charges on pelletized iron ore from the Mesabi Range to Ports of Duluth and Two Harbors, Minn., when to points beyond via lake.

Item 155-A cancels item 155 (sup. 1).

Line-haul rates (or charges for other services specified below), except as noted, published in tariffs indicated, are not subject to increases provided in this tariff:

299 *ASAB Tariff*
- (a) in item 35 series, pulpwood.
- (b) in item 40 series, woodchips.

297 *ASAB Tariff*
- (a) in item 220 series, pulpwood.
- (b) in item 230 series, woodchips.

277 *CC&O Tariff*, in items 845 through 1,000 series, pulpwood and woodchips.

32 *MBRR Tariff*, pulpwood and woodchips.

3 *NFD Tariff* in supplement 27 pulpwood and woodchips.

10378 *NW Tariff* - All rates including those bearing reference NS (see exception).

EXCEPTION—Rates bearing reference S or SI (except those rates bearing reference NS referred to above) are subject to increases otherwise provided in this tariff.

10379 *NW Tariff* - in full.

S-1083 *SFTB Tariff* items 575 and 576 series, pulpwood.

S-1034 *SFTB Tariff* in item 2190 series, pulpwood.

S-1099 *SFTB Tariff* in items 4600 series, pulpwood.

A-11724 *SOU Tariff* in full.

A-1301 *SOU Tariff* - all rates except those published in Section 9.

Item 160-A Cancels Item 160 (Tariff)

Line-haul rates (or charges for other services specified below), except as noted, published in tariffs indicated, are not subject to increases provided in this tariff:

1202 *DRGW Tariff* - transit charges on coal at Wash., Utah.
1162 *DRGW Tariff* - unit train or trainload rates on coal from Carbondale, Colo., and Sunnyside, Utah, to Kaiser, Calif.
1154 *DRGW Tariff* - unit train or trainload rates on coal from Somerset, Colo., Columbia and Sunnyside, Utah, to Geneva, Utah.
1205 *DRGW Tariff* - unit train or trainload rates on coal from Carbondale, Colo., to Geneva, Utah.
2416 *EJE Tariff* - in item 1590 series, the 346-cent rate per 2,000 pounds on sheet iron or steel, in coils, in closed cars, from East Chicago, Gary or Indiana Harbor, Ind., to Chicago Heights, Ill.
2411 *EJE Tariff* - in item 425 series, volume rates on crushed stone from Joliet, Ill., to Rondout, Ill.
E-1925 *ICG Tariff* - in item 200 series, under column A, trainload annual volume coal rates in shipper cars from Inland Mine, Orient Mine No. 3, Orient Mine No. 6, and Sesser, Ill., to Indiana Harbor, Ind.
366 *ICG Tariff* - coal from Percy, Ill., to EJE destination in Ill. (Waukegan) and Ind. (Hammond).

Item 170-A Cancels Item 170 (Tariff)

Line-haul rates (or charges for other services specified below), except as noted, published in tariffs indicated, are not subject to increases provided in this tariff:

B-8288 *MILW Tariff* in items 440 and 1180-series, annual volume rates on steel sheet from Chicago, Ill., to Milwaukee, Wis., in shipper owned or leased cars.
B-8269 *MILW Tariff*
(a) in item 190-series, monthly storage charge applicable on iron ore stored at Escanaba, Mich.
Only the charge shown under generic heading "Ground Storage Charges" to be exempt.
(b) in item 200-series, monthly ground storage charge applicable on iron ore stored at Escanaba, Mich.
(c) in item 210-series, handling charge on iron ore at Escanaba, Mich.
(d) in item 230-series, storage charge on iron ore at Escanaba, Mich.
(e) in item 350-series, annual volume rate on iron ore from Randville, Mich., to Escanaba, Mich.
B-8302 *MILW Tariff* - in item 1260 series.
(a) annual volume rate on sand or gravel from Hawarden, Iowa, to Sioux City, Iowa.
(b) annual volume rate on stone, crushed, from Dell Rapids, S.D., to Sioux City, Iowa, applicable only in shipper owned or leased open top equipment.
B-8344 *MILW Tariff* - annual volume rates on scrap tin plate, etc., from Chicago, Ill., Beloit and Milwaukee, Wis., to Butte, Mont.

B-8356 *MILW Tariff* - annual volume rates on pulpwood chips.
348 *MILW Tariff* - Column A rates on coal from Latta and Sycamore Mine, Ind., to Indianapolis, Ind.
394 *MP Tariff*
(a) in item 33-series, charges for moving empty cars under loading spout for loading trainload shipments of coal at mines in Illinois.
(b) in item 34-series, charges for moving loaded cars over unloading facility and unloading trainload shipments of coal at West Labadie, Mo.
G-520 *MP Tariff* - unit train rates on bituminous coal in shipper owned cars from mines in Illinois to Kellogg, Ill.
470 *MP Tariff* - unit train rates on bituminous coal in shipper owned cars from mines in Illinois to West Labadie, Mo.

Item 180-A Cancels Item 180 (Tariff)

Line-haul rates (or charges for other services specified below), except as noted, published in tariffs indicated are not subject to increases provided in this tariff:

C-13828 *RI Tariff* - annual volume rates on coal from LaFayette, Ill., to Iowana, Iowa.
C-13906 *RI Tariff* - trainload rates on bauxite ore from Little Rock, Ark., to Bauxite, Ark.
S-1015 *SFTB Tariff*
(a) items 15400, 195110-series - cores, wooden.
(b) in supplement 101 - cores, wooden; pulpwood and woodchips.
(c) in supplement 115 - pulpwood and woodchips.
(d) in supplement 121 - pulpwood and woodchips.
(e) in supplement 122 - pulpwood and woodchips.
S-1076 *SFTB Tariff* - trainload rates on coal from stations on CCO to Terrell, N.C., Riverbend, N.C., and Pelzer, S.C.
S-1050 *SFTB Tariff* - trainload rates on coal from stations on CCO to Augusta, Ga., Canadys, Irmo and North Wateree, S.C.
A-11679 *SOU Tariff* - unit train rates on coal from Arco, Tenn., to Harlee, Ga.
A-11686 *SOU Tariff* - unit train rates on coal from Appalachia, Va., to Belmont, N.C.
A-11683 *SOU Tariff* - unit train rates on coal from Appalachia, Va., to Catawba, N.C.
A-11685 *SOU Tariff* - unit train rates on coal from Oakman, Ala., to Harlee, Ga.
A-11700 *SOU Tariff* - unit train rates on coal from Enosville, Ind., to Krannert, Ga.
A-11718 *SOU Tariff* - unit train rates on coal from Percy, Ill., to Wansley, Ga.
A-11721 *SOU Tariff* - unit train rates on coal from Enosville, Ind., to Wansley and Yates, Ga.
A-11722 *SOU Tariff* - unit train rates on coal from Oakman, Ala., to Yates, Ga.
30 *SP Tariff* - unit train rates on cold reduction breakdowns from Kaiser, Calif., to Hennepin, Ill.
4976 *SWFB Tariff* - in items 40083 and 40039 series, annual volume rates on corn (not popcorn), shelled, dried in bulk.

5758 *UP Tariff* - time volume rates on iron ore from points in Utah and Wyoming to Geneva, Utah.
5682 *UP Tariff* - unit train rates on iron ore from Cima, Calif., to Long Beach and Los Angeles Harbor, Calif.
5706 *UP Tariff* - unit train rates and charges on coal from points in Wyoming to Sergeant Bluff, Iowa, except rates in paragraph 3(b) of item 180-series.
5753 *UP Tariff* - unit train rates and accessorial charges on coal from Dana and Hanna, Wyoming, to Waukegan, Ill., and Hammond, Ind.
5711 *UP Tariff* - time volume rates and charges on coal from points in Wyoming to points in Kansas City, Mo.-Kans., except volume D in item 400-series.
5741 *UP Tariff* - unit train rates on coal from points in Wyoming to Oak Creek Power Plant, Wis.

APPENDIX C

Position of respondents

1. *Individual revenue need.*—The Atchison, Topeka, and Santa Fe Railway Company states an urgent need for the rate increase proposed herein. Rapidly increasing costs of operation have allegedly overtaken the potential benefits of greater volume and productivity, and it contends that this situation will worsen in the near future. During the first three quarters of 1973, net railway operating income fell by 8 percent from the same period last year, despite an increase of 12.8 percent in total railway operating revenues. The outlook for the immediate future is one of continuing increases in costs of operating, according to the Santa Fe.

Where competitive forces threaten a diversion of traffic, the Santa Fe maintains that it will give careful consideration to all proposals, as has been done in the past, contemplating changes or adjustments in the freight rate structure. It seeks to maintain rates that will move the most traffic commensurate with the expense of doing business.

Burlington Northern, Inc., states that it has experienced a declining trend in net operating income for some years, despite a period of generally rising traffic volume. This respondent attributes the situation to rapidly escalating costs and its inability to offset them either through past rate increases or greater productivity.

Because its situation has been particularly aggravated in the first three quarters of 1973, Burlington Northern is allegedly confronted with an immediate need for additional revenues, despite an unprecedented volume of traffic and a substantial increase in railway operating revenues during that period. Working capital has continually been depleted and cash reserves reduced; it contends that there is no alternative but to seek the increase in rates here proposed, the revenue from which will barely cover a 4-percent wage increase of January 1, 1974, and the escalation of material and supply costs known and expected during the year. Wages will increase $15.8 million; fuel oil costs, $12.3 million; other material and supplies, $18 million; these known cost increases total $46.1 million. Allegedly, the proposal would do no more than prevent further erosion of present earnings.

The Chicago and North Western Transportation Company maintains that the request for a 5-percent increase in freight rates and charges reflects the railroads' need to obtain revenue. It would partially offset the spiraling cost of doing business particularly the wage increase of January 1974, granted to various operating and

nonoperating rail crafts. In addition, material and supply costs are increasing. Also, greater funds are needed to allow this respondent to purchase capital equipment in order to meet increasing demands for its services.

The Chicago, Milwaukee, St. Paul and Pacific Railroad maintains that its 1973 earnings to date have been extremely low when related to the general economy and other standards. It alleges a need for greater revenues to offset some of the increase expenses in the coming year and to continue to provide the degree of service required by its shippers and receivers of freight.

This carrier's increased costs are estimated on a pro forma basis as $22 million annually; the proposal is estimated to raise revenues by $15.6 million. Costs include wage and payroll tax increases, escalation in equipment rents, as well as the rising cost of materials and supplies, especially fuel. This respondent contends that it is endeavoring to augment revenues by increasing productivity and by marketing its service to the best advantage, but it allegedly must also increase freight rates and charges to this end. The only alternatives to rate increases, it is maintained, are reductions in service and cutbacks in capital improvement programs, including cutbacks in proposed 1974 expenditures of approximately $1.5 million for pollution control and other environmental advances.

The Chicago, Rock Island and Pacific Railroad Company alleges that it urgently needs additional revenues. In the first 9 months of 1973, it incurred a net loss of $14,424,000; the comparable loss for the first 9 months in 1972 was $4,549,000. Aggravation of this condition, it is maintained, has been caused by the delay of the Commission in approving past rate increases. Higher costs for the coming year include tax and wage increases, as well as increased expenses for materials and supplies. Rents for long-term leases of equipment are also rising, as are the costs of track and right-of-way maintenance. Prompt approval of the proposal is requested to forestall further deterioration of this respondent's plant and equipment.

For the first 10 months of 1973, the Erie Lackawanna Railway Company sustained a net loss of $13.7 million. For the year 1972, it suffered a net loss of over $23.5 million, including $5.4 million of extraordinary costs chargeable to restoration of property after the devastation of hurricane Agnes. During the first 10 months of 1973, wage increases added $12.2 million to operating expenses, plus increased fringe benefit costs such as health and welfare insurance. In addition, there were substantial increases in the cost of material and supplies. The effect of these inflationary expenses was only partly offset by an estimated rise of $5.5 million in revenue due to increased freight rates during the period. This carrier estimates that wage increases effective in 1974 will add almost $6.1 million to its employment costs for the year. It is anticipated that material prices will continue to escalate and that they alone will add at least 5 percent to operating expenses in 1974.

The Erie Lackawanna urges that the proposed increases are reasonable and necessary in view of substantial wage and material increases incurred by the industry and by this railroad in particular. It points out that the rate of return enjoyed by the business community in general is higher than the rate of return earned by railroads. For this reason, the traffic allegedly can bear the increases proposed without hardship. The risk of diversion is felt to be minimized because high labor, equipment, and material costs are not confined to the railroad industry; similar economic factors affect all modes of transportation. If specific situations should arise in which traffic shifts are indicated, the railroads will be alert to making the adjustments necessary to retain the traffic.

The Maine Central Railroad Company states that the proposed increase is needed because its rate of return has fluctuated between 0.20 percent and 4.03 percent during the last 5 years. In that period its earnings have averaged $44,793, considering the deficits of $1,436,782 in 1969 and $1,320,843 in 1971. The working capital of the Maine Central has declined from $2,723,458 in 1960 to $989,332 as of October 31, 1973. According to this carrier, the deficits and marginal operations of recent years have necessitated the employment of current assets to cover sinking fund and interest requirements as well as reduction of equipment debt. Holders of common stock have not received a cash dividend since 1966 and stockholders of preferred stock have not received a dividend since 1970.

As a result of the merger of the Illinois Central Railroad and the Gulf, Mobile and Ohio Railroad, the Illinois Central Gulf Railroad was formed in August of 1972. According to this carrier, the increases under Ex Parte Nos. 281 and 295 should result in increased revenues of approximately $29 million on an annualized basis, when all intrastate revenue is realized, but its expenses during 1972 and 1973 have skyrocketed, far outstripping such increase in rates.

Collectively, wage increases in 1972 and 1973, and the wage increase of 4 percent effective on January 1, 1974, result in a 24.9 percent increase over the 1971 wage level, or approximately $41.2 million on an annual basis. This does not take into consideration certain work rule changes and benefits which have also raised labor expenses, such as a reduction from a 16-hour to a 12-hour crew law, equalization of clerks' pay scales and the 5-week vacation in 1973 based on 25 years' service with the carrier.

This carrier's operating expenses other than wages, made up primarily by the cost of materials and supplies, are estimated to have increased $12.7 million during the years 1972 and 1973. Estimated increases in net rents and taxes (other than income taxes) amount to approximately $13.4 million for the same period. As of January 1, 1974, expenses involving wages, materials and supplies, net rents and taxes are estimated at $67.3 million above the 1971 level.

