than interstate rates on like traffic to, from, or through points in the same territory; provided further that the interstate rate scale applicable within southern territory shall apply on cinders from Erwinville to points in southern territory; provided further that increases in the intrastate rates on bagasse shall be the same as the increase authorized in Ex Parte No. 281 (as discussed above); provided further that the intrastate rates on lime shall not exceed those resulting from the Ex Parte No. 281 increases on like interstate freight; and provided further that the intrastate rates and charges on pulpwood and woodchips shall be the same as the increases authorized in Ex Parte No. 281 (as discussed above).

5. The establishment of increases in intrastate rates and charges as required in finding 4 will not result in unreasonable rates or charges, nor in rates and charges that are unreasonable in relation to interstate rates and charges and will increase substantially the respondents' revenues.

6. The increased revenues to the respondents which will result from the increased rates and charges as provided in finding 4 are required from intrastate freight in Louisiana in order to enable the respondents to provide adequate and efficient railway transportation service.

7. This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

The foregoing ultimate findings and conclusions are without prejudice to the right of any interested party to apply for a modification thereof, regarding any specific intrastate rates or charges, on the grounds that such rates or charges are not related to the interstate rates and charges on like freight in such a way as to contravene the provisions of the Interstate Commerce Act.

An order effectuating the foregoing findings and conclusions will be entered, unless this Commission is notified by the Louisiana Public Service Commission within 30 days from the date of service of this report that the increases required to remove the unlawfulness herein found to exist will be permitted to take effect.

EX PARTE NO. 310

INCREASED FREIGHT RATES AND CHARGES, 1975, NATIONWIDE

Decided March 21, 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, not unjust or unreasonable or otherwise in violation of the Interstate Commerce Act.
2. Authority granted respondent railroads to establish a 7-percent increase in freight rates and charges, within and between all territories, subject to indicated exceptions.
3. Authorization of considered increases on commodities other than those transported for purposes of recycling 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 imposed.
5. Service improvements discussed and continued filing of quarterly reports ordered.
6. Increased rates permitted to become effective on not less than 15 days' notice.
7. Appropriate orders entered modifying our outstanding orders, authorizing certain departures from our tariff circular rules, and granting fourth-section relief.
8. Proceeding discontinued.

Curtis H. Berg, R. W. Bridges, John J. Burchell, Charles W. Burkett, Leland E. Butler, J. T. Clark, John A. Daily, Harry L. De Lung, Jr., Louis T. Duerinck, R. S. M. Emrich III, J. D. Feeney, Stuart F. Gassner, Louis Harris, James L. Howe III, Charlie H. Johns, Edward A. Kaier, Richard W. Kienle, George H. Kleinberger, Howard D. Koontz, Richard D. Lalanne, Harry B. Latourette, Charles N. Marshall, John P. McCall, Don McDevitt, Thormund A. Miller, Richard J. Murphy, Joseph J. Nagle, Joseph M. O'Malley, C. Harold Peterson, Albert B. Russ, Jr., Scott W. Scully, John F. Smith, James L. Tapley, Wm. A. Thie, Thomas E. Tisza, D. M. Tolmie, Walter G. Treanor, Donal L. Turkal, John S. Walker, Sidney Weinberg, and *Robert E. Zimmerman* for respondents.

Charles H. Gilbert for the United States Department of Agriculture.

Dellon E. Coker and *Peter O. Nyce* for the Department of Defense.

Constance L. Abrams, Robert E. Eyster, Leon D. Santman, and *James C. Schultz* for the United States Department of Transportation.

Richard D. Gravelle, J. Calvin Simpson, and *Frederick E. John* for the State of California and Public Utilities Commission of the State of California.

Honorable Cecil D. Andrus for the State of Idaho.

Gordon C. Randall and *Frank L. Sigloh* for the Idaho Potato Commission.

Robert L. Henry for the Idaho Wheat Commission.

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

Gene J. Carroll for the Department of Agriculture of the State of Montana and others.

Geoffrey L. Brazier and *William E. O'Leary* for the State of Montana Consumer Counsel.

George T. Wright for the State of North Dakota Public Service Commission.

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

Joseph H. Francis for the State of Utah Department of Agriculture.

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

David M. Schwartz and *Robert L. Calhoun* for General Mills, Inc., intervenor as its interest may appear.

Clarence N. Anderson, Dean J. Anderson, Eugene D. Anderson, William L. Bailes, Jr., Robert L. Banks, Duane A. Bartsch, C. W. Bath, Richard W. Blake, Cecil L. Brennan, Michael M. Briley, Benson T. Buck, Albin J. Budash, David C. Carter, Leonard F. Charla, J. Raymond Clark, John M. Cleary, W. H. Cowles, William Crabtree, Laurence F. Daspit, John E. Doane, N. A. Domrose, John F. Donelan, John S. Dow, Donald G. Dressler, Kenneth R. Drottar, C. R. Ellenwood, Jr., Floyd C. Ellis, Joseph R. Erwin, Sanford Forman, H. E. Franklin, Jr., M. A. Frater, William R. Ganser, Jr., H. Richard George, David Z. Gordon, Howard Gould, Robert L. Graves, John Guandolo, Jeffrey Lee Guttero, Jon C. Hansen, T. Vernon Hansen, J. C. Harper, Richard Harrington, John E. Harvey, James F. Hickcox, Thomas B. Hill, Walter Hoffman, W. H. Hollan,

James M. Holt, Richard R. Hughes, Walter E. Johnson, Marion B. Jones, Terrence D. Jones, R. E. Kanauss, John H. King, R. J. Kostack, David R. Larrouy, Daniel A. Lorusso, Carl J. Lessing, William R. Loney, Dickson R. Loos, Eugene T. Liipfert, David G. Macdonald, Karl L. Mallard, James O'Malley, Jr., Eugene M. Malkin, John L. Manson, Edward L. Mark, Sheila H. Marshall, John K. Maser III, C. G. Mathews, W. L. McCracken, Paul G. McQuiston, Allan I. Mendelsohn, Paul V. Miller, William W. Minor, Maynard L. Moore, Jr., Lowell W. Morse, Nicholas Oliver, John Ollweiler, J. E. Phelan, L. B. Pim, Frank E. Polom, Frank D. Reed, David Reichert, Jack E. Richert, Barry Roberts, Armin Ross, Robert H. Ruuhela, Russell R. Sage, Hershel Shanks, George W. Shilling, Arden R. Short, Anthony J. Skul, Roger A. Small, Vernal R. Smart, William R. Smith, John Stanger, Oliver L. Stewart, Stephen D. Strauss, Daniel J. Sweeney, Fred H. Tolan, William H. Towle, John P. Tucker, Jr., E. Lloyd Fussell, W. Randall Tye, A. J. Udrys, Philip J. Ufholz, Walter Vashak, Robert W. Walters, E. Jerome Webster, Jr., Henry M. Wick, Jr., Edwin P. Wintle, James W. Witherspoon, R. Gary Wright, Michael Yaremko, Warren Price, Jr., Charles J. Streiff, John Douglas Clark, Sr., E. Allan Mills, and *Malcolm Young* for protestants.

REPORT OF THE COMMISSION

BY THE COMMISSION:

By petition filed November 15, 1974, as supplemented on January 8 and January 20, 1975, most of the Nation's railroads,[1] and certain water and motor common carriers having joint rates therewith requested this Commission to institute an investigation of the revenue needs of all carriers by railroad within the United States, to make all carriers by railroad within the United States respondents and to authorize the filing of a master tariff and connecting-link supplements and other necessary tariffs and supplements increasing present freight rates and charges within the United States by 7 percent, subject to certain exceptions and holddowns. The petitioner further requested permission for the master tariff to become effective, without suspension on January 1, 1975. Requisite modification of outstanding orders, and relief from the provisions of

[1]The Long Island Rail Road Company, Florida East Coast Railway Company, Baltimore and Ohio Terminal Railroad Company, Baltimore and Ohio Railway Company, Chesapeake and Ohio Railroad Company, Curtis Bay Railroad Company, Staten Island Railroad Company, and Western Maryland Railway Company do not join in the petition. All but the first two carriers listed belong to the so-called "Chessie System."

sections 4 and 6 of the Interstate Commerce Act also was sought. In accordance with Procedures Governing Rail Carrier General Increase Proceedings, 49 CFR 1102, the carriers submitted verified statements in support of their proposal. Upon consideration thereof, we issued an order dated November 27, 1974, instituting an investigation as requested, making all common carriers by railroad respondents to this proceeding, and granting authority (Special Permission No. 75-2100) for the petitioners to publish the proposed tariff schedules, subject to protest and possible suspension, to become effective upon not less than 45 days' notice, not earlier than February 5, 1975, nor later than March 5, 1975.

Our order of November 27, 1974, contained a number of additional provisions, providing for (1) the filing of protests and verified statements and argument by any person opposing the proposed increases in rates and charges, (2) the filing of verified reply statements by the respondents to the protests, (3) the filing of requests for cross-examination of any affiant to verified statements filed by the respondents or the protestants, and (4) a hearing schedule for the purpose of cross-examination of witnesses submitting verified statements and the submission of such other pertinent evidence deemed necessary by the presiding Administrative Law Judge.

In addition to the foregoing, the fifth ordering paragraph of our order of November 27, 1974, required the petitioning respondents to file a statement concerning the manner in which they intend to resolve problems created by the nonparticipation of the Chessie System and the Long Island Rail Road Company, including information as to competitive exceptions, if any, which would be required in addition to those set forth in the proposed master tariff, and information with regard to the impact upon the carriers' revenue projections of the nonapplication of the increase to traffic moving to, from, or via points on the Chessie System or the Long Island Rail Road. The fifth ordering paragraph also directs petitioners to explain how they intend to resolve the apparent disruption of port relationships and possible violations of sections 2, 3, and 4 which may occur as a result of the exceptions set forth in the master tariff. In a subsequent order, dated January 23, 1975, dealing with petitioners' special permission applications Nos. C-3265 and C-3267 for amendment of the X-310 master tariff, we requested additional information concerning the problems of nonparticipation and port relationships.

Pursuant to our special permission order, petitioners, on December 20, 1974, filed master tariff of Increased Rates and

Charges X-310, and, later, on January 27, 1975, filed Supplement No. 1, thereto, both to become effective on February 5, 1975.

Oral hearings were held at Washington, D.C., on January 6 through January 9, 1975, and on January 27, 1975, for the purposes previously indicated.

Numerous protests were submitted in opposition to the proposed schedules of increased rates and charges. Many of the protests noted that because of competitive considerations resulting from the absence of the Chessie System, no measurable increase could be taken in the eastern district and any increase in the southern and western districts would be the subject of selective exceptions having the effect of reducing the total possible revenue yield for those two districts by one-third or more. Protestants also noted that substantial increases in rates and charges were imposed by the respondents during 1974 and urged that we fully consider the need for holddowns or exceptions on individual commodities before authorizing an increase in this proceeding.

Subsequently, by Commission order dated January 29, 1975, upon consideration of the evidence and arguments of the parties, the operation of the proposed schedules of increased rates and charges was suspended to and including September 4, 1975, unless otherwise ordered by the Commission. At the same time, the investigation instituted by our order of November 27, 1974, was continued.

Briefs were filed and have been considered.

Due and timely execution of our functions imperatively and unavoidably requires the omission of an initial decision by the Administrative Law Judge. Because of the size of the record, it is not feasible to discuss individually the views and contentions of each of the parties. However, the evidence of those with similar interests is grouped and contentions not specifically discussed nor reflected in our findings or conclusions are found to be without merit.

Rate Increase Proposal

The petitioning respondents propose a nationwide 7-percent increase in freight rates and charges on commodities generally, subject to certain exceptions related to demurrage, drayage, wharfage, switching, and other special or accessorial services and to service from, to, via, or at points on the lines of the carriers identified in footnote 1. These exceptions are set forth in appendix A hereto. Additional exceptions relative to line-haul charges by

specific carriers on unit train or annual volume rates, eastern and southern territorial exceptions relative to export-import traffic and TOFC/COFC rates, individual western district carrier exceptions on TOFC traffic, southern district exceptions on various commodities, and certain holddowns and other exceptions are described in appendix B.

The revenue yield which can be expected under the proposal of the respondents is subject to a number of varying circumstances.

Table 1 next following shows the revenue yield which can be expected under the proposal of the respondents, assuming the participation of all carriers except the Long Island Rail Road and the Florida East Coast Railway Company.

TABLE 1

Indicated revenue yield

Item	United States	Eastern district	Southern district	Western district
		(millions)		
Expected yield	[1]999	376	136	487

[1]Without any exceptions in the master tariff, a 7-percent rate increase would produce a $1,229 million pro forma revenue increase. With the exceptions in the master tariff, exclusive of those caused by the nonparticipation of the Chessie System, the pro forma fully applied increase would be $1,078 million. The expected yield of $999 million is based on the fact that, should an increase be taken, further flagouts or exceptions will be required for competitive and other reasons. As hereinafter discussed, the revenue yields would be lower at current traffic levels.

This would amount to slightly less than a 5.7-percent increase in the total revenue of the Nations' railroads.