The rise in costs is allegedly reflected in its rate of return on net investment in transportation property. It had a 3.61-percent rate of return for the 12 months ending June 30, 1972, compared to a 2.72-percent rate of return for the comparable subsequent period. We have indicated in the past that rates of return of 4 percent or less are substandard. See Ex Parte No. 259, *Increased Freight Rates, 1968*, 332 I.C.C. 590, 603.

Under these circumstances of increased expenses and inadequate revenues, this respondent maintains that it must either cut expenditures, particularly equipment acquisitions and rebuilding, or increase revenues. Another possibility for cost reduction is in not laying new ties and new or relaid rail; however, such reductions are often self-defeating as they may seriously curtail the ability of the railroad to generate revenue and attract new capital. Nevertheless, in the absence of adequate revenue, no alternative is foreseen.

Based on the experience of its predecessors, no diversion of any significance is anticipated due to the proposed increase. To demonstrate that the series of freight rate increases since 1968 have not been self-defeating, it submitted the ton-miles of revenue freight handled, and gross freight revenues earned for the years 1967-1972, in the following table:

Year	Revenue ton-miles (thousands of miles)	Gross freight revenues (thousands of dollars)
1967	30,333,121	$365,158
1968	31,519,533	382,151
1969	32,569,400	397,546
1970	31,258,614	432,923
1971	29,898,711	460,466
1972	32,343,968	474,062

The overall trend is upward, except that during the period of reduced business activity in the national economy, 1970 through the first half of 1972, there was a decline in mileage, although gross revenues continued to rise. This carrier contends that, if it is unable to obtain revenues sufficient to maintain the quantity and quality of rail transportation the public requires, there will be a threat of diversion to other modes far greater than could result from application of the proposed rate increases.

According to The Kansas City Southern Railway Company, the proposed increase is necessary to offset increased maintenance-of-way expenses, lessen the impact of wage increases, and aid the railroads in upgrading their plant and equipment. It is contended that the proposal will have no detrimental effect on the quality of the human environment since the possibility of substantial diversion is minimal.

The Lehigh Valley Railroad Company states that the proposed increase is needed because the company has sustained net losses in the past 6 years ranging from a low of $3,737,516 in 1967 to a high of $17,693,020 in 1972. This respondent also points out that it has been in reorganization under section 77 of the Bankruptcy Act since July 24, 1970. According to the Lehigh Valley, its financial condition has deteriorated so much that it was necessary to forego payment of several wage increases in 1972 and 1973. After January 1, 1974, these increases for employees will be accrued at a monthly rate of $123,000. The scheduled 4-percent increase for personnel under that agreement will be accrued at approximately $92,000 per month. The proposed increase would add approximately $3 million to its revenues in 1974, which the Lehigh Valley expects would reduce anticipated net losses to $10 million.

The Boston and Maine Corporation states that because of its financial condition the increase in freight rates will be used to reduce deficits and proceed with its reorganization.

The Missouri-Kansas-Texas Railroad Company maintains that despite substantial improvement in operating revenues in the first 9 months of 1973, net operating revenue declined, resulting in a deficit of $3,484,133 attributable to substantial increases in wage, fuel, material, and supply costs. Allegedly, the decline in profitability is a result of delay by regulatory agencies in permitting the railroads to recover known and predictable future increases in costs. It is contended that the only permanent solution for the problems facing the Nation's railroads is flexibility to establish rates at a level which will produce revenues sufficient to meet the principal and interest payments on long-term debt, to cover daily operating and maintenance expenses, and to provide funds for capital improvements.

The Missouri Pacific System emphasizes the advantages to the Nation, in the form of energy conservation, from the use of rail transport. The subject increases are allegedly needed in order to lessen the effect of inflation. If the service of the Nation's railroads is to be improved, increased expenditures derived from increased revenues must be made by all rail lines.

While the Penn Central Transportation Company did not have complete data for the year 1973 when its statement was filed, tentative results indicated that it will incur an ordinary income loss in the area of $180 million. Should the Penn Central not receive any rate increase for the year 1974, the net loss for the year will be in the area of $270 to $300 million, based on present volume, with freight service inflationary costs in excess of $100 million. These increased costs include labor, $36 million; materials and fuel, $38 million; equipment rents, $5 million; and other expenses, $28 million.

On August 19, 1973, the respondents received a rate increase under Ex Parte No. 295. Also, as a result of the Railroad Rate Adjustment Act of 1973 (Tier II), the railroads were granted additional increases under Ex Parte No. 299 of 1.9 percent effective October 1, 1973, and an increase of 0.7 percent effective January 1, 1974. Collectively, these increases produce approximately $94 million in annual revenues for the Penn Central. To show that these additional revenues are inadequate to absorb even its increased labor costs in 1974, the Penn Central submitted the following:

Items	Amounts	Revenue shortfall
	in millions	
Ex Parte No. 295 revenue increase	$47.0	
Labor costs:		
Wage rates—		
5 percent 10-1-72	36.9	
6 percent 1-1-73	52.7	
Additional holiday	1.3	
Supplemental sick benefits	1.7	
Totals	92.6	$45.6
Ex Parte No. 299 revenue increase	47.0	
Railroad retirement tax increase (Tier II)	56.0	9.0
Total shortfall		$54.6

A 2-percent rate increase to cover the higher cost of fuel oil, and a rate increase of 5 percent herein for the Penn Central, would yield approximately $115 million on an annual basis. According to this carrier, that would not cover inflation and recoup the shortfall resulting from the two proceedings outlined above; it would still have an ordinary income loss of $170 million.

Penn Central states that many problems have caused its acute cash situation. Among these are 18,100 freight cars in bad order, 11.4 percent of its ownership. Its tracks are not maintained, in some cases, to the standard required by the Department of Transportation. Penn Central estimates that it would require approximately $600 to $800 million to offset the deferred maintenance that has accumulated in the past two decades. Money put into rehabilitating the 6,000 or so miles of slow-order track would benefit the railroad industry and the national economy, but the Penn Central is in bankruptcy and thus incapable of such expenditures.

The Reading Company states that the primary reason for its current financial plight is almost exclusively a result of the ecology movement over the last few years, specifically, clean-air standards that do not permit the burning of high-sulphur bituminous coal. Approximately 35 percent of the Reading's gross revenue had been obtained through the transportation of this commodity to utility consumers in the New England States and the metropolitan areas of New York, N.Y., and Philadelphia, Pa. The Reading finds it ironic that the Federal Government is now urging these utilities to reconvert to coal because of the energy crisis. According to the Reading, if this does occur it will be impossible to prepare plant and equipment to meet the transportation demands placed on it, without an increase. Since the Reading is the only rail carrier having rail-to-water facilities for the handling of coal to utilities in metropolitan New York, New Jersey, and the New England States, it considers itself a vital part in the plan to ease the fuel shortage.

The Reading fears diversion, not because of pricing, but because of its inability to meet two basic shipper requirements: sufficient equipment of the type required for the industry to realize labor savings in materials handling, and consistently reliable service. These two items alone, according to the Reading, are of more economic benefit to industry than lower freight rates, in competitive situations. The Reading urges that these demands cannot be met by a railroad which does not have sufficient funds to improve its service or make it attractive to a consumer.

The Reading Company submitted a study of its cost of operations, "including recent authorized and expected wage increases, and of the possible revenues," both net and gross, with various assumption for the year 1973. For comparison, they also submitted actual results for the years 1970 through 1972. According to ths Reading, the figures below represent only freight operations, passenger revenues and costs having been excluded.

Item	1970	1971	1972	1973[a]
Carloadings (thousands)	897.4	758.5	686.0	846.0
Average number of employees	6,665	6,271	5,732	5,505
	millions of dollars			
Freight revenues	$100.4	$98.6	$95.3	$110.8
Freight operating expenses	83.4	82.1	85.3	93.5
Net revenue-operations	16.6	16.5	10.0	17.3
Taxes and rent	16.2	18.0	19.1	24.1
Net operating income/deficit	0.4	(1.5)	(8.1)	(6.8)

[a] First 9 months only.

According to the Reading, the various freight increases since 1970 have failed to cover the major cost increases sustained up to 1973 by some $11,384,000. In consideration of the foregoing, this carrier urges that the proposed increase is not only fully justified but is less than required to restore an equitable balance. The estimated $5.3 million which such a rate increase would generate for the Reading would aid in the preservation of its rail service.

Seaboard Coast Line Industries, Inc., is the parent company of Seaboard Coast Line Railroad which owns the Louisville and Nashville Railroad Company. According to the parent company, the revenues of these carriers were higher for the first 9 months of 1973, compared with the same period of 1972, but increases in expenses continued to outrun revenues. Consequently, the net railway operating income of both companies in the first 9 months of that year dropped well below that experienced during same period of 1972.

It is estimated that the most recent cost increases, not otherwise included in operating expenses, taxes, and rents for the 12 months ending September 30, 1973, amount to $35 million on the Seaboard. The impact of adding these new cost increases without rate relief would allegedly reduce its net railway operating income from $41 million to $27 million, reduce Seaboard's rate of return on net investment to 2.47 percent, and the rate of return on net investment would allegedly drop to 3.20 percent for the Louisville and Nashville.

The Seaboard estimates that the final order in Ex Parte No. 295 will result in added revenues of about $15 million annually, when fully applied to interstate and intrastate traffic. It anticipates that the increase here proposed would increase its revenue by more than $30 million annually, assuming application to both interstate and intrastate traffic, with some timelag as to the latter. Since the Ex Parte No. 295 increases, this carrier estimates that annualized increases in costs for wages, materials, supplies, et cetera, amount to approximately $35 million, about $5 million in excess of revenues expected herein.

This respondent is aware that some diversion might occur from the proposal; it points out, however, that other forms of transportation are also experiencing greater costs. Therefore, it feels that the proposed increases will not cause significant diversion. Should such situations arise, they will be thoroughly analyzed and accorded whatever rate adjustment is feasible, under the circumstances, for this carrier to remain competitive and to keep its shippers competitive in the marketplace. If the requested rate relief is not granted, diversion allegedly would become a real threat through deterioration of service caused by an inability to meet equipment obligations and continue plant improvements.

In regard to tariff updating the Seaboard states that, with two exceptions awaiting determination on intrastate rates, all tariffs issued by it have been updated through Ex Parte No. 281. It maintains that all tariffs will incorporate increases up through Ex Parte No. 295 as soon as the several States in which it operates authorize the increases.

In Ex Parte No. 295, the Louisville and Nashville expected to realize approximately $20.7 million in increased revenues per year. However, under the increase approved, this had been reduced to approximately $13.3 million, which it maintains will have an adverse effect upon operations. The proposed increase is estimated to provide $25.6 million in additional revenues per year, and this respondent contends that the increase is necessary if it is to continue as a reliable transportation system.

As for updating its tariffs, this respondent carrier states that it publishes 59 tariffs which are subject to ex parte freight rate increases. Of these, 45 are subject to Ex Parte Nos. 281, 295, and 299; 14 are subject only to Ex Parte Nos. 295 and 299. This carrier is engaged in a continuous program to update and consolidate its tariffs, the goal being to have all tariffs updated to include increases through Ex Parte No. 299 by the end of 1974.

The Soo Line Railroad Company contends that the proposed increases are essential to its continuing viability; with inflationary pressures on its cost structure, prompt relief in the form of a general rate increase is necessary. Furthermore, it is maintained that despite a 5-percent increase, annual net income would still be reduced by $950,000. If the Soo Line is to continue to provide the quantity and quality of railroad transportation service which it presently renders, and if it is to meet increased demands for transportation service which will undoubtedly result from the current energy crisis, it must substantially increase the amount of its annual investment in rolling stock and physical plant.

The Southern Pacific Transportation Company maintains that it has expended about $1.2 billion over the last 10 years for capital improvements, and the cost of operations has risen so sharply that rates have not been able to offset them. Southern Pacific sees no alternative but to seek additional revenues if it is to continue improvement programs and meet rising costs.

It alleges that during similar 9-month periods of 1972 and 1973, operating revenues rose $47.2 million, reflecting increases in freight rates, ton-miles, and variations in traffic mix. However, operating expenses and payroll taxes rose $57.6 million and net railway operating income dropped from $64.4 million to $45.4 million, a decline of 29 percent. While other income was up $2 million, income available for fixed charges was reduced by $17 million. Net income was $44 million, a decrease of $17.5 million or 29 percent.

It is maintained that the need of western railroads for the increase can be substantiated by attributing Southern Pacific's experience to the other carriers. Rising costs during 1973 and prior years have materially weakened the financial position of railroads, and the need for additional revenues is said to be urgent.

Southern Railway System estimates that the proposed increases would produce approximately $36 million in additional annual revenues. This assumes simultaneous effectiveness of the increase on intrastate traffic and takes into account the limited exceptions. Within the territory in which Southern operates, intrastate application is usually delayed; such delays have averaged anywhere from 3 months to 3 years for recent general rate increases. Therefore, this carrier maintains that the exact amounts that might be realized from intrastate increases in 1974 are not ascertainable at this time. It has been the Southern's firm policy not to propose or concur in increases that will have an adverse effect on the movement of traffic making contribution over and above variable costs. The Southern maintains that diversion, except as to certain very limited traffic which was carried at a loss, has not been the result of general increases; service deficiencies are allegedly the real cause of traffic loss. If any profitable traffic would be lost because of a general increase, this carrier states that it would remove the increase applicable thereto.

The Southern's work force has been showing a slight but steady increase; the average number of employees was 20,843 in 1971, 20,956 in 1972, with a comparable figure expected in 1973. In addition to increased wages, the 12-hour law for train-crews, which became effective in December 1972, will continue to cost the Southern over $1 million per year; a fifth week of vacation will cost Southern another $1 million annually.

For continued compliance by the Southern with the Federal Railroad Administration's new track maintenance standards, the maintenance-of-way budget was increased 5 percent in 1973. Since that budget is about $90 million per year, this meant an increase of $4.5 million annually. By October 16, 1973, the railroads had to meet all track geometry (line and surface) requirements and certain crosstie requirements. In addition to more stringent Federal track standards, the railroads are being required to do more in the way of pollution control. The Southern states that it spent $910,000 on pollution control programs in 1972, almost $3 million in 1973. This carrier urges that the increase should be authorized since past increases do not produce enough revenue to offset the rising expenses that have been, or will be, incurred.