Table 2 below shows the expected revenue yield under the proposal of the respondents should the Chessie System as well as the Long Island Rail Road and the Florida East Coast Railway Company take no increase. Here it should be noted that "it is the judgment of traffic officials of Eastern railroads that, without participation of the Chessie lines there could be virtually no implementation of the proposed rate increase." See page 10 of the Railroad's Response to the Fifth Ordering Paragraph of the Commission's Order of November 27, 1974, Concerning the Apparent Non-Participation of Certain Roads.

TABLE 2

Indicated revenue yield

Item	United States	Eastern district	Southern district	Western district
		(millions)		
Expected yield	449	0	85	364

The foregoing figures are constructed from submissions of the respondents as to the revenue decreasing effect of the various exceptions to the proposed master tariff, including those caused by supplement No. 1. The total effective revenue increase for the Nations' railroads under these assumptions would be slightly less than 2.6 percent. As to the zero increase projected by the respondents for the eastern district, the following additional explanation is offered by them at page 1 of the appendix to the Railroads' Response to the Fifth Ordering Paragraph, supra:

*** While there are a few movements in Eastern Territory on which there is no Chessie rate competition, the application of the proposed increase to the rates on such movements would produce only a very small portion of the revenues sought by the eastern carriers in this case. That amount is not readily ascertainable. Percentages for Southern and Western Districts are based on 1972 waybill statistics which indicate that interterritorial traffic to and from Eastern Territory accounts for 33 percent and 25 percent, respectively, of Southern and Western District revenues.

The full implications of the foregoing are not entirely clear. However, it is clear that the various exceptions to the master tariff described in appendixes A and B hereto are incomplete, and that still more, possibly massive, exceptions would be mandated by competitive considerations among the railroads.

In support of the proposal, the petitioning respondents submit detailed financial evidence on an individual, territorial and nationwide basis. They also present collective revenue and cost data not only for themselves, but all respondents as well. In addition to the foregoing, a considerable amount of supplemental evidence is offered by various railroad executives. General effect is given to this evidence throughout the text of this report. Evidence in opposition to the proposal was introduced by Federal and State agencies,

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shippers, receivers, and organizations representing various interests which would be affected by the general increase proposal. The evidence of the protestants relates to the overall revenue needs of the railroads as well as to individual commodities and other specialized matters. The respondents' revenue needs are discussed in the section of this decision next following. Evidence concerning specific commodities is set forth in appendix C. Additional sections of this decision deal with port relationships, tariff updating, service improvements, and other special matters.

REVENUE NEED

The petitioning respondents state that they seek this general increase of 7 percent in order to partially recover cost increases falling into three separate categories. These cost increases are described by the railroads as being (1) those submitted in Ex Parte No. 303 which are in excess of the revenue yield realized from the increases authorized in that proceeding (so-called "shortfall"), (2) those occurring subsequent to Ex Parte No. 303 and not covered by authorized or pending rate increases, and (3) those associated with equipment and other capital items which are not covered by the increases authorized in Ex Parte No. 305. Detailed justification is submitted only in connection with those cost increases falling into category (2).

Costs.—Tables 4 and 5 which follow reflect the respondents' basic justification for the proposed rate increase.

TABLE 4

Including the Chessie System, the railroads' itemizations of increased costs, plus their so-called "shortfall," in millions, are as follows:

Item	U.S.	East	South	West
Shortfall from XP-303	680	216	120	344
Increase in fuel costs in excess of 3.3 percent rate increase authorized and 0.2 percent pending in East and West.	73	1	20	52
Increase in other materials costs in excess of 3 percentage points of XP-305 increases.	535	203	88	244
Increase in payroll taxes, effective 1/1/75.	74	28	12	34

Item	U.S.	East	South	West
Cost of supplemental sickness benefits.	21	8	3	10
Cost of increased vacation allowances and paid holidays.	100	30	13	57
Increase in equipment rents, State and local taxes, and fixed charges.	93	70	4	19
Increase in loss and damage, personal injuries, insurance, and pensions, 1973/1972 (not submitted in XP-303).	46	12	6	28
Total cost escalations subsequent to XP-303 not covered by increases authorized or pending.	942	352	146	444
Total including shortfall from XP-303	1,622	568	266	788
		Percent		
Ratio to freight revenue	9.6	10.1	9.0	9.6

TABLE 5

Absent the Chessie System, the railroads' itemizations of costs are as next shown:

Item	U.S.	East	South	West
Shortfall from XP-303	632	168	120	344
Increase in fuel costs in excess of 3.3 percent rate increase authorized and 0.2 percent pending in East and West.	71	(1)	20	52
Increase in other materials costs in excess of 3 percentage points of XP-305 increase.	480	148	88	244
Increase in payroll taxes effective 1/1/75.	68	22	12	34
Cost of supplemental sickness benefits.	19	6	3	10
Cost of increased vacation allowances and paid holidays.	96	26	13	57
Increase in equipment rents, State and local taxes, and fixed charges.	72	49	4	19

TABLE 5—Continued

Item	U.S.	East	South	West
Increase in loss and damage, personal injuries, insurance and pensions, 1973/1972 (not submitted in XP-303.	47	13	6	28
Total cost escalations subsequent to XP-303 not covered by rate increases authorized or pending.	853	263	146	444
Total including shortfall from XP-303.	1,485	431	266	788
		Percent		
Ratio to freight revenue	9.6	9.9	9.0	9.6

Virtually all of the items listed in tables 4 and 5 are challenged by the protestants.

As to so-called "shortfall" we find no basis herein for reconsideration of our findings in prior rate increase cases. To the extent that respondents' prior cost increases have not been met by increases authorized in prior proceedings and have not been absorbed by operating efficiencies, such fact should be reflected in financial statements of the carriers. In any event, the claimed "shortfall" is not here treated as a "new" cost.

Our evaluation of the claimed cost increases of the respondents is contained in appendix D. A distillation thereof, absent the Chessie System, is next shown:

TABLE 6

(Millions)

Item	U.S.	East	South	West
Increase in fuel costs since May 10.	52	12	10	30
Increase in materials and supply costs.	480	148	88	244
Increase in payroll taxes	68	22	12	34
Cost of supplemental sickness benefits.	19	6	3	10
Cost of increased vacation allowances and paid holidays.	62	21	10	31

TABLE 6—Continued

Item	U.S.	East	South	West
Increase in equipment rents, State and local taxes, and fixed charges.	72	49	4	19
Increase in loss and damage, personal injuries, insurance and pension.	47	13	6	28
Total	800	271	133	396
Freight revenues	16,150	4,550	3,061	8,539
Ratio to freight revenues	5.0	6.0	4.3	4.6

With the Chessie System, our summary of the cost increases of respondents is shown below:

TABLE 7

(Millions)

Item	U.S.	East	South	West
Increase in fuel costs since May 10.	56	16	10	30
Increase in materials and supply costs.	535	203	88	244
Increase in payroll taxes	74	28	12	34
Cost of supplemental sickness benefits.	21	8	3	10
Cost of increased vacation allowances and paid holidays.	66	25	10	31
Increase in equipment rents, State and local taxes, and fixed charges.	93	70	4	19
Increase in loss and damage, personal injuries, insurance and pension.	46	12	6	28
TOTAL	891	362	133	396
Freight revenues	17,551	5,951	3,061	8,539
		Percent		
Ratio to freight revenues	5.1	6.1	4 3	4.6

There is individual evidence by various of the respondents concerning their intention and need to purchase equipment and to make other capital investments. In this regard, the Wholesale Price Index for railroad equipment rose from 178.0 in September 1974 to

187.8 in December 1974. A small additional increase would cause that index to reach a level 50-percent higher than that of 1973. This means that the equipment for which railroads paid $893 million in 1973 could cost $1,340 million in 1975, or $447 million more. Thus, respondents urge that the gap between available funds and needed funds has been widened greatly by inflationary pressures. They argue that the gap can be closed only by substantially increased net earnings which will generate capital funds and assure acceptability of railroad securities to investors. Further, concerning other costs, respondents indicate that at 1974 cost levels they have more than $7 billion in deferred maintenance or delayed capital expenditures.

Although protestants contest various of the respondents' claimed cost escalations, they do not question the fact that the railroads have been subjected to increased prices. However, they argue that the cost escalations are not costs at all but rather unit prices. They assert that there is no showing that the railroads' revenue needs, even in the aggregate, have increased at the same rate as the price indices because no allowance has been made for productivity, volume, or shifting consist. Further, they insist that it is even more clear, where specific commodities are concerned, that the railroads have made no effort to establish that such commodities are equally responsible for added expenses. These contentions are next considered.

Income and rate of return.—In Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, we expressed an intent to institute a rulemaking proceeding looking toward prescription of minimum evidentiary requirements in railroad general increases to supplement existing regulations in 49 CFR 1102. That proceeding was instituted as Ex Parte No. 290 by order dated December 1, 1972, and is presently pending. As an interim measure, we set forth certain guidelines concerning financial evidence and expense and revenue data which would facilitate analysis of the financial posture and revenue needs of individual petitioning railroads, as well as groups of such railroads, and all railroads combined.

In conformity with those guidelines, the railroads have supplied schedule A financial data for calendar years 1971, 1972, 1973, and for the 12 months ending June 30, 1974, and schedule B income statement data (actual, present, and constructed) and affiliate data for individual roads and by districts. The railroads have not provided schedules C and D information, namely expense and revenue data

by commodity group (separated between single line and interline, transported by individual railroads and totals for each district and all districts combined) and expenses and revenues associated with special and accessorial services.

The statistics initially presented by the respondents were based on returns of individual railroads at the end of the second quarter of 1974, since that was all that respondents had available at the time. However, financial results for the third quarter of 1974 were submitted on a composite industry basis. Subsequently, in their reply statements, respondents submitted information showing net railway operating income and rate of return for individual carriers through the third quarter of 1974. Table 8 below shows the district summaries of some of this information. Information for individual carriers is contained in appendix E.

TABLE 8

Net railway operating income and rate of return on investment Class I railroads in the United States 12 months ended September 30, 1974

(DOLLARS IN THOUSANDS)

District	Net railway operating income		Rate of return	
	After deferred taxes (1)	Before deferred taxes (2)	After deferred taxes (3)	Before deferred taxes (4)
			Percent	*Percent*
Total eastern district	$86,512	$130,066	0.84	1.26
Total southern district	260,175	305,473	5.16	6.06
Total western district	507,315	602,959	4.00	4.75
Total United States	854,002	1,038,498	3.05	3.71

For the third quarter alone, operating revenues totaled $4,392 million, an increase of $756 million over the corresponding figure 1 year earlier. However, expenses, taxes, and rents increased by $612 million, leaving only a $144 million increase in net railway operating income.

One protestant quarrels with the railroads' method of calculating rate of return on investment. The assertion is made that deferred taxes are in the nature of interest-free loans from the Government, and, to the extent such funds have been invested in the railroad operating plant, that investment should be eliminated from the total investment when calculating a rate of return.

In response, the railroads state:

> Although railroad taxes have been reduced by some $3 billion in the 23-year period, 1951-1973, as a result of the excess of tax depreciation and amortization over the depreciation booked under ICC regulations, those deferrals were not charged against income. Thus, if a calculation of rate of return should be made on the basis of net investment less accrued tax deferrals, it would follow that only deferrals which had been charged against income should be deducted from the net investment base. Nevertheless, even if the entire amount of deferred taxes should be subtracted from the base, the resulting rates of return on the basis of "generally accepted accounting principles" would be less than those which have been shown in this record on the former ICC accounting basis ***.

We believe that the respondents' explanation is sufficient for the purposes of the instant proceeding. It should be noted that in Ex Parte No. 271, Net Investment—Railroad Rate Base, issues related to the establishment of a particular rate base for the Nation's railroads are under consideration.

Our Bureau of Accounts has issued its own statement of the railroads' income position. That information is next shown.

TABLE 9

Twelve months ended September 30

District and year	Railway operating revenues	Net railway operating income	Ordinary income	Net income	Rate of return
Eastern district—1974	$5,822,799	$138,684	$(45,505)	$(8,192)	1.39
Do.....1973	5,059,564	56,009	(118,400)	(113,302)	0.56
Southern district—1974	2,841,916	308,732	249,473	249,473	6.38
Do.....1973	2,409,918	235,824	195,031	205,529	4.87
Western district—1974	7,860,648	601,332	592,126	601,010	4.90
Do.....1973	6,848,744	518,804	458,603	456,912	4.36
Total all districts—1974	16,525,363	1,048,748	796,094	842,291	4.36
Do.....1973	14,318,226	810,637	535,234	549,139	3.02

SOURCE: ICC Bureau of Accounts Class I Line-Haul Railroads. Selected Earnings Data, November 15, 1974.

Information as to the contribution by individual commodities or groups of commodities also is under study in Ex Parte No. 270. It would be impossible here to attempt to duplicate the effort expended in Ex Parte No. 270 nor would it be proper to predetermine the issues in that proceeding. However, in appendix C of this decision, we do give specific attention to the arguments of the protestants relative to individual commodities and make findings as required in a proceeding of this nature.

The respondents submit pro forma year income statements which are based on the level of operations for the 12 months ended June 30, 1974. However, the revenues and expenses are adjusted to reflect rate and cost levels known at the time of preparation of the schedules in October 1974. In this connection, certain matters should be noted.

There are numerous "flagouts" on unit-train and annual volume rates or other large traffic tonnages which are excepted from the proposed 7-percent increase. Many of these excepted rates are the subject of escalation clauses which provide for automatic increases. The extent of these increases is not revealed. However, it does appear that one railroad, the Burlington Northern, has included the increased revenue which is to accrue from escalation clauses as part of its pro forma revenue projection.

Another problem in connection with the revenue projections relates to the Federal funds which may be received by bankrupt eastern railroads for emergency operational needs. Such funds are not included in the pro forma statements.

Table 10 below reflects the respondents' pro forma year income statement:

TABLE 10

Pro forma income results including the Chessie System

Year	U. S.	East	South	West
		(millions)		
1. Year ending June 30, 1974	904	146	273	485
2. Pro forma year presents costs and rate levels	1,129	316	245	568
3. Pro forma year[1] proposed rate level and present cost level	1,834	637	349	847
4. Rate of return on net investment after deferred taxes--(percent)	5.85	4.97	6.30	6.39

[1]Respondents included additional expenses, rents, and taxes amounting to $527.7 million.

Meaningful pro forma results excluding the Chessie System cannot be developed for a variety of reasons, the principal one being the greatly reduced revenue yield indicated by the respondents if the Chessie carriers do not participate in the increase.

While the pro forma statement in table 10 reflects the rate increases which were responsible for improved earnings in the third quarter of 1974, the downturn in the economy which occurred after midyear and accelerated in the last quarter is not fully reflected. Traffic trends in November and December were obscured by a coal strike, but traffic has remained depressed. Carloadings in the first 2 weeks of 1975 were 9 percent below the corresponding weeks of 1974. Carloadings have declined by 12.6 percent for the first 6 weeks of 1975 as compared with the same period in 1974. For the first 6 months ending February 8, 1975, carloadings declined in all railroad rate territories. The reduction amounted to 11.9 percent in the East, 10.9 percent in the South, and 14.1 percent in the West.

Additional financial considerations.—Despite encouraging third quarter 1974 financial reports filed by respondents indicating for many roads an upward trend in earnings, such earnings improvement represents only a partial recovery from previously low earning levels and are well below earlier comparable periods when considered in terms of real dollars. Such reduced earnings when converted to constant 1974 dollars for both the third quarter and 9 months indicate the loss of purchasing power suffered by the rail industry.

TABLE 11

Net earnings in real dollars

(ALL DOLLARS IN MILLIONS)

		Net railway operating income		Net income (after fixed charges)	
	Price deflator for GNP	As reported	1974 dollars	As reported	1974 dollars
Third quarter:					
1953	88	$297	$580	$235	$459
1955	91	306	578	242	457
1966	114	269	406	228	344
1973	156	164	181	83	92
1974	172	308	308	242	242

Net earnings in real dollars—Continued

(ALL DOLLARS IN MILLIONS)—Continued

	Price deflator for GNP	Net railway operating income		Net income (after fixed charges)	
		As reported	1974 dollars	As reported	1974 dollars
Nine months:					
1953	88	845	1,613	652	1,245
1955	91	836	1,543	659	1,217
1966	113	758	1,167	660	981
1973	153	578	635	357	392
1974	168	764	764	593	593

While the third quarter, 1974 operating results were ahead, fourth quarter results received by the Commission reveal significant earnings declines in all districts over the corresponding period in 1973, there being a 25.6-percent decline in net railway operating income.

Respondents' earning margin ratio or ratio of net railway operating income less fixed and contingent charges to operating revenues, has shown a marked decline from 7.1 percent in 1955 and 5.1 percent in 1966 to 1.4 percent for the 12 months ended June 30, 1974. For the year 1974, the earnings margin ratio is not expected to show much change from the abnormally low 1.4 percent level of recent date and prospectively could show further deterioration during the first quarter of 1975.

The loss of purchasing power and its impact on the industry's ability to adequately regenerate plant and equipment must be recognized. Twelve month net income figures, ended June 30, 1974, of $638.4 million, amount to less than 40 percent of the industry's 1955 equivalent of $1,647 million. The magnitude of this decline in purchasing power is highlighted in the following table:

TABLE 12

Selected net income trends

	Implicit price deflator for total GNP (1955-100)	Net income	Net income required to equal purchasing power of 1955 net
		(millions)	*(millions)*
1955	100.0	$927.1	927.1
1960	113.68	444.6	1,053.9
1966	125.40	903.8	1,162.6
1970	148.84	226.6	1,379.9
1973	169.83	558.8	1,574.5
1974[1]	177.61	638.4	1,646.6

[1]12 months ended June 30, 1974.

A synopsis of other financial findings follows:

1. Due to the capital-intensive nature of the rail industry large inputs of capital funds are required. External estimates of $3-4 billion annually over a 10-year period, are two to three times the industry's capacity. A primary result of an inadequate cash flow, averaging about $1.3 billion annually, has been the acknowledged accumulation of deferred maintenance and delayed capital expenditures, as of June 30, 1974, totaling in excess of $7.2 billion;

2. Working capital continues at abnormally low levels and is well below the $600 million level once regarded as a necessary minimum. Prior to 1966, net working capital averaged well above the $600 million level; net working capital over the last several years has averaged only a fraction of this amount standing at $117.2 million as of June 30, 1974;

3. The declining ability of respondents to adequately service debt as a result of decreasing income levels and continuing inflationary pressures have impacted adversely on the industry's coverage of fixed and contingent charges (before Federal income taxes) dropping from 4.24 in 1955 to 2.06 in 1973. This increasing inability to safely cover debt service costs has resulted in the downgrading of respondents' bond ratings and concomitantly resulted in higher borrowing costs;

4. Despite record traffic and revenues in the third quarter, respondents' rate of return on net investment remains depressed. 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 respondents' 1973 financial data reveals the average weighted cost of long-term debt of 5.08 percent exceeds the average net return on investment of 3.52 percent adjusted for Federal income taxes;

5. The return on shareholders' equity remains far below other industrial groups, even for the industry's most profitable district, the South. For the class I railroads the

average rate of return for the 12 months ended June 30, 1974 (exclusive of deferred taxes), averaged 3.97 percent, down from the 5.03 percent recorded in 1966. Such low returns to investors have lessened the industry's ability to tap the capital market for equity financing to meet capital needs and places an even greater burden on its already inadequate cash flow.

PRODUCTIVITY

Some protestants complain that inefficiency is the cause of poor industry earnings. It is said that the railroads should increase their productivity to offset their increased costs instead of passing those costs on to the consumer in the form of increased freight rates.

Productivity gains in the rail industry are essential, but cost increases of the magnitude involved in these proceedings cannot be absorbed entirely by the respondents without detrimentally affecting service to the public. Another aspect of the matter is that, if earnings are not sufficient to allow the railroads to maintain and improve their plant and equipment, they will be unable to take advantage of the productivity gains which such improvements might yield.

SERVICE

During the first 9 months of 1974, the railroads were called upon to transport 650.9 billion ton-miles of freight, 2.9 percent over the record 632.8 billion ton-miles during the comparable period in 1973.

Net ton-miles per serviceable freight car-day, a primary indicator of car utilization, was 1,692 for the first 9 months of 1974. This was 5.2-percent higher than the comparable 1973 period and 4.4-percent higher than the record average of 1,621 for the full year of 1973.

Car-miles per serviceable car-day averaged 58.8 for the first 9 months of 1974, an increase from 57.5 for the comparable 1973 period.

The equipment situation is better, with over 94,000 cars on order as of November 1, 1974. Of these, 12,273 are covered hoppers, 25,832 open hoppers, and 19,408 50-foot boxcars. In fact, the national 50-foot boxcar fleet was increased by more than 10,000 cars in 1974, after an increase of more than 11,000 of these cars in 1973. The railroads also are improving their efforts to return cars to productive service after heavy repairs. In October and November 1974, the number of such cars returned to service was 1,874 per

month greater than during the corresponding period in 1973. For the first 11 months of 1974, the average was 478 cars per month greater than the comparable 1973 period. Nonetheless, we recognize that there are valid complaints concerning rail carrier service, especially the service of the bankrupt carriers.

The respondents must increase their control over operating practices in order to meet the standard of adequate and efficient service required under section 15a of the act. The respondents' filing of quarterly reports shall continue to be mandatory, and such reports shall clearly state the specific efforts to correct deficiencies.

DIVERSION OF TRAFFIC

Every general rate increase carries with it the possibility that some traffic will be diverted to another mode with a lower rate, or that traffic now moving to a particular market by rail will be priced out of that market by the increase. The railroads assert that they have their rates under constant review and are prepare to respond to diversions of traffic by prompt downward adjustments. Competitive modes of service also have experienced inflationary pressures and are not immune from price increases. Moreover, we note in the railroads' statement of Revenues Realized From Ex Parte No. 305, the revenue ton-miles of all class I railroads increased during the third quarter of 1974 over the third quarter of 1973, notwithstanding the substantial rate increases and an approximate 3-percent decrease in ton-miles among class I carriers in the western district.

The reasons for the decrease in the western district ton-miles are not clear, although lumber, perishable, and auto parts traffic are said to be down from prior totals. We see no significant general diversion of traffic away from rail carriers inherent in the instant proposed increase, but do find limited individual areas in the commodities section of this decision where exceptions to the proposed increase appear warranted for reasons which include potential for diversion of traffic to other modes of service.

TARIFF UPDATING

Several protestants cite the need for the railroads to update freight rate tariffs to include recent rate increases. We note that the railroads have made substantial progress in incorporating ex parte general rate increases in tariffs. Although, as of October 1974, the railroads' progress appears not to be much beyond that stated in Ex Parte No. 303, during the January hearings, on the instant rate

increase proposal, additional substantial progress was reported. We shall continue to require that respondents' report the results of this updating program on a quarterly basis.

PORT RELATIONSHIPS—LONG HAUL AND TOFC-COFC TRAFFIC

Under the proposal of the railroads (item 120 of the master tariff), line-haul rates and charges on export-import traffic will take the proposed increase except that the same increase applicable to the port of Baltimore is to be taken by gulf or South Atlantic ports. If routing by the Chessie Systems of carriers is involved, Baltimore takes no increase and, thus, it can be said that there is no increase on traffic at southern ports. However, rail routings are available to Baltimore via carriers other than the Chessie System and it also can be said that if Baltimore is to take an increase, so also should gulf and South Atlantic ports. Further, it is appearent that, where possible, shippers will direct routing via the Chessie System as opposed to routing via other rail carriers with higher rates and that this would tend to favor ports served by the Chessie System.

Further, under the various exceptions to the master tariff submitted by the respondents, increased line-haul rates and charges on freight in trailer bodies, as a practical matter, will apply only on long-haul traffic moving between western territory, on the one hand, and, on the other, eastern territory, provided that a Chessie System station is not involved. Thus, the proposal appears to be weighted in favor of short-haul shippers.

In 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.

Here, as in Ex Parte No. 303, port interests and other shippers oppose the increases sought on the ground that differing territorial increases on traffic would disrupt port and other shipping relationships in violation of section 3(1) of the act. They also allege that even a generally uniform increase is unjustly discriminatory and unduly prejudicial. This contention 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 points, thus altering existing rate differentials between the various markets.

On this record, we conclude that holddowns on import traffic, or on long-haul traffic generally, which could further diminish revenues anticipated from the increase, have not been shown to be

warranted. However, we believe that the varying port and territorial increases on export-import and TOFC-COFC traffic are disruptive of port relationships and unduly prejudicial to west coast ports. Since a uniform increase on such traffic is not proposed, the only solution appears to be uniform exceptions thereon.

We conclude that, in giving effect to any increases herein, uniform exceptions in all territories should be made on export-import and TOFC-COFC traffic. Also, 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 publications of rates pursuant to authority herein granted is to be promptly corrected.

THE ENVIRONMENT

Environmental issues are raised concerning so-called recyclable commodities. Reduced to essentials, the argument made is that freight rates on commodities moving for purposes of recycling should not be increased because lower transportation charges thereon are felt to increase significantly the use of recyclable commodities while significantly reducing the consumption of finite virgin materials. Of course, numerous refinements and embellishments are added to the foregoing argument to the point where the entire subject becomes extremely formidable.

Although the evidence presented by the railroads and protestants is scanty, the best information before us indicates that the recycling industry is suffering greatly from the Nation's economic downturn. For example, the railroads tell us that the price of heavy melting steel scrap declined from a peak market price of about $141 a ton during April of 1974 to around $77 a ton during December of 1974. Again for example, the railroads tell us that the market price of wastepaper on September 1, 1974, was $45 a ton, whereas, the National Association of Recycling Industries, Inc., tells us that prices for wastepaper have dropped as much as 80 to 90 percent in the last few months. We know of no industry which has experienced greater decreases in prices of its products. In our opinion, no increase is warranted on commodities moving for purposes of recycling, except that an increase may be taken on iron and steel scrap in cents per ton equal to the average increase on iron ore. (No greater relief is sought by the Institute of Scrap Iron and Steel, Inc.)