The Norfolk and Western Railway Company maintains that the proposed increased is critical in order to prevent deterioration of its present plant and equipment and to allow improvements to continue. Improvements cannot be made without the requisite investment, and the proposal will provide some of those funds.

The Union Pacific Railroad Company maintains that the increases are necessary in order to offset, in part, the continual rise in operating expenses such as wages, materials, supplies, and others. Because of the inflationary spiral, it is contended, that the freight rate increase herein proposed, while adding annual revenue of approximately $31 million from interstate and intrastate traffic, falls short of the revenue required to meet increased expenses. No diversionary impact from the proposal is forecast; competing forms of transportation are subject to similar economic factors. It is maintained that constant appraisal of possible traffic diversion, together with the willingness to make adjustments in rates necessary to retain traffic, is essential to proper administration of a general rate increase program. It is contended that the increases proposed will not impede the movement of traffic and that they are equitable to all users of railroad transportation services.

The Western Pacific Railroad Company maintains that the increases herein proposed are needed to provide the railroad equipment, facilities, and services required to meet growing transportation demands. Increased railroad operating income is needed to continue existing capital improvement programs. Without the proposed increases, the respondent faces a cost burden that will severely restrict its earnings and thus its ability to attract the funds needed for capital improvements and provide proper service to its shippers.

The Western Railroad Traffic Association recognizes the possibility of traffic diversion which, it maintains, is caused mainly by deterioration of railroad service; its members stand ready to make downward adjustments in rates to retain present traffic. The long-haul shipper allegedly will not be prejudiced by the absence of holddowns in the proposal, because long-distance rates are generally graduated to minimize distance discrepancies and thus maintain market relationships. It is contended that where straight percentage increases are sought without significant exceptions, and the amount of the proposed percentage is relatively small, the resulting differences in the amounts of increase between long-haul and short-haul rates are not enough to warrant rate maxima or holddowns.

II. *Individual service improvements.*—In Ex Parte No. 295, we required the rail carriers requesting future general rate increases to show improvements in service. In addition to the evidence discussed in the report, individual carriers submitted the following specific evidence with regard to service.

In 1973, the Atchinson, Topeka and Santa Fe Railway Company made major investments to provide better service and attract new traffic. These include important improvements to roadways and structures including the installation of 257 miles of new, and 133 miles of reconditioned, continuously welded rail, plus 15 miles of track welded by the in-track process, raising the Santa Fe system total of welded rail to 4,717 track-miles. According to the Santa Fe, this provides a smoother ride for freight and reduces frequency of repairs and bad order cars, thereby contributing to more reliable service. Completion of 190 miles of a Traffic Control System (TCS) between Temple and Alvin, Tex., has substantially increased traffic capacity and speeded operations on the north-south main line of the Santa Fe between the Midwest and the gulf. Similarly, improved service capabilities were made possible on the transcontinental main line of the Santa Fe by the installation of 81 miles of 2-track TCS between Barstow and San Bernadino, Calif. A new centralized welding, storage and track-panel construction plant near Amarillo, Tex., costing $5 million, was placed in service by the Santa Fe; four new rail trains to transport the welded rail cost another $3 million.

In 1973, the Santa Fe added 64 new 3,600-horsepower locomotives, at a cost of approximately $390,000 each. In addition, Santa Fe rebuilt 50 older 1,500-horsepower locomotives and 46 road switcher units. Two locomotive units were rebuilt and converted for use with a special traction motor to produce greater tractive force in hump switching service. Santa Fe also placed into service 2,332 new roller-bearing freight cars; another 1,026 freight cars were rebuilt, converted, or improved.

Other major projects undertaken in 1973 by this carrier included installation of 477 miles of a microwave communications system in central and south Texas, and in the Phoenix, Ariz., and Pueblo-Denver, Colo., regions, raising the total microwave system to 3,679 miles. The master retarder for the Santa Fe hump operation at Chicago, Ill., was upgraded and work was begun upgrading the westward hump at the Kansas City, Mo., yards. A new centralized heavy maintenance shop for mechanical refrigerator cars was added at San Bernadino, Calif., and pretrip facilities for refrigerator cars and trailers were upgraded at various Santa Fe system locations.

Improvements were made by Santa Fe in trailer-container-on-flatcar facilities at Los Angeles, Calif., and at Houston, Tex.; additional straddle-lift cranes were provided at Illinois and California facilities. Track facilities of three principal Santa Fe yards received improvements and additions during the year 1973. Freight yard office operations were consolidated at five principal Santa Fe locations; important sidings were extended at various locations. A 2-mile test track near Wichita, Kans., built in cooperation with the U.S. Department of Transportation, was completed. New high-water, hotbox, and dragging-equipment detectors and grade crossing protection devices were installed at numerous locations. VHF radio installations were made by this carrier in both on and off track mobile equipment, and additional radiobase stations were installed at various locations.

A track geometry inspection car was placed in service by Santa Fe, employing an onboard computer and the latest in electronic sensing and recording devices. This car represents, according to Santa Fe, a significant technological advance in railroading. Utilizing devices such as accelerometers, optical encoders coupled with contact feelers, and a gyroscopic stabilized pendulum, the car constantly monitors and records 10 different track characteristics and location-identification by mileposts and other wayside landmarks. The data obtained with the track underload provides the best available indication of track stability. The measuring equipment is designed to be capable of day-to-day operation at train speeds up to 80 miles per hour, with a minimum of downtime for maintenance and recalibration.

Many new programs have been undertaken by Santa Fe specifically to reduce terminal or interchange delays, reduce transit times, and produce more reliable delivery times. Effective October 12, 1973, a new train was established by Santa Fe from Dallas, Tex., to Kansas City, to allow later "cut-off time" at Dallas for trailer-on-flatcar traffic destined to Kansas City and Chicago, Ill., while maintaining basically the same arrival time for this traffic at those cities. Also effective on October 12, 1973, through-train service to Kansas City was extended so as to originate in Silsbee rather than Somerville, Tex., providing new direct service for Texas customers at Beaumont, Silsbee, and East Texas. This train improved arrival time at Kansas City by 6 hours. Also, on that date, another schedule was changed in order to improve service by 1 day on traffic destined to Kansas City and the East, from Galveston, Texas City, and Bay City, Tex., while still providing the same service to those destinations from Houston as had previously been afforded. Similar new schedules and train operations were provided by Santa Fe on other parts of its system to increase reliability and ontime performance.

In 1974, gross capital expenditures by Santa Fe will substantially exceed those of the previous year. Construction will begin on a new automated freight car classification yard facility at Barstow, Calif., the junction of Santa Fe's transcontinental main lines to southern and northern California. The entire complex will include receiving and departure yards, a computer-controlled gravity classification yard, car repair, way car, and diesel servicing facilities. Santa Fe expects to place into service 37 new 3,600-horsepower locomotives and 17 new 2,300-horsepower units; approximately 2,000 new freight cars will be added to the car fleet. A total of 113 older locomotives will be rebuilt.

During 1973, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company invested more than $5.1 million in major track improvement projects. As a direct result, it has been able to expedite its train operations, for an estimated systemwide savings of approximately 2,032,800 car-hours annually. The improved track conditions resulting from this expenditure of funds also permitted the Milwaukee Road to reduce the running time of transcontinental trains by approximately 2 hours per train, thereby providing better service to its customers.

As a result of relaying rail on various branch lines and subdivisions, this respondent has raised load limitations thereon to 263,000-pound capacity. This permits the movement of more lading in fewer cars, giving shippers the benefits of reduced rates and charges available on heavier shipments.

According to the Milwaukee, the complete benefit of the recent track improvements will not be fully evident until 1974 as much of the involved track work was not completed until late in 1973. It has, however, been able to measure some areas of improved service resulting, in part, from the track improvement program. Mileage on all freight cars has increased from 51.4 miles per car per day in 1972 to 54.2 miles for the first 9 months of 1973, an improvement of 5.4 percent; net tons per loaded car have increased from 41.0 tons in 1972 to 42.2 tons in the first 9 months of 1973, an improvement of 2.93 percent; net tons per freight-train-hour have increased from 34,433 tons in 1972 to 34,952 tons in the first 9 months of 1973, an improvement of 1.51 percent.

On August 15, 1973, the Milwaukee in conjunction with the Union Pacific Railroad, began a runthrough operation at Council Bluffs, Iowa. Westbound train No. 61 operates from the Milwaukee's Bensenville yard near Chicago, Ill., to Council Bluffs where it is delivered intact to the Union Pacific for movement through to North Platte, Nebr.; there, connections are made to Los Angeles and San Francisco, Calif. This operation provides third-day arrival at both Los Angeles and San Francisco, an improvement of 24 hours over the previous schedule. The eastbound train, No. 64, similarly is tendered intact to the Milwaukee at Council Bluffs, from which point it moves to the Chicago gateway. Similar train sets have also been started to improve service to other areas.

In 1973, the Milwaukee budgeted $23.3 million for new equipment and improvements to equipment. The details of this program are as follows:

Condition	Type of equipment	Number ordered	Received as of December 19, 1973
I.			
New cars	60-foot 100-ton boxcars	100	100
Do	50-foot 70-ton boxcars	100	100
Do	50-foot mechanical refrigerators	100	100
Do	100-ton airslide covered hopper cars, 4,180 cubic foot capacity	25	25
Do	Jumbo covered hopper cars	500	500
Do	Ballast cars	50	50
Do	86-foot-6-inch 100-ton roller bearing boxcars	25	25
II.			
Rebuilt cars	40-foot 50-ton boxcars	300	300
Do	70-ton 1,958 cubic foot cement hopper cars	240	240
Do	8-stake log flatcars	200	100
III			
New locomotives	2,250 horsepower	5	5
Do	2,000 horsepower	6	6
Do	3,000 horsepower	21	21
IV			
Cabooses	Bay window type	15	15
V			
Rebuilt locomotives	Varied horsepower	18	18

In 1974, the Milwaukee plans to expand this program. Its budget for new equipment and improvement of its existing equipment, by lease or otherwise financed, totals $47.1 million. This program will provide for the acquisition of 46 new locomotives, 500 50-foot boxcars, 300 jumbo covered hopper cars, 43 airslide covered hopper cars, and 436 other freight cars of various types, plus the rebuilding of 18 locomotives and 550 freight cars.

The Seaboard Coast Line Railroad states that despite rising costs, improvement programs have been undertaken. For example, from January 1972 through November 1973, this carrier has acquired 127 new diesel locomotives and 20 so-called "Mate" units, at a cost of over $36 million. During the same period, it added 4,650 new freight cars and 1,817 reconstructed freight cars, at a cost of over $92 million. In 1973, the Seaboard spent over a half million dollars on environmental projects and hopes to double that expenditure in 1974. Roadway equipment is expected to be purchased on a level approximating $2 million annually. Crosstie renewals should approximate 1.5 million ties annually, and new rail about 225 miles per year, but sufficient funds cannot be provided for these programs.

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A recent survey by the Louisville and Nashville Railroad Company indicates an immediate need for terminal improvements costing $24.5 million at Louisville, Ky., a project which it is undertaking. A parallel demand exists for an additional $5.9 million for such line-of-road improvements as passing tracks, signaling, and tunnel clearances. Furthermore, this respondent has an immediate need to replace a main-line bridge over the Tennessee River since segments of the existing bridge were constructed in 1851 and 1890; the current engineering estimate for replacement of that facility is $10 million. The over $40 million of projects set forth above are allegedly illustrative of general needs; it anticipates expenditures in excess of $500,000 for each of the next 4 years in areas of pollution and environmental control.

The Southern Railway Company shows service improvements in operations, physical plant, research projects, organization, and equipment acquisition. Operational improvements on the Southern consist primarily of scheduling new trains and improved blocking at several Southern terminal locations. The Southern has also inaugurated a computer system to monitor the movement of flatcars handling intermodal traffic to permit better utilization of present equipment and pinpoint, on a daily basis, the carriers with whom there is an imbalance. To improve freight car utilization, the Southern implemented its "Flow Rule Concept" system which allegedly has reduced empty car-miles on some types of general service equipment to as low as 38 percent of loaded car-miles. A computerized bad-order notification system was implemented in 1973, giving the Southern origin and destination information on bad order cars. The Southern has also developed a Foreign Special Equipment Report that provides detailed information on cars the owner of which has given concurrence for reloading; this pinpoints the location of all such cars terminating on the Southern for return loads.

To improve its power utilization, the Southern designed a new locomotive reporting procedure to upgrade the locomotive data base. Also, during 1973 this carrier implemented a program to provide an instant inventory of units in its shops at Chattanooga, Tenn., and Atlanta, Ga., together with their estimated time of release.

In regard to physical plant improvements, work was completed in 1973 on the $2.25 million expansion of Southern's South Yard at Atlanta, Ga. This expansion will nearly double the present yard capacity to 400 cars. There is construction of a new yard at Forest Park, Ga., with a total of 22 classification tracks and a capacity of over 1,200 cars, with completion expected in 1973. The Southern's new $15 million automated freight classification hump yard at Sheffield, Ala., was placed in service in May of that year. This yard has 32 classification tracks, with room for 8 more; it has a capacity of 2,900 cars, classifying 2,000 daily. Other projects include a new $1 million yard near Hickory, N.C., new connecting track at Oakland City, Ind., which costs over $0.4 million, a new drainage system for the Southern yard at Cincinnati, Ohio, costing over $0.7 million and the upgrading of Louisiana Southern Railway Company track from Braithwaite, La., to Port Nickel, La., at a cost of $0.6 million. In addition, Southern's new auto terminal facilities in New Orleans, La., estimated to cost over $1 million, were completed in 1973. Construction of a new 21-car capacity, intermodal facility equipped with an unloading crane at Charleston, S.C., was completed that year, at a cost of over $0.4 million, to handle the increased import and export intermodal traffic through port facilities at the North Charleston terminals. Other track, bridge, and terminal equipment improvements were also made during 1973.

In the area of research projects and organizational improvements, the Southern states that second-generation software is being developed to upgrade the track inspection car for rating track and detecting priority track problems. It will also enable the car to provide more accurate and detailed information for a computer track-characteristic file.

The freight claims prevention department of the Southern is presently expanding its computer program to give far greater accuracy in connection with claim and settlement work. When the program becomes completely operational, the Southern will have the capability of allocating claim costs by segments of the railroad, thus more clearly defining problem areas.

To properly utilize the information from its computers, the Southern has established the position of manager of planning, whose function will be to coordinate with the management information services department and furnish appropriate members of the freight claim services department with information on loss and damage developed by the computers. Other programs include orientation and emergency training programs for employees.