We further believe that the relief to the depressed recycling industry will be fully consistent with national resource conservation

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efforts. The Congress of the United States in section 202 of the Solid Waste Disposal Act (Public Law 89-272), found that the economic and population growth of our Nation has resulted in a rising tide of scrap, discarded and waste material, and that inefficient and improper methods of disposal of solid wastes:

> *** result in scenic blights, create serious hazards to the public health, including pollution of air and water resources, accident hazards, *** create public nuisances, [and] otherwise interfere with community life and development.

The Congress further found that the failure or inability to salvage and reuse scrap and waste materials economically results in the unnecessary waste and depletion of our finite natural resources.

In a recent report,[2] the Comptroller General of the United States stated that:

> The two primary advantages of resource recovery and recycling are (1) reducing the volume of wastes otherwise requiring disposal, and (2) more importantly, conserving scarce natural resources.

Other advantages inherent in accelerated usage of recyclable materials mentioned are reduced energy requirements and environmental impacts, alleviation of balance of payments problems by reducing the flow of imported new materials, reduced scenic blight and land pollution, and lessened cost of waste disposal and related problems.

While this Commission has noted on a number of prior occasions the relative transportation demand inelasticities associated with recyclable freight rates,[3] it remains a basic economic fact that not granting a proposed rate increase for recyclables will generate a degree of positive environmental benefit. This course of action would in the first instance preclude any reduction in the movement of recyclables which may otherwise have been evidenced as a direct response to the increase. Secondly, as virgin counterparts are allowed to increase incrementally, recyclables will be placed in a more favorable economic posture. Relative demand inelasticities dictate that the benefits will not be significant, but the opportunity for incremental environmental improvement nevertheless remains.[4]

[2]U.S. General Accounting Office. February 27, 1975. Using Solid Waste to Conserve Resources and to Create Energy.

[3]See, *e.g.*, Environmental Impact Statements in Ex Parte No. 281, Ex Parte No. 270 (Sub-Nos. 5 and 6), and Ex Parte No. 295 (Sub-No. 1).

[4]U.S. Environmental Protection Agency, 1974. Second Report to Congress on Resource Recovery and Source Reduction. U.S. Government Printing Office.

It is recognized that other factors no doubt have a more basic correlation with the Nation's total scrap and waste utilization practices. The Environmental Protection Agency in a recent report to Congress noted that Federal procurement practices could be modified to provide national leadership in this area. The report further noted that, perhaps more importantly, various provisions of the Federal tax code (such as depletion allowances, capital gains treatment, and foreign tax credits) provide substantial benefits to the virgin material production sectors which are not available to the recycled material sectors.

Transportation rates for recyclable materials thus play a part—but only a part—in wide ranging, multifaceted relationships which inhibit optimal levels of resource conservation and produce or allow concomitant adverse environmental ramifications. To the extent that recyclable rate increases are subjected to holddowns or eliminated entirely, the action would be consistent with established national policies and would provide for a small measure of environmental improvement.

Apart from the problems presented by recyclable commodities, various protestants urge that increased rail rates will cause a diversion of traffic to motor carrier service, which in many situations is much less energy efficient than rail service. To the extent that individual categories of traffic may be diverted away from the rails to other modes of service, we consider the need for exceptions and holddowns in the commodities section of this decision. However, viewed in a total sense, the record supports a finding that diversion of traffic as a result of any increases authorized here would be minimal.

We conclude that neither the immediate nor cumulative effect of the proposed increase will have a significant affect upon the quality of the human environment. Further, except as we impose an exception herein on recyclable commodities, the discussion in our Environmental Threshold Assessment Survey issued on December 4, 1974, in Ex Parte No. 303, *Increased Freight Rates and Charges, 1974, Nationwide*, is equally applicable to the instant proceeding.

EXCEPTIONS OR HOLDDOWNS

In appendix C, the need for additional exceptions or holddowns is discussed. The conclusions therein reached are reflected in our ultimate findings and in appendix F.

Procedural Matters

The Midwest Packers Traffic Association submits a motion to strike the petition and comments of the United States Department of Transportation. The latter is the only governmental agency to endorse immediate and complete approval of the 7-percent increase proposal of the respondents, but does so subject to refund provisions. DOT did not appear at the oral hearing and offered no evidence. In arguments filed prior and subsequent to the close of the record DOT does note that the Penn Central and other marginal carriers need additional revenues. No consideration is given by DOT to the evidence of any of the protestants herein.

In the motion to strike, it is asserted that DOT has no statutory authority to participate in a general rate increase proceeding. We do not presume to determine the statutory authority of DOT in this quasi-legislative matter. The comments of DOT are well received, although we are constrained to note that the Penn Central and other eastern district rail carriers tell us that "without participation of the Chessie lines there could be virtually no implementation of the proposed rate increase." The facts in this regard are the same now as they were at the time of the filing of the petition and comments of DOT. Nonetheless, the motion to strike is denied.

We are well aware of the dire financial situation of the bankrupt and near bankrupt carriers, most of which are located in the eastern district. In determining whether to suspend the proposed 7-percent increase, we considered not only the fact that the eastern district carriers could take virtually no part of the proposed increase, but also the facts that rail carriers took general rate increases of over 20 percent during the prior year, that many industries are severely depressed and that the complex proposed master tariff contains objectionable features which require analysis and correction.

On February 10, 1975, the rail respondents filed a petition to vacate the suspension of the proposed increase. Replies were requested by March 6, 1975, and in excess of 70 replies were received. In view of our decision herein, further consideration of this petition and the replies thereto is unnecessary.

Discussion and Conclusions

The petitioning respondents have a need for additional revenue which requires that they be allowed to increase their rates and charges. The increased expenses experienced by them amount to

800 million as shown in table 6. In addition, they face greatly increased costs for capital items and require additional working capital. On the record before us, we conclude that an increase of 7 percent is warranted in the freight rates and charges of the petitioning respondents.

In respect of the foregoing, a number of problems are produced by the absence of the Chessie System of carriers from the proposed increase. The first of these is that the Chessie System, because it chose not to appear here, must show justification in order to take an increase of its own.

A second problem arises from the fact that without the Chessie System, the expected revenue yield of a 7-percent increase for the participating respondents would be only around $449 million, with no revenue yield at all in the East. This yield would be reduced even more by the additional exceptions to the master tariff which we must impose. This compares with an expected revenue yield of about $999 million if a 7-percent increase is taken with the participation of the Chessie Lines. The great difference in expected realization with and without the Chessie System results because the petitioning respondents must compete with the Chessie System and cannot take an increase where lower rate routings are available in whole or in part over the Chessie lines. The net result is that under the proposal of the petitioning respondents, not even half of the Nation's rail traffic measured from the point of view of revenue would take a rate increase. In this regard, the chairman of the executive committee of the Western Railroad Traffic Association, responding to questions concerning the nonparticipation of the Chessie System, stated (T-382-3) as follows:

> It would have a ripple effect in the sense that there would be situations in which no increase could be taken, say within the West because there was no increase from the East to the West, and the shippers within the West, then, would be put at a competitive disadvantage. Situations like that are possible, and I have a feeling there would be some.
>
> On the other hand, I think we would make every effort to find those areas in which we could take the increase without loss of business and without destroying the ability of our shippers to market their products, even if the Chessie flagout holds.

In the light of that statement, if an increase is taken by the petitioners we will require that any additional flagouts by them from the proposed master tariff be the subject of 30 days' notice prior to the effective date so as to afford possibly disadvantaged shippers an opportunity to ask for similar treatment.

As a final word on the subject of the nonparticipation of one or a relatively small group of carriers in a general rate increase proposal, we do not believe that this precludes a finding of a general increased revenue need by the remainder of the Nation's railroads. Nor do we believe that merely because the effective revenue realization will be reduced as a result of such nonparticipation, the amount of the authorized increase should be raised. Such an approach here would result in a double assessment upon those shippers unfortunate enough to be so located as not to have available lower priced competitive rail service.

Acccordingly, our approach in this matter is that where possible a 7-percent increase may be taken. At the same time, we are providing for removal of unjustified features of the proposed increase.

The record in this matter generally reflects the financial condition of the petitioning carriers during 1974. We, of course, are aware that virtually all segments of the economy, shippers and carriers alike, are suffering from the recession now confronting the Nation. However, the record must be closed at some point. We note that historically the railroads normally have curtailed maintenance expenditures when traffic declines to minimize losses. Because of the deteriorating condition of the Nation's railroads in general caused by inadequate maintenance in the past, the Nation cannot bear the cost of further deferred maintenance as measured in further decline in rail service and higher costs and rates.

Although we are satisfied that the authorized increases will not produce excessive revenues or result in unreasonable rates and charges, our findings apply to the general bases of rates and charges and do not preclude interested parties from bringing any maladjustments to our attention for correction. The increased freight rates and charges authorized herein are not considered as prescribed and will be subject to complaint and investigation as provided by the act.

The petitioning carriers are admonished that any necessary petitions for intrastate relief should be filed promptly.

Ultimate Conclusions and Findings

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

1. Respondents are in need of additional revenue from their interstate freight rates and charges to offset recently incurred

operating costs and to provide an improved level of earnings. The public interest and that of the national defense, in a sound, adequate, and efficient transportation system will be adversely affected unless the increased interstate freight rates and charges proposed by respondents in this proceeding, subject to the limitations and exceptions set forth below, are permitted to be put into effect.

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

3. Respondents' freight rates and charges on interstate traffic may be increased as proposed, except as noted in finding 4 and except as set forth in appendix F hereto, said authorization herein granted being void if not exercised on or before June 30, 1975.

4. In lieu of the general increases proposed in the tariff of Increased Rates and Charges, X-310, rates and charges may be increased within and between all territories by not more than 7 percent, subject to the additional limitations imposed in appendix F and subject to maxima on specific commodities no higher than proposed by the respondents in X-310.

5. 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 railways, 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.

6. The increased freight rates and charges authorized herein will have no undue adverse effect on the movement of traffic by railway or upon the environment.

Our findings as to justness and reasonableness, which are based upon all of the evidence before us, including typical evidence as to rates and charges in and between all territories, will apply to the general bases of rates and charges, and will not preclude interested parties from bringing any maladjustments to our attention for correction. 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 will be entered (1) requiring the cancellation of the schedules under investigation herein found not justified, without prejudice to the establishment or maintenance of schedules in conformity with our findings herein, and (2) modifying all our outstanding orders to the extent necessary to permit the maintenance of the increased freight rates and charges herein authorized, and granting relief from the provisions of section 4 of the act and our tariff publishing rules as may be necessary, including authority to publish and file tariff changes.

COMMISSIONER TUGGLE concurs in the result.

VICE CHAIRMAN O'NEAL, dissenting in part:

I would approve the increase of 5 percent for the respondents in this proceeding.

NEED

Five percent is the maximum which can be justified on the present record, which reflects 1974 experience as to increased costs and revenue need. Recent conditions in the rail industry may justify a higher level of increase, but the proper place to consider those factors is in a separate proceeding based on that evidence. An acceptable alternative would be to take notice of current conditions, allow 7 percent to go into effect, and leave the record open for comments from the parties.

The report does not develop the justification for the increase, even on an aggregate basis, in any depth. The discussion of productivity is particularly deficient, indicating little or no consideration of the extent to which productivity improvements may have offset increases in input costs.

SELECTIVE INCREASES

The major shortcoming of the majority report, however, is not the level of increase sought or granted. Rather, this proceeding illustrates the limitations inherent in increasing revenues through general rate increases. The general rate increase proceeding was first used in the early part of this century. The Commission made it clear that this approach was to be used only in emergencies. The current difficulties of the rail industry, precipitated by a rapidly declining national economy provides one of the very few true

emergencies in recent years. Yet the general rate increase has now become routine. Since 1967, the Commission has considered twelve separate ex parte rate increases and has authorized increases of 20 percent on a nationwide basis in the last year alone.

I have expressed reservations about the Commission's reliance on across-the-board rate increases by separate expressions in Ex Parte No. 295, *Increased Freight Rates and Charges, 1973, Nationwide*, 344 I.C.C. 589, and in Ex Parte No. 303, *Increased Freight Rates and Charges, 1974, Nationwide*. I suggested there that the Commission adopt this statement of policy:

> 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 one in the present proceeding.

The Commission has embraced a similar policy in the past. In Ex Parte No. 259, *Increased Freight Rates, 1968*, 332 I.C.C. 714, the Commission said, at page 715:

> The proposed increases vary from 3 to 10 percent, or by specific amounts generally within that range. Many protestants object to this approach contending that it is productive of discriminations. *** While a single percentage increase has the appearance of uniformity and nondiscriminatory treatment of shippers, we have indicated in the past the need for a more selective approach. Even where uniform increases have been approved, competitive conditions have quickly required the carriers to make revisions with respect to specific commodities in order to retain traffic. The consequence has been, within a short time, an increased rate structure as varying as here proposed.