During the first quarter of 1973, the Southern placed into service 8 locomotives; 500 70-ton pulpwood cars; 1,290 70-ton 50-foot boxcars; 150 100-ton 50-foot boxcars; 100 100-ton 61-foot bulkhead flatcars; 100 100-ton 50-foot bulkhead flatcars; and 200 70-ton 80-foot flatcars with trailer hitches. In the second quarter, it added 10 locomotives and 125 70-ton 60-foot boxcars. In the third quarter of that year, 16 replacement locomotives, 24 additional locomotives, 181 100-ton hopper cars with automatic gates, 125 100-ton 60-foot boxcars, with sliding sill underframe, 12 cabooses, and 500 40-foot trailers were placed in service. In the fourth quarter, the Southern put in service 29 replacement locomotives and 150 100-ton woodchip cars. The Southern maintains that the proposed rate increase is necessary to continue its service improvement program.

In 1973, the Southern Pacific Transportation Company spent approximately $64 million for the acquisition of 2,371 cars and 49 locomotives. On order for delivery during 1974 are 3,147 new freight cars and 113 locomotives, at an estimated cost of $111 million. It allegedly should be installing 1.5 million crossties, 360 miles of new rail and 250 miles of secondhand rail annually for track maintenance over the next 4 or 5 years; the 1974 budget will only permit about half of this projection to be accomplished. Recently enacted freight car safety standards to be enforced in 1974 will cost this carrier about $14 million, initially, with an annual recurring cost of $1.5 million.

In regard to service considerations not requiring expenditure of funds, such as correcting terminal and interchange delays, erratic deliveries, and deliveries not reasonably timed or spaced, the Southern Pacific is continuing to explore ways and means of accomplishing such improvements. According to this respondent, interchange delays have been dramatically reduced over the past few years at each of its major gateways by "run-through" agreements with connecting carriers. At these locations, intact trains are delivered or received with no more delay than is generally associated with a crew change at intermediate terminals. As for scheduling, it has recently reviewed its entire serviee and is in the process of modifying schedules on a systemwide basis. This substantial undertaking is designed to provide equipment for moving traffic in a consistently reliable fashion based on realistic performance standards, which should improve the quality of its transportation service, and alleviate many delivery problems.

Concerning terminal delays and erratic deliveries, the Southern Pacific has conceived a Total Operations Processing System (TOPS) whereby a car, in effect, would monitor itself across the system in a predetermined manner and report actual or impending deviations to appropriate personnel for corrective handling, locomotive utilization would be improved through proper scheduling. This carrier feels that the program should be implemented for the benefit of its customers, but since it would cost $8 million, the project has not been carried forward.

The Southern Pacific has installed three spectrometers at strategic locations which tie in with computers to keep a watchful record of impending diesel engine problems;

the troubles are corrected before expensive failures occur and before excessive downtime results. These spectrometers cost a total of $150,000. A System Evaluation and Reliability Checker (SEARCH) machine performs much the same function for the locomotive electrical systems. Six SEARCH machines have been installed and another ordered for delivery early in 1974, at a total cost of $812,000. This carrier also restructured its locomotive and car maintenance departments at the beginning of 1973.

This respondent has completed a Terminal Management Information System which was developed for measuring terminal performance to give management better control over activities. The 34 terminals presently using the system attain 95-percent data accuracy.

At Eugene, Oreg., the Southern Pacific has a pilot program of computerized waybilling wherein data for local and interline movements are coded on cards, with subsequent computer printouts processed as needed for mailing. Rental cost of the program is some $4,409 per month. Further expansion for system application is under development. The goal is to move all cars with correct and timely information, but without accompanying documents, which will make possible a faster, more dependable service. Funds are required for these and other capital improvements; therefore, this carrier respondent urges that the proposed increases be approved.

During the period 1960 through 1972, the Maine Central Railroad Company expended $5,891,711 for additions and improvements to road property and $20,867,495 for additions and improvements to equipment. The latter includes acquisition through conditional sales agreements of 805 boxcars, 250 pulpwood cars, 10 cabooses, and 13 diesels. This carrier has leased 1,250 boxcars and is presently negotiating to acquire, by lease, 250 additional new boxcars for 1974. The annual cost for these and other equipment leases is calculated to be almost $2.5 million. In 1974, Maine Central will rebuild 50 boxcars, adding to its present 135 rebuilt units.

In order to meet the demands of its customers, the Erie Lackawanna Railway Corporation has placed orders this year for 750 70-ton hopper cars, 45 100-ton boxcars, and 1,000 trailers for trailer-on-flatcar service. Moreover, it has increased its maintenance programs, both road and equipment, so as to give better service. It urges that these improvements cannot be made without prompt and adequate freight rate relief.

III. *Intrastate application.*—The Traffic Executive Association Eastern Railroads states that Ex Parte No. 281 and Ex Parte No. 295 are reflected in increases in intrastate rates for all eastern territory railroads except those operating in West Virginia, where a petition under section 13 of the act is contemplated. Ex Parte No. 299 is reflected in intrastate rates in the eastern territory States of Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

The Southern Freight Association submitted evidence of the intrastate status of recent general increases within southern territory, composed of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. Of the nine States, Ex Parte No. 299 is effective in all. Ex Parte No. 281 is effective in all except North Carolina and Tennessee, and Ex Parte No. 295 is effective only in Georgia, Alabama, and Mississippi. In regard to Ex Parte No. 295, the railroads have filed petitions in South Carolina and Florida and the increase has been suspended in Virginia, North Carolina, Tennessee, and Kentucky.

The Western Railroad Association submitted an analysis of the intrastate application of general freight rate increases, in the Western States of Arizona, Arkansas, California, Idaho, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming as of December 1973. The status of recent ex parte rate increases with respect to intrastate application in those Western States which have not approved them follows:

The Arkansas State Commission denied the intrastate counterpart to Ex Parte No. 281, and suspended the supplement to Ex Parte No. 295. The railroads contemplate a petition under section 13 of the act requesting a determination by this Commission for these two increases; a similar petition is being prepared with respect to Kansas.

In Nevada, the master tariffs incorporating Ex Parte Nos. 281, 295, and 299 increases were suspended for 150 days commencing October 17, 1973, while in New Mexico, a petition with respect to Ex Parte No. 295 will be filed with the State regulatory body in the near future.

In North Dakota, a 5-percent, across-the-board increase was granted under Ex Parte No. 281; a petition with respect to Ex Parte No. 295 will be filed in the near future. As to the States of Oklahoma, Utah, and Wyoming, section 13 petitions have already been filed with this Commission concerning Ex Parte Nos. 281 and 295 increases.

APPENDIX D

Position of protestants

I. *Governmental agencies*

State agencies and governments in general opposition urge denial of the proposal due to an alleged absence of revenue data, lack of knowledge of the effect of past increases, failure of the respondents to comply with past Commission orders as to efficient operation, and aggravation of present rate inequities through general increase proceedings. The State of California and its Public Utilities Commission contend that no showing has been made of actual revenue realized from increases authorized under Ex Parte No. 295, that horizontal increases discriminate against long-haul shippers, that the evidence submitted to show improvement in service is deficient, and, further, that the respondents serving California are in sound financial condition with no need for additional revenues. The Washington Utilities and Transportation Commission objects to the proposal on behalf of the State of Washington. It contends that while an increase may be warranted, the data submitted lacks information relative to the revenues realized from prior increases and thus is insufficient as a basis for a decision at this time. These contentions have been considered in that portion of our report relative to the discussion of revenue need.

II. *Commodity groups*

Canned goods and frozen foods.—The general increase is proposed on canned goods and frozen foods traffic. Protests to the proposal were filed by the Canners League of California,[1] and the Canned Goods Shippers Conference, Inc.[2]

The protests are directed to alleged inequities of general rate increases particularly to long-haul shippers, the inflationary impact of rate increases on food prices, and a

[1] A nonprofit trade association whose 30 members account for over 85 percent of California's production of canned fruits and vegetables.

[2] A voluntary nonprofit corporation representing most major manufacturers and producers of canned and preserved foodstuffs.

request for a holddown of 4 cents per hundredweight if a general increase is approved. The proposed rates are alleged to be unjust and unreasonable in violation of section 1 of the act, as well as unduly preferential and prejudicial, in violation of section 3(1), against California canners in relation to competing producers located primarily in southern territory.

Specifically, it is contended that flat-percentage increases have tended to dry up long-haul canned goods traffic, and the California shippers' ability to remain competitive is threatened thereby. The industry operates on small margins, depending on large volumes to cover overhead costs and produce profits. The market is characterized as elastic, with transportation cost increases precipitating sharp declines in sales volume and adversely affecting profitability.

These protestants allege that the effect of general percentage increases, totaling some 13 percent from Ex Parte Nos. 295, 299, Special Permission No. 74-1825, and the interim increase herein, will adversely affect the marketability of their canned goods. The economics of the industry, they contend, is such that any significant cost increases will reduce profitability and increase consumer costs.

The respondents maintain that undue preference between short-haul and long-haul shippers is nonexistent since the current rate structure allows for distance discrepancies: the basic rates for long-distance shipments are so constructed that per-mile transportation costs incurred by shippers decrease as distance increases. The rail carriers contend that transcontinental shippers receive more line-haul service per dollar paid than do shippers over shorter distances.

Based on the evidence of record, we conclude that increases equally applied at a moderate level to shipments of canned goods and frozen foods, would not be unduly preferential or prejudicial, unjust or unreasonable.

Fresh fruits and vegetables.—Certain protestants request either that no increase be placed on these commodities or that holddowns be imposed on any increase authorized from the West, to insure that these commodities reach markets where they compete with like produce from other regions of the country.

The Northwest Horticultural Council, representing the tree fruit industry in Washington and Oregon, maintains that a holddown on tree fruits, especially apples, is necessary in order for its members' produce to be successfully marketed in eastern territory in competition with fresh and processed fruits shipped from Eastern and Central States. Of the 4,685 cars of apples from the 1972 crop which moved by rail, all originated in the Northwest. Unless transportation costs are held to a level where these apples can reach the eastern market, northwestern shippers claim they will be forced to limit their distribution to the Western States, utilizing motor carrier transportation. Northwest apple shippers maintain they would have been eliminated from the eastern market and forced to destroy orchards, absent holddowns on long-haul rates in past general increase proceedings.

Idaho Grower Shippers Association represents the potato growing industry in Idaho. This protestant urges the inclusion of a holddown on fresh potatoes of not more than 6 cents per hundredweight, allegedly to prevent distortion of rate and market relationships. It also claims that a flat percentage increase will be self-defeating on movements which are susceptible to intermodal competition. A similar position is taken by Ore-Ida Foods, Inc.

The respondents contend that there is no justification for holddowns. They rely on findings in several Commission decisions involving these commodities which indicate that transcontinental rates on vegetables are either noncompensatory or marginally profitable. In this regard, they refer to the revenue-cost comparisons set forth in

appendix E to the report in *Vegetables & Melons Transcontinental Eastbound*, 335 I.C.C. 798, 858 (1970).

The rail carriers argue that holddowns cause a misalignment of rates. They claim that a holddown of 5 cents, for example, would result in an increase on only one-third of the line-haul transportation, ignoring the increased labor and fuel costs for the balance. They question that straight percentage increases penalize the long-haul shipper since transcontinental rates have a built-in tapering effect which is unaltered by percentage increases and which results in lower cost per ton-mile as distance increases. Holddowns allegedly distort the relationship between long-haul and short-haul rates, placing the heavier burden on the latter.

In reply to arguments of western agricultural interests concerning diversion to motor carriers and dislocation of markets, the respondents note that these commodities are exempt from regulation under section 203(b)(6) of the act. The railroads characterize their position as that of a standby mode. They further state that movements are seasonal and exempt carriers with available equipment are often favored over the railroads because of their ability to charge lower rates in backhaul movements. With regard to service, the respondents maintain that service improvements and equipment acquisition programs are dependent upon financial betterment of the railroad industry.

The evidence herein demonstrates that there is competition between western origins and other origin areas of the country for the sale of fresh fruits and vegetables. A uniform increase at the interim level would have less impact upon rate differentials and competitive relationships than the 5-percent and 4-percent increases proposed by the carriers. In determining whether a further limitation should be imposed, we must consider the respondents' stated need for additional revenues, revenues which are allegedly essential for implementation of service improvements and thus prevent diversion. Balancing the respondents' proven revenue needs with protestants' requests for holddowns on these commodities, we conclude that a specific cents per hundredweight holddown on fresh fruits and vegetables is not warranted.

Grain, grain products, and related commodities.—The increases sought on these commodities (grain) are those proposed generally, with certain exceptions. It should be noted that in Ex Parte No. 302, by a petition filed on December 3, 1973, the Nation's railroads proposed increases in export rates of 10 percent, maximum 6 cents per hundredweight, subject to expire 1 year from the effective date. The increases have subsequently become effective. The increases proposed on export grain in this proceeding are in addition to those authorized in Ex Parte No. 302.

Verified statements, and protests in opposition to the proposed increases on grain were received from various grain exchanges, boards of trade, shippers of grain, and manufacturers of grain products. Some protestants do not question the carriers' assertion that additional revenue is needed, but they argue that the increase should be conditioned on the revenues resulting from the increased rates being applied to improving the railroads' physical plant and acquiring additional rolling stock. These protestants complain of severe car shortages, unreliable scheduling, and unnecessary delays in transit. The respondents indicate that their ownership of covered hopper cars has increased from January 1, 1965, through December 31, 1973, by approximately 70,000 cars, or more than 80 percent.

Some protestants claim that the present grain rates are already highly compensatory to the carriers and that any increase would be unjust and unreasonable. Other protestants argue that the increased volume of grain moving by rail provides the carriers with sufficient additional revenues to offset any increased costs incurred in connection with grain movements. A number of protestants also contend that the proposed increases on grain will have an inflationary impact on the economy and should be denied for this reason alone.[1] In reply, the respondents assert that the increases sought are comparatively small and would not by themselves have a significant effect on the price of grain in the market.

To illustrate their contention that transportation charges are not a major factor in rising grain prices, the respondents compare various prices at representative primary markets in 1974 with prices at those markets in 1973, as shown below:

Cash grain prices in cents per bushel, except sorghum per hundredweight

Commodity (grade omitted)	Market	January 31, 1974	February 1, 1973	Percent of increase
Wheat	Kansas City, Mo	552	258	114.0
Do	Portland, Oreg	575	265-267	116.2
Wheat	Minneapolis, Minn	555	224-225	147.2
Rye	Minneapolis, Minn	340-350	115-120	193.6
Corn	Kansas City, Mo	300-302	167-168	79.7
Corn	Chicago, Ill	302	152	98.7
Barley	Minneapolis, Minn	302	160	88.8
Soybeans	Illinois points	633-640	492-498	28.0
Sorghum	Texas	505-510	290-300	72.0

Source: Grain Market News, issued February 1, 1974, by Grain Division Agricultural Marketing Service, U.S. Department of Agriculture.

According to the respondents, the rates on grain, increase as requested, would not exceed maximum reasonableness. In this regard, the respondents show the gross revenues of western district railroads for transportation of grain and the percentage relationship thereof to total freight tonnage and revenue for 1969 through the first 9 months of 1973 as follows:

Year	Tons of grain carried	Proportion of total rail tonnage	Revenue	Proportion of total rail revenue
	(2,000 pounds)	(percent)	(dollars)	(percent)
1969	102,786,731	11.0	461,538,081	9.2
1970	121,902,011	13.2	599,131,442	11.3
1971	112,602,284	12.7	579,171,255	10.0
1972	120,932,897	13.0	673,041,028	10.7
1973 (9 months)	122,299,583	16.0	691,287,190	13.4

Sources: 1969—Ex Parte No. 267
1970-1972—I.C.C. Freight Commodity Statistics
1st 9 months 1973—Carriers' Quarterly O.C.S. Reports

[1] On brief, the American Bakers Association makes essentially the same contention for wheat and wheat flours.

The respondents state that the proposed increases would produce substantial revenue, which is essential to offset the known increases in costs of operation and thereby enable them to haul the anticipated volume of grain products. Therefore, they urge that the entire proposed increase be approved.

The National Association of Wheat Growers, an organization representing commercial wheat producers in the Great Plains and Pacific Northwestern States, takes the position that it is highly discriminatory for rate increases to be applied to grain traffic which has recently brought the respondents hugh increases in volume and led to increased rail efficiency. This protestant feels "that the Commission should be aware that the U.S. is moving out of a unique wheat supply situation into a period of sharply increased production, reduced demand and increased carryover." The Association also notes that rates on export grain movements would be increased by a total of 15 percent if the instant proposal were added to the increase in Ex Parte No. 302.

The Association urges that any increase in rates should be applied selectively. However, it notes that once again the respondents have denied the Commission and shippers certain cost and revenue data requested in Ex Parte No. 281. The fact that Ex Parte No. 290, Procedures Governing Rail Carrier General Increase Proceedings, is still before the Commission does not, according to this protestant, change the intent of those guidelines. The Association is opposed to the carriers' view that earnings from increased volume and improvements in productivity should be retained by the carriers and not used to offset increases in costs.

The Fort Worth Grain Exchange, a voluntary nonprofit organization, whose members operate grain elevators having a combined storage capacity in excess of 59 million bushels, takes the position that the proposed increases are unjust, unreasonable, preferential, prejudicial, and inflationary. This protestant requests that any increase approved be structured in half-cent increments, that 6-percent interest be allowed on refunds, and that the respondents be required to update their tariffs.

This protestant refers to the 10-percent increase on export grain in Ex Parte No. 302 as indicating that the proposed increases are unjust and unreasonable. It also urges that the proposal is unreasonable because feed manufacturers in western territory are already faced with the possible cancellation of a transit rate on feed in packages, which would increase their through rates 30 or 40 percent. Since this matter is currently before the Commission in another proceeding, Investigation and Suspension Docket No. 8891, Transited Animal Feed in Packages, Western Territory, it will not be further discussed here. This protestant also contends that an increase of 5 percent within the West and 4 percent to and within the South would unduly prefer gulf ports located within southern territory and be unduly prejudicial to Texas gulf ports, in violation of section 3(1) of the act. It points out from November of 1969 through December 5, 1973, the Commission authorized the Nation's railroads to increase their rates on grain by 28 percent. The compounding effect of such increases is said to result in an actual increase of almost 31 percent. Since the respondents' average costs for the same period have allegedly increased only 15 percent, this protestant argues that no additional increase is warranted at this time. In reply, the respondents state that during the same period the wholesale price index for all commodities advanced 25 percent, whereas, railroad revenues per ton-mile increased only 20.5 percent.

According to the Pacific Northwest Grain and Grain Products Association, representing grain producers and processors in Oregon, Washington, and northern Idaho, the milling capacity of that region has decreased since 1951 from 24 mills, with a daily capacity of 1,350 hundredweight of flour, to 7 mills in 1973, with a daily capacity of 49,300 hun[illegible]redweight. This substantial reduction in capacity is attributed to loss of markets in the East and in California, allegedly brought about by prior general rate increases. This protestant argues that the proposed increases, without holddowns or regional exemptions, would further harm its members competitively and would further depress agriculturally related industries in the Pacific Northwest. In reply to the contention that wheat has not moved to eastern markets, the respondents state that a new eastbound transcontinental movement of wheat has recently developed from Idaho, which they say shows that supply and demand for wheat, rather than the rate level, continue to be the controlling factors in the movement of grain.

Producers Grain Corporation, a cooperative association engaged in the marketing of bulk grains, primarily in Texas, contends that it is unable to compete in the export market because the rate from Amarillo, Tex., to the gulf is higher than that from Enid, Okla. This differential would be widened by the proposed increase. The respondents reply that this shipper operates a terminal elevator at Fort Worth, Tex., from which the export rate is less than from Enid. Since Amarillo, Enid, and Fort Worth elevators all purchase grain from the Texas Panhandle for storage, Producers Grain has the option of moving grain for export through either Amarillo or Fort Worth at the same through charges that would apply on a similar shipment from the same origin by way of Enid. Thus, the respondents argue that since the local rate from these subterminal elevator locations has no effect on their ability to compete in the export market, the proposed increases on export grain should be allowed.

North Dakota wheat, westbound.—The Public Service Commission, State of North Dakota, and the North Dakota State Wheat Commission jointly note that export rates on wheat from North Dakota are proposed to be increased 5 percent, despite the fact that from all but the easternmost part of the State the rates were found to be excessive by an Administrative Law Judge in Ex Parte No. 270 (Sub-No. 1-A), Investigation of Railroad Freight Rate Structure, Export-Import Rates and Charges—Pacific Coast. To illustrate the prejudice to North Dakota wheat producers and preference to producers in other States the following data was offered.

From—	To Seattle, Wash. Export rate [a]	To Seattle, Wash. Distance	To Portland, Oreg. Export rate [a]	To Portland, Oreg. Distance
	(cents)	*(miles)*	*(cents)*	*(miles)*
Blue Hill, Nebr	87	1,701	87	1,752
Denver, Colo	85	1,640	85	1,691
Fargo, N. Dak	101	1,510	101	1,561
Minot, N. Dak	109	1,276	120	1,327

[a] Rates shown are in cents per hundredweight, Ex Parte No. 299 level

In reply, the respondents point out that Ex Parte No. 270 (Sub-No. 1-A), is now pending on exceptions to the initial decision.

The North Dakota westbound domestic wheat rate structure, at the Ex Parte No. 299 level, ranges from 50 cents per hundredweight to 80 cents per hundredweight over the export rates. The State Commissions argue that this fact alone is enough to effectively keep North Dakota wheat from moving to domestic markets on the west

coast. In view of the foregoing, they urge this agency to deny approval of increases proposed on grain rates from North Dakota.

Barley.—The North Dakota Public Service Commission also argues that the rates on barley from North Dakota to Minneapolis, St. Paul, and Duluth, Minn., and to Superior, Wis., are already unreasonably high. This protestant states that although the contribution by barley traffic is not separately shown in the 1969 burden study, it must be even greater than that of wheat from North Dakota to Minneapolis, St. Paul, Duluth, and Superior. According to this protestant, the respondents handled only 20 percent of North Dakota barley to Duluth. If the respondents are allowed to increase their rates as proposed, the protestant predicts that further diversion of traffic will ensue since it would be tantamount to an embargo. The respondents carried 97.35 percent of the barley moving to the Minneapolis area, according to this protestant, because the Minneapolis maltsters' delivery requirements preclude motor carriage.

In reply to the contention that the rates on barley exceed a maximum reasonable level, the respondents state: that this argument was advanced and rejected in *Public Serv. Com. of N. Dak. v. Great Northern Ry. Co.*, 340 I.C.C. 739 (1972); that basic rate relationships between specific commodities may not be adjusted in this proceeding; and the fact that rates yield substantial revenue would not of itself establish that they are unlawful. Therefore, the respondents urge that the proposed increase be approved on movements of barley. We are not convinced that a nationwide increase at the interim level would result in significant diversion, and such an increase appears necessary for the carriers to meet rising costs and to acquire additional equipment needed by shippers.

Neither the contentions by certain protestants that the rates on their grain movements are already compensatory nor the objections of others to certain aspects of the underlying rate structure, justify denial of a general increase. If distorations presently exist, they deserve careful and detailed consideration in appropriate proceedings rather than a general revenue proceeding such as this. In fact, such alleged distortions are presently under review in Ex Parte No. 270 (Sub-No. 1-A). We conclude that sufficient reason has not been shown for exempting grain from an increase authorized on commodities generally. The respondents are to observe a one-half cent progression in publishing increases on these commodities.

Sugar beets.—Protesting the proposed general increase are growers and shippers of sugar beets, sugar manufacturers and trade associations representing sugar interests. These protestants contend that the proposed increases are excessive, diversionary, unjustly discriminatory, unduly preferential and unsubstantiated by traffic and cost data.

In support of their argument that the proposed increases are excessive, these protestants introduced evidence concerning the transportation characteristics of sugar beets. These are said to be heavy loading, to average over 45 tons per carload, to utilize older cars not suitable for the transportation of other commodities, and to move in multiple-carload lots ranging from 45 to 70 cars per shipment. Such highly favorable transportation characteritics are said to justify a lower percentage increase, or a holddown, on sugar beets, which have no particular value until processed into sugar which experience virtually no loss or damage claims and which require no protective service.

It is contended that the proposed increases will cause diversion to trucks. To illustrate past diversion, the protestants refer to the data submitted in Ex Parte No. 295, *supra*, at page 697, showing a reduction in the tonnage moving by rail from 88.2 percent in 196[illegible] [illegible]ercent in 1972. According to the protestants, such data did not include m[illegible] directly from the fields to the refineries by growers' trucks, and movements to refineries from off-rail loading points.

The protestants allege that an across-the-board general increase is grossly unfair to sugar beet traffic, which produces revenues substantially in excess of variable costs, contributing materially to offset the railroads' overhead burden. They favor selective rate increases that fit the rate level, transportation condition, and revenue contribution of each commodity or commodity group. In this regard, the protestants urge the speedy completion of Ex Parte No. 290, Procedures Governing Rail Carrier General Increase Proceedings.

The rail carriers deny that sugar beets are entitled to special consideration. They argue that the rates are now at a very low level, ranging from 3.68 to 5.17 percent of first-class rates. Regarding transportation characteristics, the carriers state that conditions differ considerably in various beet producing areas, and that sugar beets are generally handled in lots of less than 10 cars. The respondents also question that this commodity is moved in old equipment. In some instances, special equipment must be removed from revenue service in order to be cleaned and prepared for the movement of sugar beets. Any diversion of traffic that may have occurred is attributed by the respondents to factors other than the level of rates. They point out that contract and private truckers offer greater flexibility, since trucks can go into the fields, load and deliver directly to refineries. In sum, the cariers contend that the full increase should be authorized on this commodity.

Beet and cane sugar.—The same increase is proposed on beet and cane sugar as on commodities generally. Western producers of beet and cane sugar object to the proposal on the grounds that a percentage increase without holddowns widens the spread of rates between the western sugar companies and the gulf refineries; absent a maximum, these protestants contend there would be a disruption of the rail freight rate structure which has provided the basis for marketing western sugar in the Midwest.

For competitive reasons, sugar is sold at a fixed base price, plus the lowest freight rate from the nearest seaboard refining point to the consuming market. Whatever difference exists between the applicable freight rate from the actual refinery and the rate from the closest seaboard refinery must be absorbed by the shipper. Since the sugar market is highly competitive, it is claimed that distant refiners will be prieed out of the midwestern markets if their freight costs increase disproportionally. In this regard, rates from California have traditionally been 30 cents per hundredweight higher than the keyrate from New Orleans-to-Chicago and the protestants oppose any rate proposal which would increase that spread. Maladjustments resulting from a percentage increase are alleged to constitute undue preference and prejudice in violation of section 3 of the act.

The respondents argue that the proposed increase would not significantly affect rate relationships and that no holddowns should be required. If a straight 5-percent increase were authorized, the railroads contend that the additional freight cost would be only 3 and 4 cents per hundredweight for packaged and bulk sugar, respectively, on the California-to-Chicago movement. In the past, the 30-eent spread in rates has allegedly been maintained at the expense of the carriers. The respondents also contend that an overall holddown results in a windfall to sugar producers in that it applies on movements to many areas where it is not eompetitively justified. They state that individual adjustments would be made where neeessary.

Limerock.—Under the proposal, the rates on limerock used in the manufacture of beet sugar will be subject to the same increases requested on commodities generally.

The sugar beet industry opposes the increase primarily on the ground that transportation costs often exceed the value of the involved commodity, a situation which would be aggravated by a further increase. The respondents contend, however, that the costs of transporting this material have increased, as have transportation costs on other commodities. The carriers further maintain that present rates on limerock are marginal, and that the increases sought are no greater than on competing commodities.

We are satisfied that a nationwide increase of 4 percent may justly and reasonably be applied on sugar beets, beet and cane sugar, and on limerock. It does not appear that such an increase would result in diversion, and we conclude that no holddowns are warranted.

Vegetable oils and related products.—Increases proposed on these commodities are the same as those generally requested. These commodities which usually move in 20,000-gallon "jumbo" tank cars supplied by the shipper or receiver, have a lading weight of 150,000 pounds or greater.

Opposing the general increase is the Institute of Shortening and Edible Oils, Inc., whose 14 members supply some 85 percent of all edible fats and oils used in the United States. This protestant criticizes the respondents' service, assails the proposed increases as unwarranted, inflationary, diversionary, and detrimental to the position of domestic suppliers in view of the increasing importation of vegetable oils. It urges that, if the proposed increases are allowed, a maximum of 4 cents per hundredweight be imposed on the rates applicable to shipments of shortening, vegetable oils, and animal fats moving in privately owned tank cars, minimum weight 150,000 pounds. Holddowns are allegedly necessary to avoid further inflation in food prices and to permit midwestern producers to remain competitive with foreign suppliers at consumption points located along the Atlantic and Pacific seaboards.