However, the Commission abandoned this approach in Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288. The Commission said, at 329:

> *** The increases proposed in tariff X-281-A, however, present a different and far more complex situation. As noted, they are permanent increases intended to supplant the surcharge and are sought to be applied on a selective basis with numerous commodities and services taking different levels of rates and charges ranging up to 10 percent both within major districts and interterritorially.
>
> As a consequence, the burden of meeting respondents' overall revenue needs falls disproportionally on certain commodities and services and on others not at all; and this circumstance has given rise to the greatest volume of protests in this proceeding.

That policy is reflected by the rate increases sought and granted up to and including this proceeding.

General rate increases are justified on the basis of cost increases and revenue need on a national basis. They ignore the different conditions which affect different regions, carriers, and commodities. Identical cost increases will affect different carriers differently. Numerous other factors, such as changes in consumer demand, supply, and general economic conditions will dramatically impact on certain traffic and affect other segments not at all. For example, General Mills, Inc., in an analysis of Commission data filed in this proceeding compared operating revenue increases with increases in operating expense for the 20 largest rail carriers over the period, October 1, 1973, to September 30, 1974. That comparison indicated that the revenue increases exceeded the increases in expenses for 14 of the carriers over the year, by as much as 24 percent in one instance. Increases in expense exceeded increases in revenue for the remaining six by as much as 16 percent.

No single rate adjustment can be applied to these widely different experiences and produce a rational result.

The net effect of relying on general rate increases has been that the rates of the strong, efficient carriers have been held to artifically high levels to protect those which are weaker and/or less efficient. Another result of piling one nationwide percentage increase on another is that higher rated commodities and longer haul traffic take a disproportionately heavier increase in absolute terms.

For these reasons, the nonparticipation of the Chessie system in this increase could have a positive impact. That carrier is performing well. As the General Mills analysis notes, revenue increases exceeded expense increases for the year ending September 30, 1974, by 23.8 percent for the Baltimore and Ohio and by 24.4 percent for the Chesapeake and Ohio. The revenue need for this railroad is apparently less than that of some of the other carriers. This may, as the respondents indicate, mean that weaker or less efficient competing carriers cannot take some or all of the increase. However, I believe the respondent's petition of December 20, 1974, suggests the proper course for the Commission to take in such instances. In part, the respondents said,

> Finally, strong policy reasons should induce the Commission to reject the argument that if a major line is absent or has indicated its nonconcurrence in a particular increase that the increase proceeding should falter. A ruling of that kind would give an individual carrier enormous power *** the Commission would be very unwise to place such power in the hands of a single carrier or carrier group. The Commission should follow the precedent that was established in Ex Parte No. 206—permit that tariff to become effective and if a major carrier then does not choose to exercise the authorization in whole or in part, allow the competing carriers to cope with that competitive problem as they would cope with any other competitive problem. If any problems occur as a result, the Commission has ample power to correct them.

The increases which we authorize are permissive. A carrier need not apply them and often impose holddowns or flagouts on various commodities. However, it would be preferable to encourage the carriers to file for authorization on a selective basis, as they did in Ex Parte No. 281. That approach may constitute more of a challenge to the carriers and to the Commission than the present broad brush approach. But I think the resulting rate structure would be superior in terms of both equity and economic efficiency.

General rate increases also embody a procedural approach that varies from the Commission's usual way of doing business. It is axiomatic that the proponent of a rate has the burden of showing that it is just and reasonable. However, after a general rate increase has been approved on the basis of national aggregate statistics, the burden shifts to individual protestants to demonstrate that the rate as applied to them is unjust and unreasonable or discriminatory or whatever. This shifting of the burden of proof turns the ratemaking process upside down. There exist considerable variances among the cost-to-revenue relationships of various commodities, as indicated by the Commission "Burden Study," among other analyses. A percentage increase which may be within reason as applied to the whole may be extremely high as applied to specific commodities or particular traffic. The shipper should not have to bear the burden of proof in such circumstances. Rather the carrier, who is seeking the particular increase, should be able to justify it.

SERVICE

The majority report discusses the need for improved service, noting that:

> The respondents must increase their control over operating practices in order to meet the standard of adequate and efficient service required under section 15a of the act. The respondents' filing of quarterly reports shall continue to be mandatory, and such reports shall clearly disclose specific efforts to correct deficiencies.

Such admonitions have become part of the boiler plate in reports authorizing general increases. If the Commission is going to

effectively stimulate improved service, however, we must have some means of monitoring service improvements. The present quarterly reports on service which the carriers file with the Commission do not provide a useful picture of carrier service performance. The reports contain statements as to service improvements made by the carriers, and often refer to capital improvements or maintenance programs. However, the Commission does not see the debit side; facilities and equipment also deteriorate. We cannot tell whether the customers of any particular carrier are experiencing a net improvement in service this year over last.

We should modify our reporting requirements so that they yield useful information. The carriers should be required to show on-time performance, speed, loss and damage experience, and other specific performance measures. This is the "bottom line" on service which the Commission must have to effectively determine the level of service being offered.

COMMISSIONER MURPHY, whom COMMISSIONER GRESHAM joins, dissenting in part:

While I am in agreement with the majority insofar as it would authorize respondents to increase their rates and charges by 7 percent generally with the exception of no increases on line-haul rates and charges on export-import traffic, TOFC-COFC traffic, or on mechanical protective services, I cannot join the majority insofar as it would deny respondents any increase on certain specified commodities or impose holddowns on other commodities.

Before discussing those pertinent subjects, it would be invaluable to consider briefly the plight of many of the respondents during this downturn in the economy. Respondents initially proposed to establish the increases to be effective on January 1, 1975. However, they were subsequently authorized to file a tariff to be effective February 5, 1975. In considering the protests and other pleadings and the testimony at the several hearings held in the interim, I was impressed with the dire need of many respondents for immediate relief to stem the serious outflow of cash. Accordingly, at that time, I would have granted an interim increase to partially offset respondents' critical cash needs. However, the proposal was suspended in its entirety for the statutory period. While it is to the credit of the Commission that it has reached a decision on the merits within a relatively short period of time, nevertheless, the Commission's action may, in many instances, be viewed as too little and too late.

Turning first to the nonapplication of the proposed increases on specified commodities, motor vehicles and related commodities, and lumber and building materials, it is apparent that the basis for the decision largely reflects the temporary difficulties being experienced by those industries. Nevertheless, that approach fails to consider the serious and continuing plight of the railroad industry. Respondents should not be saddled with the burdens of other industries which are generally in a better position to absorb a short disruption in production. For example, for the calendar year 1973, the class I railroads were 69th in a list of 70 industrial groups, with a rate of return of 3.5 percent on net worth. This compares with lumber and wood products, No. 3, with a rate of return of 20.6 percent, autos and trucks, No. 6, with a rate of return of 17.7 percent, and construction, No. 49, with a rate of return of 11.3 percent. It would indeed be unfortunate if respondents are made the scapegoats at the expense of other industries and to the detriment of the public interest which depends upon the railroads to keep the economy of this Nation functioning.

Turning next to the imposition of holddowns on specified commodities, it must be recognized that the rate structure is basically designed to reflect the competitive conditions experienced by long-haul shippers as compared to the movement of short-haul traffic. In effect, there is a tapering of the rate scale to reflect the longer hauls, for example, between the west coast and the East. Imposing holddowns, in cents per 100 pounds or other unit of measurement in these circumstances, thus unfairly discriminates against shippers from other areas of the country, especially on shorter movements.

Turning finally to the decision to deny any increase on recyclable materials, except scrap iron, I am seriously concerned with the failure to authorize any increase on these commodities despite respondents' need for additional revenues. This is a general revenue proceeding in which all commodities are expected to contribute their fair share towards a resolution of respondents' financial needs. The majority in its decision strongly relies upon the decline in the prices of certain scrap materials as a basis for a denial of any increase thereon. But a decline in the prices of the waste materials or other commodities provides no rational basis for improsing an additional burden on respondents. Again, the majority seemingly ignores the desperate plight of the railroads in refusing a modicum of relief on the transportation of waste products.

As a further basis for its decision with regard to recyclable materials, the majority relies upon a conclusion, unsupported by the

record (presumably equivalent to an axiom), that a denial of any increase on waste products will generate a degree of positive environmental benefit. I am in wholehearted agreement with the need to improve the Nation's environment. But as one travels the highways or walks the streets of this Nation, it becomes increasingly clear that a resolution of the litter problem, among other problems relating to the recycling and disposal of waste materials, is nowhere in sight. Protestants in urging a denial of any increase or requesting a holddown fail to adequately show by specific examples in what manner they are contributing to an improvement of the environment or their programs towards that goal. In contrast, respondents have submitted detailed evidence showing their individual or joint contributions toward improving the environment in their day-to-day operations either on their own initiative or in conformity with Federal or State statutes. They are now being asked to make further contributions by exempting waste products from any authorized increases. The burden thus sought to be imposed on respondents in these circumstances can hardly be described as fair treatment.

Finally, in connection with recyclable materials, it appears that the conclusion of the majority to deny any increase thereon fails to adequately articulate the basis for that decision. In reviewing the decisions of administrative agencies, the courts have frequently criticized those agencies for a failure to adequately state the rationale for the decision. See, for example, the Administrative Procedure Act, 5 U.S.C. 706.

In conclusion, I am unable in good conscience to join the majority to the extent that it would deny respondents any increases on specified commodities or would impose holddowns, with the exceptions noted above.

COMMISSIONER MACFARLAND, dissenting in part:

I would approve a 5-percent increase in this proceeding. With proper curtailment of holddowns and flagouts, this lesser increase would yield about as much undiluted revenue as is now anticipated from the 7-percent increase.

APPENDIX A

General exceptions from increase[1]

The increases in rates and charges provided in this tariff will NOT apply to:

(a) Charges for demurrage or detention on freight cars and detention charges on mechanically operated refrigerator cars as published in Rules 725 and 726, NPFC Tariff 18, ICC 37, except detention charges on heavy duty flatcars;

(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 or in part, by carriers, except as provided in item 125;

(h) Switching rates and charges absorbed, in whole or in part, by carriers, except as provided in item 125;

(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 and also charges applying at points on the Long Island Rail Road;

(k) Rates and charges applicable from, to, via, or at points on the:

Baltimore and Ohio Chicago Terminal Railroad Company,
Baltimore and Ohio Railroad Company
Chesapeake and Ohio Railway Company,
Curtis Bay Railroad Company,
Staten Island Railroad Corporation, or
Western Maryland Railway Company;

(l) Charges for protective service against heat or cold, other than charges for mechanical protective service;

(m) Rates and charges applicable from, to, via, or at points on the Florida East Coast Railway Company;

(n) Rates and charges applicable from, to, or at Seaboard Coast Line Railroad Company stations Riviera Beach, Fla. (Station No. 8320) to and including Homestead, Fla. (Station No. 8485).

[1]Source: Page 2 of supplement 1 to master tariff X-310, TEA-ER I.C.C. C-1047.

APPENDIX B[1]

Special exceptions from increase

NONAPPLICATION OF INCREASES IN RATES AND CHARGES

Item 50[2]

Line-haul rates (or charges for other services specified below), except as noted, published in tariffs indicated, are NOT subject to increases in Ex Parte No. 310:

(1) ATSF Tariff 15641-E, ICC 15158—unit-train rates and provisions on Bituminous COAL suitable only for metallurgical or cooking purposes from York Canyon, N. Mex. to Kaiser, Calif.

(2) BN Tariff 5-A, ICC 40—annual volume or unit-train rates on COAL.

(3) BN Tariff 7, ICC 5—annual volume or unit-train rates on COAL.

(4) BN Tariff 37, ICC 36—annual volume or unit-train rates on COAL.

(5) BN Tariff 38, ICC 37—annual volume or unit-train rates on COAL.

(6) BN Tariff 54, ICC 58—annual volume or unit-train rates on COAL.

(7) BN Tariff 57, ICC 64—annual volume or unit-train rates on COAL.

(8) BN Tariff 119, ICC 121—annual volume or unit-train rates on COAL.

(9) BN Tariff 152-A, ICC 162—volume rates on COAL.

(10) BN Tariff 164, ICC 176—annual volume rates on COAL from Belle Ayr, Wyo. to East St. Louis, Ill.

(11) BN Tariff 165, ICC 178—unit-train rates on COAL from Belle Ayr, Wyo. to Pueblo, Colo.

(12) BN Tariff 199, ICC 226—COAL from Decker, Mont. to Plaines, Ill.

(13) BN Tariff 201, ICC 231—COAL from Decker, Mont. to Allouez, Wis.

(14) BN Tariff 209, ICC 248—COAL from Decker, Mont. to Waukegan, Ill. and Hammond, Ind.

Item 51

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:

(1) CNW Tariff 17160-L, Ill. CC 27—volume rates on COAL from Elm, Ill. to Waukegan, Ill.

(2) CNW Tariff 17172-C, ICC 63—volume rate on COAL from Elm, Ill. to Sheboygan, Wis.