This protestant urges that a 4-cent holddown would still yield a 5-percent increase on existing rates in the East, and 4 percent generally in the South. With respect to rates to the West, the protestant argues that movements in the jumbo tank cars are very profitable. Since the western carriers do not have the same revenue need as the eastern carriers, requested holddowns allegedly would not harm those carriers.

In reply, the respondents state that the proposed increase is minor when eompared with the percentage of price markup to the wholesale level on the commodities transported. The respondents show that during calendar year 1973 the wholesale price index rose 115.5 percent on animal fats and oils, and, therefore, they consider the request for a holddown to be untenable.

The respondents note that there is no evidence to show that the proposal will cause an increase in foreign oil imports. They assume that factors other than freight rates, such as cost of production, commodity pricing, and use have influenced the marketability and sale of the imported product. Furthermore, the railroads state that they are alert to possible diversion and the influence of market competition and that every effort will be made to prevent a loss of traffic where economically feasible. To demonstrate a lack of diversion to date, the respondents show that class I railroads throughout the United States enjoyed an increase in tonnage on soybean oil from 2,222,683 tons in 1968 to 2,589,040 tons in 1971, while cottonseed oil tonnage increased from 607,065 tons in 1968 to 620,099 tons in 1971.

On this record, we are not convinced that a nationwide increase at the interim level would cause diversion of this traffic or be unlawful. We conclude that vegetable oils and related products can and should bear increases generally authorized.

Wine and winery products.—The Wine Institute, a trade association for the California wine industry, opposes the proposed 5-percent increase or, alternatively, requests a holddown of rates on wine and winery products. Membership in this Institute includes 174 companies operating 224 plants producing 93.6 percent of all grapes crushed in California.

The Wine Institute's opposition is based on market competition. The proposed increases would allegedly be most felt by transcontinental traffic; imported or nearer domestic competitiors would be able to ship into market areas, particularly in the East, at lower costs. The proposal is said to discriminate against the California wine industry since it would further increase the already disproportionate advantage of the short-haul suppliers over the California producers, further reducing California's dwindling share of the total national market for wine and winery products.

According to the Wine Institute, if the proposed increases become effective, the cumulative increase in freight rates on wine will approximate 54 to 67 percent, at the higher minima, over a 6-year period, an increase of from 9 to 10 percent a year. These percentages do not include increases in various accessorial charges.

The share of the U.S. dominated by foreign and domestic wines allegedly have shifted dramatically over the last 25 years. In the 4 years following World War II, California wines accounted for more than 88 percent of the national market; foreign wines, a little over 2 percent, and wines from other States, about 9.5 percent. California's share of the national market dropped from 73.9 percent in 1971 to 70.6 percent in 1972, while foreign wines climbed to 14 percent and wines from other States to 15.4 percent. The Wine Institute cites a Bank of America economic study published in September 1973 which forecasts that California's share of the national wine market will have dropped from 70.6 percent in 1972 to 63 percent in 1980, while foreign wines will have increased their share of the market from 14 percent in 1972 to 20 percent in 1980 and wines from other States will have increased from 15.4 percent in 1972 to 17 pereent in 1980. The competitive position of California wines, it is claimed, has been disrupted by ocean carriers' rate decreases of up to 27 percent on wines moving from Europe to North and South Atlantic ports, effective January 1, 1974. This protestant argues that unless wine and winery products are exempted from the proposal, or holddowns are imposed, there is a substantial danger that additional tonnage will be diverted to lower cost water carrier service and this would harm the financial condition of the railroads.

The respondents reply that the protestant's members will not be substantially hurt in their ability to market their products in the United States. The following is introduced to show that, despite past rate increases and a declining portion of the total market, the protestant's members have enjoyed an unbroken growth in nationwide sales volume:

Year	Gallons *(thousands)*
1971	202,673
1972	217,226
1973 (11 months)	223,721

The rail carriers are aware of possible diversion to water competiton and maintain that adjustments would be made in the rate structure where necessary to preserve the continued rail movement of wine to the important eastern markets. They maintain that the California wine industry is thriving despite increases in rail rates, and any erosion

of its competitive position with respect to other domestic and imported wines is caused by other factors.

We conclude that approval of a nationwide rate increase at the interim level would not substantially undermine the economic position of the protestants; in fact, denial of the proposal could, in the long term, prove harmful to the wine industry by weakening rail transportation. Without a more persuasive showing of a connection between freight rate increases and the increase of importation of foreign wines into the United States, we must conclude that the latter is attributable to factors other than rates. No holddowns appear to be warranted on wine and related products.

Coal, coke, and iron ore.—Opposed to the general increase on iron ore, bituminous coal, and coke are the Great Lakes Carbon Corporation, the Property Owners' Committee, two steel-producing firms (the Alan Wood Steel Company and the Jones and Laughlin Steel Corporation), the Consumers Power Company, and the Niagara Mohawk Power Corporation, as well as numerous other utilities' the Alabama Power Company, the Georgia Power Company, the Gulf Power Company, the Mississippi Power Company, the Missouri Public Service Company, the New York State Electric and Gas Company, the Southern Electric Generating Company, and the Wisconsin Electric Power Company. In addition to alleging that the respondents' cost and revenue data fail to justify the proposed increases, it is argued that increases in the rate levels on coal have resulted in the respondents suffering a decrease in profitability on their coal traffic. It is also claimed that the absence of specific holddowns will result in disruption of competitive market relationships, and that this traffic should not be excessively burdened with increased rates in order to subsidize deficit traffic.

The Niagara Mohawk Power Corporation alleges three specific deficiences in the respondents' presentation: a lack of evidence showing the increase in overall volume handled and the inverse relationship between traffic volume and carrier costs; inaccurancy in treating "unquantified" cost increases, particularly labor costs; and failure to acknowledge that diversion of this traffic would distort the effects of past, as well as the proposed, increases. Niagara Mohawk measures traffic diversion in terms of declining participation of the respondents in the energy market of New York-New Jersey utility group.' Data submitted by this protestant indicate that the amount of coal transported by rail has decreased from a high of 21 million tons in 1966 to a low of 8 million tons in 1973, a trend which it attributes to rate increases beginning with Ex Parte No. 259, *Increased Freight Rates, 1968*, 332 I.C.C. 590. As a result of higher rail transportation costs on coal, alternatives such as carriage by truck, use of other fuels and forms of power generation, and electricity generation closer to fuel sources, are allegedly being used.

Niagara Mohawk argues that the reepondents' rate levels are adverse to the railroads' profit-maximizing goal. It maintains that increases in freight rates caused total rail revenues to remain relatively constant until 1968. After that time, the losses

On brief, the Carolina Power & Light Company, the South Carolina Electric and Gas Company, and Virginia Electric and Power Company jointly oppose the proposed increase on coal.

This group is composed of 10 electric generating companies: Atlantic City Electric Company, Consolidated Edison Company of New York, Inc., Central Hudson Gas & Electric Corporation, Jersey Central Power and Light Company, Long Island Lighting Company, New Jersey Power and Light Company, Metropolitan Edison Company (of Pennsylvania), Rochester Gas and Electric Corporation, Niagara Mohawk Power Corporation, and Public Service Electric and Gas Company (New Jersey).

in volume were too great to be made up by increases in per-ton revenue and total revenues allegedly declined from $65.6 million to $30.5 million in 1973.

The New York State Electric and Gas Corporation alleges that the proposed increase will render rail-delivered coal less economical as a source of fuel for generating stations, a contention also made by the Alabama Power Company, the Georgia Power Company, the Gulf Power Company, the Mississippi Power Company, and the Southern Electric Generating Company. These protestants point out that certain unit-train rates are not being increased by the Southern Railway Company, but that rates on similar movements will be increased by the Louisville and Nashville Railroad. The Missouri Public Service Company alleges that no increase in costs sufficient to justify the proposed increase has been incurred by the respondents.

The Consumers Power Company maintains that unequal treatment of unit-train versus "contract rate" shippers should be condemned by the Commission as violative of sections 1(5), 1(6), 2, 3, 15(1), 15(7), and 15a (2) of the act. Consumers maintains that its ability to compete with other power producers in its area is weakened by unequal rate treatment. This protestant introduced evidence of specific movements to demonstrate both the compensatory nature of the traffic and the low-cost of unit-train movements. It contends that increases in rates should be directly related to cost increases incurred in transporting the specific commodity. The Wisconsin Electric Power Company maintains that general rate increase proceedings cause profitable traffic, such as coal, to bear an unjustified percentage of total railroad costs.

Alan Wood Steel Company contends that the Commission is without sufficient information to evaluate the effects which the increases authorized in Ex Parte Nos. 295, 299 and Special Permission No. 74-1825 will have on the financial position of the respondents. This protestant also maintains that the present proposal is inconsistent with the Commission's decision in Ex Parte No. 295 to restrict the 3-percent increase therein by a maximum of 20 cents per net ton on coal. This protestant opposes the proposal being applied to coal or iron ore.

Protestants stress the profitable nature of coal traffic. The Property Owners' Committee, a voluntary nonprofit association of bituminous coal producers and coal lessors, alleges that the prosperity of the Norfolk and Western Railway Company, the Chesapeake and Ohio Railroad Company, and the Louisville and Nashville Railroad Company is directly attributable to coal traffic. Furthermore, the railroads' proposal, without provision for holddowns, is claimed to be in total disregard of the public interest.

While Great Lakes Carbon Corporation does not object to across-the-board general increases applicable to petroleum coke, it asks, that its competitive position not be threatened by not applying increases on petroleum coke greater than applied to coal. Another shipper, the Jones and Laughlin Steel Corporation, supports the concept of rate increases as a method of yielding additional revenues to the carriers, but it contends that it is not in a position to absorb increased costs at this time and, alternatively, requests a holddown of 15 cents per gross ton for iron ore due to bulk handling of this commodity.

The respondents' stress their need for additional revenue, emphasizing that coal traffic constituted 25.6 percent of rail-originated tonnage in 1972 and contributed 10.5 percent of gross revenues. They maintain that no undue contribution is being sought from the coal traffic and that the protestants' claim that no increase should be imposed on profitable traffic is erroneous, citing Ex Parte No. 281, *Increased Freight Rates and Charges, 1972, supra,* at pages 330-331. The respondents contend that it is essential that coal take the full amount of the increase proposed in order that carriers

secure capital to augment coal-carrying equipment and thus lessen the burden of the energy crisis.

The Coal, Coke and Iron Ore Committee of the Traffic Executive Association-Eastern Railroads states that coal is the largest volume commodity handled by the railroads and is of particular significance to the eastern district carriers which, in 1972, originated 212,139,717 tons for which they received $899,037,320, 20.2 percent of their total revenue. Eastern district carriers are shown to have originated 57.2 percent of the total coal traffic handled by rail in that year.

The Committee maintains that if granted, the proposed increase would cause no diversion of coal to other modes of transportation or result in the substitution of other fuels. On the contrary, the current energy crisis is expected to increase the demand for coal, particularly in the East, since the Government is requesting utilities located there to convert from oil to coal to ease the fuel problem. According to the Committee, rail carriers will be expected to provide sufficient equipment and service to handle increase tonnage. Therefore, they urge that coal rates bear the proposed increase along with other rail traffic.

The respondents further maintain that the proposed increases must be fully applied to coke and iron ore to meet the railroads' revenue needs and assure adequate service. They refer to the already favorable unit-train and trainload rates provided for protestants and allege that such low rates cannot be continued without substantial revenue loss to the carriers. The respondents maintain that holddowns on coal and coke are unnecessary since competitive conditions will determine what increases may properly be levied.

In view of the respondents' demonstrated need for additional revenues, we conclude that commodities of such major importance should not be excluded from an authorized general increase. The fact that certain annual volume and unit-train rates have been exempted from the proposal is attributable to the need for completion of current contracts.

Chemical products.—Dow Chemical Company opposes the increases applicable to chemical products;[1] it maintains that these products already account for a disproportionate share of railroad profits. Additionally, Dow contends that even if higher rates are authorized it has no assurance of improved service. This protestant maintains that increased rates on its products will cause inflationary increases in the cost to ultimate consumers.

The respondents contend that even if Dow's rates exceed fully allocated costs, this is not relevant in determining the reasonable revenue needs of the carriers. It is alleged that this protestant's major traffic, from Texas and Louisiana plants to Midland, Mich., moves under depressed annual volume rates which were excepted from the increase provided in Ex Parte No. 281, and subsequently reduced, effective July 16, 1973, to meet competition from other transportation modes. Furthermore, these rates were excepted from application of the increase in Ex Parte No. 295. The rail carriers contend that the rates selected by Dow for its revenue comparisons are not necessarily for represntative movements and that no substantial justification has been shown for excepting chemical products from the proposed general increase.

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[1]Specifically, synthetic plastics other than liquid, ethylene oxide, amines, phenol, propylene oxide, chlorobenzols, glycerine, brake fluids, epichlorohydrin, allyl chloride, ethylene glycols, propylene glycols, acetone, caustic soda, chelating compound, chlorine, epsom salt, hydrochloric acid, latex, magnesium, plastic liquid, polypropylene glycol, butadiene, calcium chloride, and iron chloride.

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On the evidence, we conclude that application of a 4-percent increase, nationwide, to the rates on chemical products would not impose an undue burden on manufacturers nor have a markedly inflationary impact on the ultimate consumers.

Fertilizer.—The Fertilizer Institute, a trade association whose members produce approximately 80 percent of the fertilizer in the United States, and the Canadian Fertilizer Institute, a nonprofit trade association representing 72 companies which account for much of Canada's fertilizer production, oppose the proposal. Both protestants request that rates be uniform throughout all territories in order to preserve port, commodity, and territorial relationships.

The Fertilizer Institute alleges a lack of supporting data by the respondents. This protestant maintains that certain requirements, including data of actual revenue yield from Ex Parte No. 295 and a detailed explanation of the extent to which increased costs will be offset by productivity gains as outlined in Ex Parte No. 281, have not been met by the respondents.

The Canadian Fertilizer Institute contends that the proposed general increase violates section 3(1) of the act. It alleges that the southern territory will be preferred on such commodities as raw phosphate rock, nitrate, urea, anhydrous ammonia, and nitrogen fertilizer solutions. This protestant further argues that, as a result of past general increases, Canadian shippers have seen their share of the market reduced the same proportion as lesser increases have been approved on traffic in and between United States rate territories than were approved on movements from Canada. However, no facts are adduced to support this contention. An amendment to the Commission's refund procedures is requested so as to have them apply to through, single-factor joint rates between Canada and the United States.

The respondents argue that the Canadian Fertilizer Institute members can easily absorb the proposed increases herein without adverse effect on their sales in the United States, because this protestant's sales occur substantially within Canada, with only a small percentage involving United States destinations. The respondents contend that the small increase in rates here sought will have only a minor impact in light of the strong worldwide demand and the strong upswing of prices on fertilizer materials.

We conclude that fertilizer should bear its share of authorized freight rate increases. We also conclude that no modification of the Commission's refund procedures is warranted on this record.

Industrial sand.—The general increase is proposed on this commodity. Industrial sand is primarily adapted for glass making, foundry, and other industrial purposes, as distinguished from common sand which is used for road building and construction.

Conditionally opposing the increase is the National Industrial Sand Association, whose members supply more than 85 percent of the total industrial sand produced in the United States. If the respondents would dedicate the receipts from the proposed increase to improved service and additional car supply, this protestant would not oppose it; otherwise, holddowns of 25 cents to 30 cents per net ton of 2,000 pounds are requested. According to this protestant, the average shipment of industrial sand moves at rates exceeding the unit value of the commodity. It maintains that rising transportation costs have jeopardized the ability of industrial sand to compete in distant markets and has encouraged the development of techniques to make various types of local sand suitable for use in industrial processes.

This protestant alleges that diversion to motor carriage has occurred because of the numerous increases in rail rates. For example, in 1968, 75 percent of the industry's tonnage moved by rail, but only 65 percent in 1972. While 4,363,653 net tons moved

by truck in 1968, that tonnage increased to 6,274,274 net tons by 1972. Both the protestant and the respondents acknowledge that while the annual consumption of industrial sand has gone up steadily, the proportion moving by rail has shown a steady decline. However, the protestant's figures show that the rail tonnage actually increased from 1968 to 1972, as follows:

Year	Total tonnage	Rail		Truck		Water	
		Net tons	Percent	Net tons	Percent	Net tons	Percent
1968 ---	16,239,890	11,875,835	73.13	4,363,752	26.87	403	----
1969 ---	17,446,157	12,509,961	72.17	4,854,543	27.83	653	----
1970 ---	18,107,670	12,518,722	69.14	4,940,214	72.28	648,734	3.58
1971 ---	18,217,107	12,049,449	66.14	5,449,009	29.91	718,648	3.95
1972 ---	19,928,106	12,997,042	65.22	6,274,274	31.48	657,547	3.30

The respondents reply that in recent years they have done an impressive job in supplying more and better covered hopper cars in which much industrial sand moves. For example, at the end of 1972 there were 186,216 covered hopper cars in service; at the present time, 204,926 such cars are available.

The protestant's request for holddowns is not clear to the respondents since at one point it asks for a maximum of 25 cents per net ton while at another, a holddown of 30 cents per net ton is requested. In any event, the respondents urge that holddowns could destroy rather than maintain competitive relationships since they would tend to encourage movements over longer distances and thereby disrupt existing marketing patterns. The respondents contend that since the protestant has failed to establish that a lack of holddowns will destroy present market relationships no holddowns are justified on this commodity; we agree.

Lumber and other forest products.—The general increase is proposed on lumber and other forest products, except on pulpwood and woodchips in the South (see footnote 7, Paper and Paper Products). Opposing the increases are various national and regional trade associations with members located primarily within the South and West, and the Abitibi Corporation.

Protesting shippers in the West oppose any increase which will affect their competitive position with respect to southern producers and request a holddown of 5 cents per hundredweight in the event a 5-percent increase is permitted. They presented statistics to support their theory that southern producers have benefited from the Commission's approval of horizontal percentage increases. In 1972, southern producers increased their shipments of lumber to official and western trunkline territories by 534,800,000 more board feet than in 1967. The western producers shipped 693 million fewer board feet of lumber to these territories in 1972 than in 1967. This shift in purchasing patterns is ascribed by the western producers to across-the-board percentage increases during the period.

The problem is further illustrated, according to these protestants, by comparing increasing rate spreads between southern and western origins to the major consuming points of New York, N.Y., and Chicago, Ill. In 1943, prior to the first postwar general increase, the rate from Portland, Oreg., to Chicago was 75.5 cents per hundredweight and the rate from Hattiesburg, Miss., to Chicago was 40 cents. The present rate from

Portland is 191 cents and, from Hattiesburg, the rate is 83.6 cents. Thus, the rate spread has widened from 35.5 cents in 1943 to 107.4 cents in 1973. This spread would be increased to 112.8 cents if the proposed increases were implemented. The protestants state that the increase in the spread (77.3 cents per hundredweight) results in an additional transportation cost of $639.95 for moving a car containing 35,000 board feet from Portland to Chicago; this is the cost that western shippers say they have to absorb in order to compete in the marketplace with southern producers. Similar comparisons are made to like effect with rates from various other southern origins.

The protestants claim that they must absorb this additional transportation cost because lumber is sold on the basis of the mill price plus transportation cost. If these increases cannot be absorbed, the western producer must forego the sale, with a resulting loss of profit and loss of revenue to the railroads. It is for these reasons that they urge the imposition of a holddown on lumber shipments originating in the West.

The Southern Forest Products Association, representing producers of southern pine, is generally opposed to the increases but would accede to an increase without holddowns in the event any increase is authorized. This protestant claims that there is no economic justification for holddowns and that an increase of the magnitude here involved would have no effect upon the distribution of lumber or relative participation of southern and western producers in the various markets. Since southern pine is shipped from origins in both southern and southwestern territories to common markets, this protestant requests that any increase approved by the Commission should apply equally to all shipments of southern pine regardless of points of origin. It suggests that any increase on shipments of southern pine should not exceed 4 percent in order to avoid preference and prejudice violations of section 3 of the act.

Two associations of hardwood shippers, Southern Hardwood Traffic Association and Associated Cooperage Industries of America, Inc., with members located primarily in the southern and southwestern hardwood-producing areas, are opposed to the proposal. Their grounds are that, when added to previous increases over the past 6 1/2 years, it would result in an average increase of approximately 52.6 percent within the South, 64.4 percent within the East, and 62.2 percent within the West. These protestants argue that at the same time their members have experienced the most severe railcar shortages in their history, along with a continued deterioration in the dependability and economy of using rail transportation. They suggest that if the rail carriers would correct service deficiencies much of the opposition to general increases would be withdrawn.

The American Plywood Association, composed of 87 plywood producers located in Western and Southern States, also opposes, the general increase, taking the position that allowance of even a portion of the proposed increase will eliminate the incentive for the railroads to improve management techniques and productivity. In this regard, the Association states that although rates on plywood have been increased some 35 percent since 1967, the railroad plant continues to deteriorate. It also contends that the petitions of the railroads do not comply with section 1(5) of the act and asks that any increase granted herein be combined with other grants, such as fuel surcharges, so as not to exceed a total of 4 percent.

Abitibi Corporation, a manufacturer and nationwide distributor of woodfibre, wallboard, and plywood paneling products, contends that the proposed increase will result in diversion of its products to motor carrier service. Abitibi states that due to recent rail rate increases carloadings have decreased 10 percent, from approximately

2,900 carloads in 1971 to approximately 2,600 carloads in 1973, a period in which both its production and truckloadings have increased. In reply, the respondents suggest that such a decrease in carloadings was not caused by increases in rail rates, but simply reflects market changes that have taken place in the normal course of business.

In reply to protestants' concern over service and equipment, the rail carriers state that denial of the proposed increase would not improve the situation since an infusion of capital is needed to buy equipment and improve facilities and service. As to the alleged disadvantage the proposed increase would create for western producers in competition with southern producers, the respondents take the position that lumber producers will ship lumber to meet demand, and that demand is determined primarily by the number of housing starts in a particular territory within a particular year. This is illustrated as follows:

Nationwide	1967	1968	1969	1970	1971	1972
Consumption[a]	31,022	33,895	32,691	32,228	37,025	40,610
Housing starts[b]	1,321.9	1,545.4	1,499.5	1,469.0	2,084.5	2,378.5

[a] Western Wood Products Association, Regional Markets for Softwood Lumber, reports of September 1971 and March 6, 1973, in millions of board feet.

[b] As reported by the U.S. Department of Commerce (Series C-20-73-2), new privately owned and publicly owned housing units started, including farm housing (in thousands of units).

The table below, derived from the same sources and using the same factors, separates the data into regional totals, utilizing the regions developed by the U.S. Bureau of the Census:

	Northeast	North Central	South	West
1967:				
Consumption	4,635	10,010	9,061	7,316
Starts	215	337	520	220
1968				
Consumption	5,071	10,692	10,005	8,127
Starts	227	369	618	294
1969:				
Consumption	4,663	10,238	9,481	8,309
Starts	206	349	588	324
1970:				
Consumption	4,682	10,071	9,715	7,760
Starts	218	294	612	311
1971:				
Consumption	5,135	10,780	11,845	9,265
Starts	264	434	869	486
1972:				
Consumption	5,605	10,945	13,655	10,405
Starts	329	433	1,057	527

These statistics show that consumption advanced with the number of housing starts in 1968, retreated in 1969 and 1970 with the slowdown in housing construction, and rebounded vigorously in 1971 and 1972 with high levels of housing starts. The substantial gains in consumption were realized in the South and the West while consumption in the other two territories remained relatively constant.

The respondents submit that the tables show that demand in the marketplace, not rail rates, determines the volume of movement of lumber. They also contend that rate increases have not impeded the movement of lumber since rail volume has expanded along with the increasing demand. In this regard, the respondents state that rail shipments from the West increased along with the increases in demand outlined in the above tables. Despite alleged competitive disadvantage, western shippers are shown to have increased their shipments of softwood lumber to the South in the 1969-1972 period, from 2,575 million board feet in 1969 to 3,326 million board feet in 1972. Moreover, shipments from the West to the relatively stable markets in the Northeast and North Central regions, allegedly increased by a combined total of 373 million board feet in 1972 over 1969.

The respondents point to constraints on the lumber supply which recently affected lumber shipments. For example, log exports, primarily to Japan, removed 2.71 billion board feet of logs from the supply for domestic consumption in 1972. Export traffic is credited with forcing a rise in log prices to $88.30 per thousand board feet in the fourth quarter of 1972; the average price for the year is shown as $71.70 per thousand board feet.

The respondents claim that a 5-cent holddown, if applied, would deny them $9.3 million in additional annual freight revenues, or 35 percent of the $26.4 million which the proposed increase would otherwise provide on this traffic. Furthermore, the respondents state that nationwide holddowns would apply on shipments to points where the western shippers do not even claim southern pine competition. The respondents also dispute the western producers' claim that increased freight rates must be absorbed by western shippers to compete with southern producers. According to the respondents, western lumber is sold on the basis of the mill price plus freight charges so that the consignee generally bears the transportation charges and mill prices are determined by factors other than freight rates. They request that the proposed increases be approved without holddowns for western producters.

Holddowns have been imposed in the past in cents per hundredweight to prevent erosion of the competitive position of western lumber products in eastern and midwestern markets. Generally, this action has been taken when the size of the increase was such that it appeared serious distortion of rate relationships would result, absent imposition of a holddown (see, for example, Ex Parte No. 267, *supra*, involving an interterritorial increase of 12 percent). Such a distortion would not occur in this proceeding. Under the circumstances, we find that any differences resulting from a 4-percent increase on lumber and forest products as between the West and South would not be undue and that, based on all the evidence, including the various economic factors affecting lumber shipments and the respondents' need for additional revenues, the requested holddown is not warranted. We find that the level of rate increase approved on an interim basis applied to these commodities would not be discriminatory, unduly prejudicial, or otherwise unlawful.

Paper and paper products.—The general increase is proposed on paper and paper products, except on pulpwood and woodchips within the South, which traffic is subject to an ongoing shipper-carrier cost study.[7] Opposing the proposed increase are

[7] The rates on pulpwood and woodchips were at issue in I. and S. Docket No. 8844, Pulpwood and Woodchips Within SFA Territory, which was discontinued after the involved railroads and

(footnote continued on next page)

various paper manufacturers and trade associations. Primarily, these protestants object to differing territorial increases which they point out will alter long-term competitive relationships between various rate districts, allegedly in violation of section 3(1) of the act.

The Western Paper Traffic Conference is categorically opposed to any increase on western shipments greater than an increase which may be granted from, to, or within the South. According to this protestant, southern producers currently enjoy a distinct transportation advantage by virtue of market proximity, and a greater increase in the West than in the South would disrupt existing marketing relationships. The alleged market advantage of the southern producers for paper and related products is illustrated as follows:

Territories	Number of shipments (a)	x	Average miles[a] (b)	=	Weighted miles (c)
Southern to official	1,834		864		1,504,576
Southern to southern	1,346		384		516,864
Southern to west	464		1,137		527,568
Totals	3,644				2,549,008
Average miles per shipment	699.5				
West to official	699		1,395		933,255
West to southern	210		1,057		221,970
West to west	2,634		822		2,165,148
Totals	3,513				3,320,373
Average miles per shipment	945				

Source An Estimation of the Distribution of the Rail Revenue Contributed by Commodity Groups and Types of Rail Car. U.S Department of Transportation, October, 1972 (essentially the former ICC 1-percent waybill sample).

[a] Average mileage for Standard Transportation Commodity Code Group 26 which covers Pulp, Paper & Allied Products.

These statistics show that southern paper producers are closer to markets by an average of 245 miles per shipment. The western producers contend that a greater rate increase in the West than in the South would magnify this advantage to their economic and competitive detriment.

The Official Territory Paper Traffic Conference is also opposed to a lower percentage increase in the South than in other territories. In that regard, this protestant submitted an example of the present competitive situation concerning printing paper from official and southern territories as follows:

(footnote 7 continued)

paper companies reached an agreement whereby the rates at issue were increased 11 percent in October 1973, subject to further increase on July 12, 1974. Pursuant to the agreement, rates on pulpwood and woodchips within the South will not be subject to general increases through 1975. Since no protest was filed in regard to pulpwood or woodchips, these commodities will not be further discussed herein

From	To	Distance	Rate	Minimum weight
		Miles	*Cents*	*Pounds*
Ticonderoga, N.Y	Chicago, Ill	851	95	100,000
Mobile, Ala	do	837	86	90,000
Ticonderoga, N.Y	Cincinnati, Ohio	781	90	100,000
Mobile, Ala	do	737	79	90,000

Expressed in cents per hundredweight

The table indicates that the eastern producer has a 9-cent disadvantage to Chicago and an 11-cent rate disadvantage to Cincinnati. It is the position of this protestant that approval of any greater percentage increase from eastern territory than approved from other territories will cause a weakening of the competitive position of eastern producers and injure the railroads serving them.