(3) CNW Tariff 17188-C, Ill CC 16—volume rates on COAL from Monterey Mine, Ill. to Havana and Powerton, Ill.

(4) DRGW Tariff 7449-Q, ICC 1217—transit charges on COAL at Wash. Utah.

(5) DRGW Tariff 7509-B, ICC 1162—unit-train or trainload rates on COAL from Carbondale, Colo. and Sunnyside, Utah to Kaiser, Calif.

(6) DRGW Tariff 7510-A, ICC 1154—unit-train or trainload rates on COAL from Somerset, Colo. Columbia and Sunnyside, Utah to Geneva, Utah.

(7) DRGW Tariff 7511-D, ICC 1205—unit-train or trainload rates on COAL from Carbondale, Colo. to Geneva, Utah.

(8) ICG Tariff 1-G, (I) Ill CC A-1956—in item 220-series, per car charges on RAW

[1]Several exceptions are complex and are summarized. For complete details, reference must be made to the master tariff itself.

[2]This and all subsequent items as amended are as provided in master tariff X-310, TEA-ER I.C.C. C-1047, jointly with other agents.

COAL from Lementon, Lenzburg, Marissa and New Athens, Ill. to River King Mine, Ill.

(9) ICG Tariff 6-A, Ill CC-7—COAL, from Percy, Ill. to Plaines, Ill.

(10) ICG Tariff 3351-C, (I)[1] ICC E-1925—in item 200-series, trainload annual volume COAL rates from Inland Mine, Orient Mine No. 3, Orient Mine No. 6 and Sesser, Ill. to Indiana Harbor, Ind.

(11) ICG Tariff 3353—B (not filed with ICC)—annual volume rates on COAL from ICG Western Kentucky mines to Louisville and/or Kosmosdale, Ky.

(12) ICG Tariff 3896-F, Ill. CC-131—COAL, from Percey, Ill. to Federal Ill.

(13) ICG Tariff 3897—C, ICC 366—COAL, from Percey, Ill. to EJE destinations in Ill. (Waukegan) and Ind. (Hammond).

(14) MILW 18592-W, IRC 344—COAL, from Latta, Ind. to Fayette, Ind.

(15) MILW Tariff 18721-A, IN RC 348—column A rates on COAL from Latta and Sycamore, Ind. to Indianapolis, Ind.

(16) MP Tariff 158-A, ICC 394:

(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.

(17) MP-MI Tariff 177-E, ICC 520—unit-train rates on Bituminous COAL in shipper owned cars from mines in Illinois to Kellog, Ill.

(18) MP Tariff 183-B, ICC 470—unit-train rates on Bituminous COAL in shipper owned cars from mines in Illinois to West Labadie, Mo.

Item 52

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:

(1) RI Tariff 36775-D, ICC C-13828—annual volume rates on COAL from LaFayette, Ill. to Iowana, Ill.

(2) SFTB Tariff 1104-A, ICC S-1076—trainload rates on COAL from stations on CCO to Terrell, N.C., Riverbend, N.C. and Pelzer,S.C.

(3) SFTB Triff 1123-B, ICC S-1050—trainload rates on COAL from stations on CCO to Augusta, Ga, Canadys, Irmo and North Wateree, S.C.

(4) SOU Tariff 220-A, ICC A-11679—unit-train rates on COAL from Arco, Tenn. to Harllee, Ga.

(5) SOU Tariff 231-C, ICC A-11726—unit-train rates on COAL from Appalachia, Va to Belmont, N.C.

(6) SOU Tariff 232-A, ICC A-11683—unit-train rates on COAL from Appalachia, Va. to Catawba, N.C.

(7) SOU Tariff 265-A, ICC A-11727—Unit-train rates on COAL from Oakman, Ala. to Harllee, Ga.

(8) SOU Tariff 278-A, ICC A-11728—unit-train rates on COAL from Enosville, Ind., to Krannert, Ga.

(9) SOU Tariff 295, ICC A-11718—unit-train rates on COAL from Percy, Ill. to Wansley, Ga.

(10) SOU Tariff 296, ICC A-11721—Unit-train rates on COAL, from Enosville, Ind. to Wansley and Yates, Ga.

[1]Illinois Central Railroad Company Series.

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(11) SOU Tariff 297, ICC A-11722—unit-train rates on COAL, from Oakman, Ala. to Yates, Ga.

(12) UP Tariff 6023-A, ICC 5706—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.

(13) UP Tariff 6025-B, ICC 5753—unit-train rates and accessorial charges on COAL from Dana and Hanna, Wyo. to Waukegan, Ill. and Hammond, Ind.

(14) UP Tariff 6026, ICC 5711—time volume rates and charges on COAL from points in Wyoming to Kansas City, Mo-Kans. EXCEPT volume D basis in item 400-series.

(15) UP Tariff 6028, ICC 5741—unit-train rates on COAL from points in Wyoming to Oak Creek Power Plant, Wis.

ITEM 60

Line-haul rates published in tariffs indicated, are NOT subject to increases provided in this tariff:

(1) SFTB Tariff 216-J, ICC S-1118-rates on cotton subject to description item 597 series.

(2) SFTB Tariff 750-F, ICC S-951—Nontransit rates on cotton within SFA territory published in item 9700 series.

(3) SFTB Tariff 819-F, ICC S-804—rates on sodium silico aluminate (STCC 28 199 93) from Chickasaw, Ala. to Paulsboro, N.J. published in item 16300 series.

(4) SFTB Tariff 951-B, ICC S-1038—rates on peanuts from SFA origins as published in the following items:

To	Items
Champaign, Ill	1552, 1553, 1554
Chicago, Ill	1575, 1600, 1625, 1650, 1675, 1700
Hershey, Pa	17325, 17350, 17375, 17406, 17425, 17450
Streator, Ill	1721, 1722, 1723

ITEM 61-A CANCELS ITEM 61 (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 (or are subject to maximum increase in connection therwith):

(1) SOO LINE Tariff 526-J, ICC 7871—unit-train rates on BARLEY, OATS, RYE AND/OR WHEAT from Duluth, Minneapolis, Minnesota Transfer, St. Paul, Minn. and Superior, Wis. to Buffalo, N.Y. and Cleveland, Ohio.

(2) BN Tariff 43-B, ICC 181—items 142 and 143-series—unit-train rates on BARLEY, OATS, RYE AND WHEAT from Minneapolis, Minnesota Transfer and St. Paul, Minn. to Buffalo, N.Y.

(3) CNW Tariff 17167-C, ICC 115—item 300-series-unit-train rates on BARLEY, OATS, RYE and WHEAT, from Duluth, Minn. Itasca, Wis. Minneapolis, Minnesota Transfer, St. Paul, Minn, Superior and Superior East End, Wis. to Buffalo, N.Y. and Cleveland, Ohio.

(4) SOO LINE Tariff 543-C, ICC 7872—unit-train rates on WHEAT from Duluth, Minneapolis, Minnesota Transfer, St. Paul, Minn. and Superior Wis. to Martins Creak, Pa. are subject to a maximum increase of 3.5 cents per 100 pounds.

(5) (a) SOO LINE Tariff 547-A, ICC 7873—multiple cars of WHEAT from Duluth, Minneapolis, Minnesota Transfer, St. Paul, Minn. and Superior, Wis. to Clifton, N.J. are subject to a maximum increase of 3.5 cents per 100 pounds.

(b) WTL Tariff 485, ICC A-4786—in item 1005-series, multiple cars of WHEAT from Minneapolis, Minnesota Transfer, St. Paul and Winona, Minn. to Clifton, N.J., are subject to a maximum increase of 3.5 cents per 100 pounds.

(6) SWL Tariff 325-B, ICC 5156—item 1625-series annual volume rates on CEMENT from Portland, Colo to Lake Charles, La.

(7) RI Tariff 37078-A, ICC C-13906—trainload rates on BAUXITE ORE from Little Rock, Ark. to Bauxite, Ark.

(8) SP Tariff 1527-A, ICC 30—unit-train rates on COLD REDUCTION BREAK DOWNS from Kaiser, Calif., to Hennepin, Ill.

(9) SWL Tariff 182-J, ICC 4967—in items 40038 and 40039-series, volume rates on CORN (NOT POP CORN), shelled, dried, in bulk.

(10) ACY Tariff 95-B, ICC 477—rates on CRUSHED STONE, et cetera published under column B, section 1, from Carey, Ohio to Akron, Bakers, Barberton, Boneta, Brittain, Copley, East Akron, Fairlawn, Forest Hill, Huntington, Litchfield, Medina, Mogadore, New London, Sharon Center, Spencer and Thompson, Ohio.

(11) EJE Tariff 40-P, ICC 2411, IL CC 767—in item 425-series, volume rates on CRUSHED STONE from Joliet, Ill. to Roundout, Ill.

(12) ATSF Tariff 15645-B, ICC 15289—unit-train rates and provisions on MOLTEN SULPHUR in tank cars from Rustler Springs, Tex. to Galveston, Tex.

(13) BN Tariff 56, ICC 60—annual volume rates on PETROLEUM COKE.

(14) MILW Tariff 18737-A, ICC B-8356—annual volume rates on PULPWOOD CHIPS.

(15) CNW Tariff 17208, IL CC 36—commoditrain rates on SAND and GRAVEL from South Beloit, Ill. to Cragin, Des Plaines and Elmhurst, Ill.

(16) MILW Tariff 18018-H, ICC B-8302—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. Dak. to Sioux City, Iowa, applicable only in shipper owned or leased open top equipment.

(17 MILW Tariff 187001-B, ICC B-8344—annual volume rates on SCRAP TIN PLATE, ETC., from Chicago, Ill, Beloit and Milwaukee, Wis. to Butte, Mont.

(18) EJE Tariff 20-N, ICC 2416—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.

(19) MILW Tariff 2323-T, ICC B-8288—in items 440 and 1180-series, annual volume rates on STEEL SHEET from Chicago, Ill. to Milwaukee, Wis, in shipper owned or leased cars.

(20) SLSF Tariff 162-U, ICC A-1517, item 178 (series)—annual volume rates on SILICA (White Sand).

(21) SWL Tariff 301-F, ICC 5098, item 7516 (series), the 24 cent rate per 100 pounds on TIN PLATE from Fort Smith, Ark. to Springdale, Ark. via SLSF direct.

(22) SWL Tariff 325-B, I.C.C. 5156, item 1622 (series)—annual volume rates on CEMENT from Portland, Colo. to Baton Rouge and New Orleans, La., via DRGW, Pueblo, Colo. MP.

ITEM 62

Line-haul rates on Limestone published in tariffs indicated are NOT subject to increases provided in this tariff on traffic moving from, to or via stations on:

(a) The Clarendon and Pittsford Railroad Company
(b) Vermont Railway, Inc.

Tariff	I.C.C.	Items
TL-CTR E-2009-I	C-1008	47676 (Series)
TL-CTR 2017	C-920	1006 (Series)
VTR 11	33	724, 725, 730, 804, 805 and 815 (Series)

Item 65

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:

(1) BN Tariff 31-A, ICC 136:

(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.

(2) BN Tariff 111-A, ICC 187—volume rates on IRON ORE.
(3) CNW Tariff 5175-C, ICC 11663, Mich. PSC 1004:

(a) In item 325-series, monthly storage charges applicable on IRON ORE stored at Escanaba, Mich. Only the charge shown under generic heading "GROUND STORAGE CHARGES" to be exempt.
(b) In item 330-series, monthly ground storage charge applicable on IRON ORE stored at Escanaba, Mich.
(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 Humboldt 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, Humboldt Mine and Republic Mine, Mich., to Escanaba, Mich., published under Column B.

(4) DMIR Tariff 2733-E, ICC A-304—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.
(5) DMIR Tariff 2757-B, ICC A-326—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.
(6) MILW Tariff 15353-L, ICC B-8369:

(a) In item 190-series, monthly storage charge applicable on IRON ORE stored at Escanaba, Mich. Only the charge shown under generic heading "GROUND STORED CHARGES" to be exempt.
(b) In item 200-series, monthly ground storage charges 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., published in Column B.

(7) UP Tariff 320-A, ICC 5758—time volume rates on IRON ORE from points in Utah and Wyoming to Geneva, Utah.
(8) UP Tariff 321, ICC 5682—unit-train rates on IRON ORE from Cima, Calif., to Long Beach and Los Angeles Harbor, Calif.

ITEM 70

Line-haul rates and charges on the following are NOT subject to increases provided in this tariff:

TOFC rates in 104 items of PSFB Tariff 295-L, ICC 1919 which in the interest of brevity are omitted here:

(1) In connection with rates or charges between stations on NWP, PSR, SDAE, SP, VE or UP in Arizona, California, Nevada, New Mexico, or Texas and stations on BN, MILW, SP, UP, or WTCO in Idaho, Oregon, or Washington.
(2) In connection with rates or charges between stations on ATSC, SN, TS or WP in Arizona, California, Nevada, New Mexico, or Texas and stations on BN, MILW or UP in Idaho, Oregon, or Washington for items 3545, 3550, 3610, 5210, 5900, 5910, 6100, 6110, 7460-Part 1, 7545, 9420, 9430, 9820, 9830, 10008, 10160, 10170, 10290, 10295, 10700, 10710, 10720-Part 1, 10925, 10930 and 15360.