In reply, the respondents state that these examples are not convincing because the papermill at Ticonderoga is owned by International Paper Company which also has a mill at Mobile. Therefore, the respondents conclude that a slightly different increase by territory would not injure the shipper since it cannot be said to compete with itself and, in any event, it always has the choice of moving its traffic to the named destinations from the mill having the lesser increase. The respondents state that the necessity for interterritorial uniformity in the rate structure applicable to paper and paper articles is overstated since production of a number of paper products is confined to certain areas where market competition is not a factor. The respondents also urge that the current paper shortage leads to a supply and demand relationship where the availability of the product, rather than percentage differences in freight rates, determines the source of supply.

The respondents take the position that the primary market of the western producers is in mountain Pacific territory and that the primary markets of the southern producers are located within the South and in official territory, indicated as follows:

Origin territory	Destination territory	Number of cars
Mountain Pacific	U.S	296
Do	Official	16
Do	Trunkline	34
Do	Southwest	11
Do	Mountain Pacific	231
Southern	U.S	580
Do	Official	243
Do	Southern	236
Do	Trunkline	13
Do	Southwest	71
Do	Mountain Pacific	17

Source: Carload Waybill Statistics 1969, TD-1, U.S. Department of Transportation, April 1972.

The respondents note that, with one exception, all of the protestants acknowledge the need for a general rate increase by statement or by absence of opposition, emphasizing instead the importance of Commission scrutiny and uniform territorial application. In regard to the latter, the respondents urge that the proposal not be reduced for the sake of territorial uniformity because every percent of increase is needed to produce vital earnings for the railroads.

We conclude that the rates applicable to paper and paper products may justly and reasonably be increased by 4 percent nationwide. In our judgment, this modest increase, uniformily applied, will not significantly disturb competitive relationships; on the contrary, deteriorating service which could occur, absent an increase in rail carrier revenues, poses a greater threat.

Glass.—The general increase is proposed on plate glass. Opposed thereto is ASG Industries, Inc., which ships plate glass, along with other flat glass products, to destinations in mountain Pacific territory from its plants in Tennessee.

In selling plate glass to its west coast customers, this protestant competes with producers of float glass, a flat glass commodity serving the same purpose but manufactured by a different process. The protestant claims that the rates it pays on plate glass are double those paid by northern producers of the competitive float glass, although there are no distinguishing characteristics, other than value. In this regard, the protestant filed, on September 20, 1971, a complaint in docket No. 35484, ASG Industries, Inc. v. Aberdeen & Rockfish R. Co., et al., against the transcontinental rail rates on plate glass. In his initial decision served June 21, 1973, the Administrative Law Judge prescribed as a reasonable level of rates for the future "a single level of rates for all flat glass as determined by the going rates applicable on window glass" and awarded reparations from December 2, 1971, to continue *pendente lite*. Exceptions were filed, and a final decision is pending.

ASG Industries takes the position that the southern and western district railroads, because of allegedly unjustified rate increases, are enjoying the highest profits in history, indicating that general increases already authorized are more than adequate to offset any actual increase in costs to the carriers. The protestant requests disapproval of any further increases which would result in rates on plate glass exceeding those on float glass for comparable movements.

In reply, the respondents maintain that if the initial decision in docket No. 35484 becomes final, the question of rate levels will have been settled to this protestant's satisfaction. To permit the proposed increase to become effective cannot, according to the respondents, affect this protestant adversely since compliance with such a decision would require the rates on plate glass to be reduced to the float glass level, with reparations. The rail carriers claim that if they are denied the increase on plate glass, this protestant would allegedly enjoy lower rates than those on float glass.

On this record, we conclude that glass, including plate glass, can and should bear the increase approved generally. The relationship of rates between plate and float glass will be resolved in the aforementioned complaint proceeding.

Recyclable commodities.—The increases proposed generally are requested on these commodities, the respondents maintaining that past increases in freight rates have had no adverse effect on markets for such recyclables as ferrous and nonferrous scrap, cullet, wastepaper, textile wastes, chemical wastes, scrap rubber, and plastic scrap. It is further contended that the proposal would have a minimal effect on either the marketing or the movement of these kinds of scrap.

Scrap glass (cullet).—There is very little rail movement of scrap glass, more commonly known as cullet. This is because most cullet is generated in the manufacture of glass and glass products and is usually consumed by the generating plant, thus requiring no transportation. Although minimal quantities of obsolete cullet are reclaimed by municipal waste for recycling, virtually all this is transported by private carriage nearby glass plants, according to the respondents. They show, for example, that the Penn Central, which serves every significant glass plant in the Northeast, moved only 275 carloads of cullet in 1971 and 302 carloads in 1972. For these reasons, the respondents believe that the increase proposed herein will have no discernible effect on the rail movement of cullet for recycling.

Wastepaper.—According to the respondents, the total rail terminations of paper waste and scrap increased from 3,572,099 net tons in 1967 to 4,128,710 net tons in 1971; comparable figures for class I motor carriers show that total truck terminations of paper waste and scrap declined from 69,277 net tons in 1967 to 36,600 net tons in 1971. The respondents contend that these figures show that rail rate increases during the period 1967-1971 have not affected the long-term upward trend in rail movements of wastepaper.

Wastepaper prices have also risen significantly during recent years. For example, the respondents show that the prices quoted in New York for old corrugated containers, the highest volume grade of wastepaper has increased from $12 to $20 per ton in December of 1971 to $55 per ton in November of 1973. The respondents urge that these price quotations make it clear that past rail rate increases have had no effect on market demand for wastepaper.

The respondents state that, as a general rule, it takes more than 2 tons of pulpwood to produce 1 ton of paper, while the same ton of paper can be produced with only slightly more than 1 ton of wastepaper; assuming identical, 300-mile, single-line movements, rail freight charges on the pulpwood needed to produce 1 ton of paper would come to about $12.25, while rail freight charges on the wastepaper needed to produce the same ton of paper would amount to only approximately $10.40. Therefore, other things being equal, the carriers urge that rail rates encourage the use of scrap paper in preference to pulpwood and that the proposed increase would not change that relationship.

Textile waste.—The respondents state that most textile waste is generated in the South. They show that the four principal southern railroads experienced a modest increase in the movement of textile wastes between 1970 and 1972, despite the fact that the traditional markets for textile wastes have largely disappeared.

The respondents urge that a 5-percent increase would raise the total freight charge on an average shipment by only $18. For example, based on the October 1973 price of 17-18 cents per pound, a 24.7 ton carload of No. 3 white wipers, the least expensive textile waste material, would have a value of from $8,398 to $8,892; an $18 increase in freight charges would, therefore, constitute only 2/10 of 1 percent of the value of the average carload of this commodity. The respondents urge that such an increase cannot possibly affect either the rail movement or the recycling of such products.

Ferrous scrap.—The Institute of Scrap Iron and Steel, Inc., recognizes that the railroads need additional revenues. For this reason, the Institute states a willingness to accept an increase on scrap iron if limited to an amount no greater in cents per ton than the average increase on iron ore. Unlike Ex Parte No. 295, no holddown on iron ore is proposed by the carriers, and they assert that no cents per hundredweight limitation should be imposed.

According to the respondents, ferrous scrap is especially insensitive to rail rates since virtually all of it moves to steel companies which purchase almost solely on the

basis of their needs and not on the basis of price. Ferrous scrap receipts by the steel companies increased in 1972 to a level higher than that prevailing in 7 of the preceeding 8 years, even though rail rates on such scrap were higher during all of 1972 than in any previous year.

The rail carriers maintain that another indication that ferrous scrap consumption is insensitive to rail rate increases is the amount of steel production in electric furnaces which can utilize a charge of 100 percent scrap. Expressed as a percentage of total steel production, electric furnace production has risen from 7.8 percent to 17.8 percent in only 15 years.

Ferrous scrap is an important revenue source to the railroads, particularly the financially troubled eastern roads. A 4-percent increase authorized for commodities generally will not have an appreciable effect on the movement or recycling of scrap, and we conclude that no specific holddown is warranted in this instance.

Nonferrous scrap.—According to the respondents, prices of nonferrous scrap such as copper, brass, lead, zinc, tin, pewter, nickel, monel, and aluminum are generally much higher than prices for ferrous scrap, while rail rates are generally only slightly higher. Therefore, they maintain that rail rates tend to comprise an even lower percent of the value of a carload of nonferrous scrap, and modest rail rate increases are not an important consideration to purchasers since they generally buy on the basis of needs.

Chemical wastes.—Penn Central's movement of chemical and petroleum waste rose from 79,466 tons in 1971 to 114,184 tons in 1972, an increase of more than 43 percent in only 1 year. A significant portion of that increase, 9,543 tons, was accounted for by petroleum refinery sulfide waste, a product presently selling at a record high price of 16 cents per pound. It is thus apparent, according to the respondents, that the 12-percent general rate increase which took took effect as a result of Ex Parte No. 267 in November of 1971 did not adversely affect the movement of chemical waste and has not discouraged recycling. The respondents do not anticipate any different result herein.

Scrap rubber.—Penn Central's basic rates on scrap rubber are lower than on crude (natural) rubber. However, in 1972, this carrier moved only 1,042 cars of scrap rubber. The respondents attribute this to the lack of shipper interest in scrap rubber rates allegedly due to the new technology in tire manufacturing which uses a large percentage of nonrubber ingredients. The respondents believe that rubber reclaimers have generally found it unprofitable to attempt to recycle old tires for their rubber content. In addition, they point out the recent decision of the Federal Government to sell off its stockpiles of natural rubber, a course of action which has the effect of decreasing the need for scrap rubber.

Scrap plastics.—According to the respondents, obsolete plastic scrap is not recycled because it is generally not economical to gather the material, sort it, and clean it. Although plastic scrap generated in manufacturing and fabricating plants is frequently recycled, it is very seldom transported by rail. Therefore, it is maintained that the proposed increases will have little effect on recycled scrap plastic.

The National Association of Recycling Industries, Inc., acting for and on behalf of itself and its more than 7,000 members throughout the United States, protests the application of the proposal to the following scrap commodities: nonferrous scrap, wastepaper, and paper and textile wastes. It is maintained that the unsettled nature of pending litigation, namely S.C.R.A.P. v. United States, et al., 371 F. Supp. 1291 (C.A. 971-72, DDC 1974), S. Ct. , appeal docketed 73-1966, and pending administrative actions, Ex Parte No. 295 (Sub-No. 1) and Ex Parte No. 270 (Sub-Nos. 5

and 6), precludes the Commission from approving the present proposal. It is also contended that neither the Commission nor the railroads have taken any action to eliminate the gross discrimination allegedly present in the basic freight rates for the transportation of virgin nonferrous metal versus scrap, or for the transportation of virgin pulpwood and woodchips, on the one hand, and paper wastes and wastepaper, on the other. Indeed, it is contended that the instant proposal and the Commission's authorization of interim rates, aggravate the alleged discrimination. However, the interim level was not permitted on recyclables. In the alternative, this protestant seeks suspension of the proposal until the Commission has complied with all of the statutory requirements of the National Environmental Policy Act of 1969. These contentions are considered in our conclusions as to revenue needs.

Miscellaneous commodities.—Opposition to application of the proposal to their traffic has been filed by the Salt Institute, Transportation and Distribution Committee, a nonprofit trade association composed of the major producers of dry salt (sodium chloride) in the United States, Canada, and other foreign countries; Farmland Industries, Inc., a regional, agricultural cooperative located in Kansas City, Mo.; the National Council of Farm Cooperatives; Big River Industries, Inc.; Mattel, Inc.; and Westinghouse Electric Corporation.

The Salt Institute requests that the Commission review the revenue needs of the respondents. It alleges that the facts presented are insufficient to justify an increase in rates on salt.

Farmland Industries alleges that general increases provide no financial help to ailing railroads because of unfair divisional agreements; this protestant also questions the propriety of such entities as Trailer-Train, Atlantic Land Improvement Company, and Cybernetics Systems, Inc., which, it alleges, provide substantial profits to holding companies instead of the railroads. The contention is made that, if the net worth of such holdings were included with that of the respondents, a more attractive financial picture would be presented.

The National Council of Farm Cooperatives, an association of 106 farmer owned and operated cooperative organizations, urges the Commission to order service improvements and require meaningful cost and revenue data in general increase proceedings. It alleges that the presentation by the respondents herein is inadequate.

Big River Industries, Inc., protests increases applicable to clay cinders in carloads. It contends that the Commission, in *Big River Industries, Inc.* v. *Aberdeen & R. R. Co.*, 329 I.C.C. 539 (1967), ordered that the rates there involved on carload shipments of clay cinders from Erwinville, La., to points in southern territory be no more than 10 cents higher than the rates on the same commodity from, to, and between points in southern territory.

Mattel, Inc., contends that the proposed increase will have an adverse inflationary impact. It states that no additional revenue need has been shown by the respondents since the increases approved under Ex Parte No. 295.

Westinghouse Electric Corporation contends that no increase in costs has been shown sufficient to justify the proposed increase in rates. Furthermore, it alleges that certain types of traffic, as set forth in appendix A hereto, having been excepted by the respondents from the increase, will fail to bear a fair share of the railroads' cost burden. It requests that any approval require that equal increases be applied to all commodities.

These protestants have not introduced evidence of such probative value as to outweigh the respondents' stated need for increased revenues.

III. *Miscellaneous.*—Penick & Ford, Limited, of Cedar Rapids, Iowa, claims arithmetic errors result from application of the proposal to low-level rates because fractional increments result in higher percentage increases than authorized by the Commission on an interim basis. While we recognize that quarter-cent increments may result in higher percentage increases when applied to low-base rates, it has long been the practice of the Commission to authorize increases on such a progression; authorization of an exact 4-percent increase at such low levels would present needless confusion and clerical expense. We, therefore, conclude that the increments which we authorized on an interim basis, and which will be applied in our determination herein, are not unlawful.