ITEM 80

Line-haul carload rates published in following tariffs on acids and chemicals, in packages, as described in Items shown below are NOT subject to increases provided in this tariff:

Tariff	ICC	Item
SFTB S-2011-N	SFA, Agent S-1112	2477, 26442
TL-CTR E/X-2008-K	TEA-ER, Agent C-1010	2090, 22400, 22860
WTL I/X-2003-R	WTLC, Agent (1)-1277	3010, 4270
WTL W/S-2001-J	WTLC, Agent A-4727	3710
SWL, SW/S-2007-H	SWFB, Agent 5042	9750

(1)FA Series.

Item	Application of increase in rates and charges	Amount of increase
115-A Cancels 115 (Tariff).	Line-haul rates and line-haul charges on freight in trailer bodies, trailers, semi-trailers, vehicles, or containers, also on empty trailer bodies, trailers, semitrailers, vehicles, or containers when moving on TOFC or COFC rates.	Apply table 7, except points referred to in note 11 and between points in note 24, no increase.

Note 11—Provides for the nonapplication between points in southern territory, on the one hand and points in eastern and western territories, on the other.

Note 24—Provides for nonapplication between points in eastern territory.

No increase is proposed on the following commodities between points in southern territory, and between points in southern territory, on the one hand, and, points in eastern and western territories, on the other:

Green or roasted coffee
Animal fibres
Hides, pelts, or skins
Marine animal skins, untanned
Hides, pelts, or skins, cattle
Furs, dressed or dyed
Latex (liquified rubber) natural or synthetic
Fatty acids
Confectionery or related products
Distilled liquors (1)
Tobacco products
Blankets
Insullating board
Construction paper(2)
Building paper or building *board*
Electrode binder
Potassium hydroxide
Potassium carbonate (pearlash) other than crude
Carbolic acid (phenol)
Aniline (aminobenzene or aniline oil) (phenylamine)
Bis phenol-a (bisphenolisopropylidene) (isopropylidenebisphenol or para, para-isopropylidenebisphenol)
Phthalic anhydride (acid phthalic anhydride)
Dodecyl, pentadecyl and tridecyl benzene
Toluene diisocynate
Trichlorobenzene (trichlorobenzol)
Dye intermediates, nec
Dimethyl terephthalate (DMT)
Methanol, contaminated, value only for refining

(1)Also no increase from or to stations in named provinces in western Canada and named Western States.

(2)Nonapplication applies only on rates subject to minimum weights of 50,000 pounds or greater.

Methyl acetroacetate
Terephthalic acid (benzene-para-discarboxylic or para-phthalic acid or terephthalic anhydride)
Gum or wood chemicals
Insecticides
Tree or weed killing compounds
Chlorinated camphene
Chemicals
Tires or inner tubes
Glass, sheet or plate
Glass, laminated or safety glass

INCREASES ON COMMODITIES SUBJECT TO HOLDDOWNS

Item 120—Line-haul rates and line-haul charges on export and import traffic.

Subject to the same increases (including holddowns) in the master tariff as amended, *except*, as follows:

Rates and charges published in named tariffs of Southern Ports Foreign Freight Committee and Trunk Line—Central Territory Railroad Tariff Bureau are subject to the same increase:

Export—Apply same increases applicable to the port of Baltimore, Md.
Import—Apply same increases applicable to the port of Baltimore, Md.

Since the Chessie System elected not to participate in the X-310 increases to the extent that they would not apply the increases from or to, as the case may be, Baltimore, Md., then increases could not be applied to rates and charges on import/export traffic in the named tariffs of SPFFC and TO-CTR. To this extent the financial impact of the Chessie System flagout insofar as it would effect other carriers' revenues cannot be determined.

OTHER MISCELLANEOUS HOLDDOWNS OR FLAGOUTS

Commodities and territory	*Holddown or flagout*
Zinc concentrates—item 515-A:	
(a) Between points in southern territory. (b) *from* Copperhill, Hodges Jefferson City, Mascot, Morristown, New Market and North Friend, Tenn., and Edwards and Emeryville, N.Y., *to* Josephtown, Pa.	No increase on rates subject to minimum weights of 190,000 or greater.
Foodstuffs—item 518:	
Between stations in western territory; between stations in southern territory, on the one hand, and stations in western and Illinois Rate Committee territories, on the other; and between eastern territory, (o/t IRC) on the one hand, and stations in western territory, on the other.	Maximum 8 cents per 100 pounds.

Raw cane sugar—item 535:	
(a) From Florida points to Port Wentworth and Savannah, Ga.	
(b) From Florida points (other than Seaboard Coast Line stations) to Louisiana destinations.	No increase.
Blackstrap molasses—item 540:	
Annual volume rates from points in Florida (other than SCL points) to Jacksonville, Fla., Port Wentworth and Savannah, Ga.	No increase.
Wine, brandy, or brandy spirits—item 550:	
Except between stations in eastern territory	Maximum 8 cents per 100 pounds.
Textiles—item 560:	
From stations in southern territory to named Western States and provinces in western Canada.	No increase.
Lumber and related products—item 568:	
Mountain Pacific territory	Maximum 8 cents per 100 pounds, depending on the length of car and minimum weights.
Woodpulp and woodpulp screenings—item 570:	
(a) Between points in eastern territory, and between eastern territory, on the one hand, and southern and western territories, on the other.	No increase.
(b) Between points in southern territory	No increase when freight charges are assessed on basis of 150,000 pounds or more.
Fabricated metal products—item 655:	
(a) Between points in southern territory.	No increase on rates subject to minimum weights of 100,000 pounds or greater.
(b) From eastern and western territories, to southern territory.	
Gypsum wallboard—item 660:	
Between points in southern territory	No increase on rates subject to minimum weights of 50,000 pounds or greater.
Primary metal products—item 665 & 670:	
(a) Between points in southern territory.	No increase on rates subject to minimum weights of 100,000 pounds or greater.
(b) From points in eastern and western territories to southern territory.	
(c) Between points in southern territory.	No increase where freight charges are assessed on basis of 100,000 pounds or more.
(d) From points in southern territory to points in eastern and western (o/t MPT).	
(e) From Warrick, Ind., to all destinations.	
Motor vehicles—item 675:	
Between points in southern territory and between points in southern territory, on the one hand, and points in eastern and western territories, on the other.	No increase.

APPENDIX C

Commodity reports

Asphalt building and roofing materials, fiberglass insulating materials, asbestos cement, and plastic pipe.—The proposed increase applies to rates on roofing materials with the exception of dry and saturated roofing felt when moving within SFA territory and to and from SFA territory.

The Asphalt Roofing Manufacturers Association, an organization representing 24 such manufacturers, opposes the increase. The Association argues that it is illogical from a transportation standpoint to differentiate between asphalt shingles and roofing felt. Both are high density materials which are not subject to contamination, sell at a very low delivered price, and are not easily damaged. Saturated felt and shingles are frequently shipped together, particularly since the first stage in applying the shingles is to line the surface with roofing felt. Also, this protestant maintains that it is senseless to apply the higher rate for shingles to a shipment consisting principally of saturated roofing felt, simply because some shingles are included in the car.

The Association points out that roofing materials are one of the most important commodities used by the housing industry. The housing industry has been most hard hit by the current economic recession. Housing starts are at low levels and unemployment in building trades has reached crisis proportions. The Association maintains that it makes no sense to subject commodities having such an important bearing upon the Nation's economy to full increases while at the same time exemping such other commodities as alcohol and tobacco products. This protestant concludes that roofing materials have consistently contributed more than their fair share to rail revenue and that any further increase would serve to further depress the housing industry at a time when the Nation and the economy can ill afford it.

Certain-Teed Products Corporation, one of the Nation's leading manufacturers of a broad range of building materials, complains about the cumulative effects of recent ex parte increases on asphalt building and roofing materials, insulating materials, and asbestos cement and/or plastic pipe. In view of the plunge of housing starts to less than one million units for the first time since 1966, this protestant argues that the industry is not capable of absorbing any further rate increases at this time.

Certain-Teed Products Corporation argues that insulating materials should be given overriding preference because proper insulation practices could benefit the Nation through potential savings of two million barrels of oil equivalent per day. This protestant argues that any energy savings will revert back to the railroads in the form of adequate fuel availability at the best possible prices as a result of the offset in less residential and industrial consumption. This protestant alleges that further division of traffic will result if the increase is granted. According to Certain-Teed, in many instances it is already considerably less expensive to ship by truck because of higher railroad labor and demurrage costs for loading railcars.

In reply, respondents contend that there is no indication that there will be any significant reduction in the volume of protestants' rail traffic as a result of this general increase, and in the event that there are specific situations where rail movement is threatened, the rail carriers involved will review these situations and take whatever action is deemed appropriate to retain or recapture traffic. Respondents go on to argue that compared to the overall economic problems in the housing industry, the current level of rail rates, including the proposed increase, is relatively insignificant.

In view of the extreme depressed conditions of the housing industry, we conclude that the following commodities listed in the table below should be excluded from the general increase:

Excluded commodities	*Standard transportation classification code*
Asphalt building and roofing materials:	
Roofing, composition or prepared	29 521 90
Asphalt shingles	29 523 15
Asphalt siding	29 523 10
Roofing felt, saturated or unsaturated	26 612 10
Fiberglass insulating materials:	
Building insulation	32 961 45
Pipe insulation	32 961 20
Insulated air ducts, rigid	32 299 15
Insulated air ducts, flexible	35 993 11
Pipe and plastic materials:	
Asbestos cement pipe	32 714 80
Plastic pipe	30 712 26

Coal, coke, and iron ore.—Opposed to the general increase on iron ore, bituminous coal, and coke are the Alan Wood Steel Company, Bethlehem Steel Corporation, Jones & Laughlin Steel Corporation, Empire-Detroit Steel Division, Detroit Steel, Great Western Sugar Company, Amax, Inc., and the Property Owners' Committee, a nonprofit association of bituminous coal producers and coal land lessors. Verified statements and protests in opposition to application of the general increase on coal were received from various power companies and public utilities. In addition to alleging that respondents' cost and revenue data fail to justify the proposed increases, it is argued that increases in the rate levels on coal are inflationary. It is also maintained that highly profitable coal traffic should not be excessively burdened with increased rates to subsidize deficit traffic.

Alan Wood Steel Company, a small integrated steel producer, opposes the increase being applied to coal and iron ore. Alan Wood pleads with the Commission not to overlook the basic inequity visited upon "profitable" traffic such as coal, coke, and iron ore as opposed to "deficit" traffics by the application of the same percentage increase to all traffic. If granted, this general increase will increase Alan Wood's rail charges on iron ore and bituminous coal by $587,200 annually. This protestant maintains that any increase pertaining to traffic movements within the eastern district will be an exercise in futility because of the nonparticipation of the Chessie System.

Bethlehem Steel Corporation seeks to deny the increase on metallurgical coal to 30 cents per ton, or in the alternative to limit the increase on bituminous coal to 33 cents per ton. This protestant does not object to application of the increase on other commodities. At present, rates on bituminous coal for metallurgical use are significantly higher than rates on bituminous coal for steam use. Bethlehem alleges that there is insufficient difference in the characteristics of this coal, nor is there competitive justification to support this differential. Bethlehem states that in many cases, coal from the same mines can be used for both steam and metallurgical purposes. Bethlehem advocates that any increase granted be made a flat increase in cents per ton, thus spreading the burden of the additional revenue evenly over the entire traffic and alleviating somewhat the harshness of the repeated application of uniform percentage increases.

Amax, Inc., a natural resources company engaged in the mining, processing, and marketing of minerals and metals, contends that respondents' constructed expenses have been overstated and revenues underestimated. Additionally, this protestant points out that general rate increases have a disproprotionate effect on long-haul, heavy loading commodities. Using representative movements, Amax shows that rates on long-haul heavy loading commodities have increased by greater amounts than costs. Finally, Amax argues that nonparticipation by the Chessie Transportation System undermines implementation of any increase by the destitute eastern railroads.

Jones & Laughlin Steel Corporation contends that a 7-percent increase on iron ore traffic which is highly contributory is grossly discriminatory because a uniform percentage increase reflects the impact of inflation upon the cost of handling average traffic. Moreover, Jones & Laughlin states that a straight percentage increase without holddowns is recognized to be preferential to short-haul receivers, and that even if some increase were found to be warranted, the increase should be less for the greater distances than at the shorter distances.

The Property Owners Committee states that coal traffic is bearing more than its fair share of the freight rate burden. This protestant states its members have suffered drastically from the lack of open top hoppers in sufficient numbers to accommodate their capacity to produce coal, and that the single most important bottleneck in meeting this country's projected increased demands for bituminous coal is the railroad industry's lack of transport capacity.

The Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Electric Generating Company object to application of the full 7-percent increase on unit-train coal movements and bituminous coal in general. At present, these utility companies have a considerable financial investment in highly economical and efficient unit-train service. Large capital investments by the utilities virtually eliminate from the railroads' cost of unit-train service, many of the costs which are applicable to a systemwide rail operation. These protestants argue that failure to distinguish between unit-train service and systemwide service in this proceeding will amount to a refusal by the Commission to recognize capital investments made by the utilities in unit-train service as a factor in ratemaking, and, therefore, will constitute an appropriation by the Commission of such investment capital to railroad use. It is protestants' contention that such appropriation is equivalent to condemnation and the utilities consequently have a legitimate confiscation claim for just compensation. Similar arguments are made by Potomac Electric Power Company.

These protestants join with the steel companies and allege that since coal bears a disproportionate share of the rate burden under the present rate structure, the proposed 7-percent across-the-board increase only increases the disparity between coal and other commodities. The utility companies plead that the Commission not permit the profitable railroads to reap windfall profits from the current economic crisis at the expense of financially pressed shippers.

Niagara Mohawk Power Corporation and Public Service Electric and Gas Co. complain about the decline in railroad service despite the increased rates. Both Niagara Mohawk and Public Service Utility Co. are forced to transport much of their coal by single car movement and by truck. Increased freight rates have been a significant factor in protestants' decision to shift to other fuels which are not transported by railroads. In addition, Niagara Mohawk desires to keep its electricity rates at levels which will retain, as well as attract, industry to its service area. It is alleged that any increase will have an adverse effect on this policy. These protestants

stress the profitable nature of coal traffic and object to discriminatory across-the-board increases on such profitable movements.

Consumers Power Company argues that unit-train and trainload rates on coal should be increased only if the costs actually associated with such services have increased, not because average costs have increased. This protestant maintains that since some unit-train and trainload coal rates are modified or adjusted for preferred shippers and receivers based on individual contracts, it is unreasonable to raise the rates of Consumers Power Company through a general rate adjustment. Consumers Power is critical of the practice of some carriers in the South and West which exempt certain unit-train rates from the general increase. Consumers Power Company argues that it is similarly situated as the preferred customers. Its unit-train and trainload operations have at least the same economies and efficiencies of preferred customers. Thus, Consumers Power argues, it has a right to receive equal treatment from the railroads which are in a position to remove discrimination, citing in support *Fargo Chamber of Commerce* v. *Akron, C. & Y. R. Co.*, 306 I.C.C. 407, 412.

Respondents, through testimony of the Chairman of the Eastern Railroads' Coal, Coke, and Iron Ore Committee, stress their need for additional revenue, emphasizing that coal traffic constituted 24.3 percent of rail-originated tonnage in 1973 and contributed only 9.83 percent of gross revenues. The railroads point out that future production of coal will and must climb by many millions of tons more than has ever been achieved in the past to meet our country's energy needs. Increased coal production can only be accomplished by capital expenditures for the opening of new mines. New mine openings require new track extensions by the carriers. Moreover, increased coal production necessitates acquisition of additional hopper car and locomotive capacity. Respondents contend that just as coal producers must find funds to meet increasing costs of operation and for expansion by increasing the cost of their product, so must the railroads.

Respondents argue that Bethlehem Steel Corp. is not entitled to its requested holddown because Bethlehem's situation is not the same as that of the unit-train shipper, citing as support *Bituminous Coal, Within Eastern District*, 346 I.C.C. 590. Also, respondents state that metallurgical coal is a product with chemical characteristics distinct from coal used for steam purposes, and that the difference in properties results in distinct markets and a wide disparity in price.

Respondents discount entirely the possibility of diversion of coal to other forms of transportation if the proposed increases are put into effect, arguing that it would be self defeating to confine rate increases to those commodities which return less than full costs. The respondents also state that rates in excess of fully allocated costs are not on that account above maximum reasonable levels citing as support Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, and *National Gypsum Company* v. *United States*, 353 F. Supp. 941.

Oil and gas fuel competition is viewed by respondent as nonexistent. The current energy crisis leads to increased coal production which necessitates acquisition of additional hopper cars and locomotive capacity, and rail carriers will be expected to provide sufficient equipment and service to handle increased tonnage. Therefore, they urge that coal rates bear the proposed increase along with other traffic.

Respondents further maintain that the proposed increase must be fully applied to iron ore to meet the railroads' revenue needs and assure adequate service. They refer to the already favorable iron ore rates. In the eastern district, during 1973, iron ore represented 9.6 percent of total tonnage yet only produced 3.44 percent of the freight revenues. Respondents argue that the general rate increase should apply to unit-train movements and those movements where the shippers furnish their own cars because

the carriers share the savings resulting from such innovative services and movements by publishing very low rates for these services and movements. Even where the shippers provide their own cars, it is often necessary for the railroads to furnish additional equipment at a relatively low charge.

In view of the respondents' demonstrated need for additional revenue, we conclude that coal, coke, and iron ore should not be excluded from the authorized general increase.

Fertilizer.—The Fertilizer Institute, a national trade association whose members produce approximately 90 percent of the fertilizer in the United States, and the Canadian Fertilizer Institute, a nonprofit trade association representing 72 companies accounting for much of Canada's fertilizer production, oppose the proposal. They request that rates be uniform throughout all territories in order to preserve port, commodity, and territorial relationships.

The Canadian Fertilizer Institute contends that the proposed general increase violates section 3(1) of the act. It alleges that due to the nonparticipation of the Chessie System, those fertilizer mixers not located on the Chessie System, and who are geographically situated where present routes are not applicable to their destinations via the Chessie System, will become subject to the proposed general increase. Such mixers will have competitors located a few miles away who may be either on points served by the Chessie System or at a destination where present routes apply via the Chessie System, and thus not subject to the proposed increase. Thus, it claims that violations of section 3(1) will occur at destinations not located on the Chessie System, or at destinations where routes via the Chessie System do not apply. However, since this protestant's evidence fails to show that respondents are in a position to control the rates along the Chessie System's routes and destinations, a finding of undue preference and prejudice is unwarranted. See *Fresh Meats, Ill., Ind., Ky., Ohio & Mo. to Points in Fla.*, 318 I.C.C 5, 11.

The Fertilizer Institute submits that the cost evidence submitted by respondents does not justify the increase. It complains that railroad earnings are at record levels and almost certainly will continue to improve. The Institute advocates that the Commission depart from the traditional practice of granting across-the-board increases on the basis of the national average net return of all railroads. It is maintained that approval of such requests has not produced sufficient income to materially assist the financially weak carriers, but has merely produced windfall earnings for financially strong carriers. This protestant suggests that the Commission mandate a more favorable division for insolvent carriers or institute some form of pooling arrangement which will permit selective allocation of the general increase proceeds to those carriers truly in need of additional revenues. In this regard, CF Industries, Inc., an International Farmer-owned cooperative, organized for the manufacturing, procurement, and distribution of basic chemical fertilizer materials, contends that across-the-board increases do not help the bankrupt railroads. This protestant advocates a reevaluation of divisions between eastern, western, and southern railroads to help promote a more viable transportation system.

Respondents reply that the small increase in rates here sought will have only minor impact in view of the fertilizer industry's expanded profit outlook and continued growth in 1975. The respondents state that the heaviest movement of fertilizers occurs before the spring planting of crops. Most of the tonnage will have moved before any increase goes into effect; consequently, the increase will produce little additional revenue for the carriers this year.

We conclude that fertilizer should bear its share of authorized freight rate increases.

Grain, grain products, and related commodities.—The general increase is proposed on grain, grain products, and related commodities traffic. Verified statements and protests in opposition to the proposed increases on grain were received from various State and local government agencies, boards of trade, grain exchanges and shippers and manufacturers of grain products. These protestants complain of the respondents' failure to justify the proposed increase, stating that present grain rates are already highly compensatory. Some protestants argue that the increased volume of grain moving by rail provides the carriers with sufficient additional revenue to offset any increased costs incurred in connection with grain movements. A number of protestants contend that the proposed increases on grain will have an inflationary impact on the economy and should be denied for that reason alone. Several protestants complain that a rate increase will result in disruption of competitive market positions and port relationships because of the absence of the Chessie System. Diversion of traffic to less fuel efficient motor carriers is cited by other protestants as a reason for denying the increase.

The Producers Grain Corporation, a regional grain marketing association representing western grain producers, takes the position that it is highly discriminatory for rate increases to be applied to grain traffic which has recently brought respondents hugh increases in volume and led to increased railroad profits. The Corporation requests that, in the event an increase is granted, such increase be subject to a 1/2 cent graduation table on bulk grains. In reply, respondents point out that 1/2 cent graduation tables on grain and grain products appear in table 7-G of tariff X-310. The corporation maintains that the 4-percent refund provision is unjust and unreasonable in view of current market interest rates. The Montana Department of Agriculture, et al. also attacks the refund rule as being self-serving and untenable. Respondents reply that protests concerning the refund rule should be dismissed as being irrelevant to the necessity for granting the rate increases requested.

Archer Daniels Midland Company, a Denver, Colo., based agri-business, complains that the real purpose of the proposal is to increase the profits of the carriers and not to cover costs as alleged. This protestant also requests that the Commission order an increase in mileage allowances and include the proposed allowance increase in this investigation. We find that a general rate increase proceeding is not the proper forum for determination of this issue.

The Missouri Farmers Association, Inc., a farmer cooperative representing the interests of over 150,000 farmer members, takes the position that the proposed increase is highly inflationary and unwarranted in view of record railroad earnings.

The New England Grain and Feed Council, a regional, nonprofit, trade association of livestock feed manufacturers and grain and ingredient suppliers, alleges that across-the-board increases, on grain rates, already 70 percent higher on a per-mile basis than comparable rates in the South, are prejudicial. The Council states that competitive position of New England poultry and livestock producers will be worsened as a result of application of any rail increase. Respondents reply that the Commission disposed of this argument in Ex Parte No. 262, *Increased Freight Rates, 1969*, 337 I.C.C. 436, by failing to find a relationship on the rates on grain and grain products within the East, on the one hand, and, from central territory to the South and within the South, on the other hand. In Ex Parte 262, *supra*, at 443, the Commission noted that rate structures within the East are controlled by the eastern carriers, and rate structures within the South by the southern carriers.

The Sioux City Grain Exchange complains of the erosion of rail traffic on the Sioux City market due to poor rail service, lack of rail equipment, and increased costs of doing business with the railroads. This protestant warns of further diversion of traffic if the increase is approved. In reply, respondents state that the increase in fuel costs has a greater impact on motor carriers than on the railroads, and that any diversion of traffic to another mode, or cessation of movement due to disruption of market relationships, will be met with a downward adjustment, if the ciccumstances and revenues justify the reduction. Regarding insufficiency of equipment to handle grain tonnage tendered, respondents state that this trend will continue unless the carriers are able to generate funds to provide additional equipment.

The Missouri Department of Agriculture complains that export grain is already bearing its share of transportation costs and should not bear the brunt of a further rate increase. Domestic grain production estimates are the lowest they have been in a decade. The Department attests that any rate increase on grain will place a further burden on Missouri farmers. In the event that the Commission deems it advisable to increase grain rates, the Department requests that any such increase be limited to 3 percent on domestic grain and fertilizer, with no increase on export grain. The Department recommends that the Commission apply any increase in excess of 3 percent to financially weak railroads. Respondents reply that limiting the proposed increase to 3 percent on domestic shipments would be unjust; also, that the carriers have previously justified the temporary export grain increase awarded in Ex Parte No. 302, and that to withhold the proposed increase in this proceeding based solely on the temporary increase granted in Ex Parte No. 302 would be unreasonable. Respondents further maintain that U.S.D.A. official estimates of crop conditions and production confirm that substantial railroad movement will continue, thus discounting protestants allegations of traffic diversion.

The National Association of Wheat Growers, a commodity organization representing Great Plains and Pacific Northwest commercial wheat producers, objects to the disruption of market and port relationships that occurs when a general rate increase is put into effect. The Association claims that its members are already contributing more than their fair share to meeting the railroads' increased costs. The Association requests that if an increase is granted, the rates on wheat in the western district be made subject to a holddown. In answer to the Association claims, respondents maintain that it has failed to describe the market and port relationship in issue, or in any manner establish the existence of such relationship. Moreover, respondents say that any such relationships which do exist would not be affected by the proposed increases or the exceptions thereto.

The North Dakota State Wheat Commission, the North Dakota Public Service Commission, and the Upper Great Plains Transportation Institute complain that wheat already bears more than its fair share of the railroad revenue burden. The Institute alleges that the added annual transportation cost burden of the proposed rate increase is estimated to be $9.8 million. The increase for the average farm in North Dakota will be in the neighborhood of $235 to $245. The Commission maintains that although there has been a technological revolution in the transportation of grain in recent years, the benefits have been realized by the railroads exclusively.

In reply, respondents state that virtually all wheat in this territory moves under limited service rates which were published at a 25-percent reduction effective December 11, 1971. To illustrate their contention that transportation charges are not a major factor, respondents show the percent increase or decrease of the proposed

rates over rates in effect April 12, 1971, within North Dakota. This data indicates these rates will have risen on average less than 8 percent. See the grain rate comparison below:

North Dakota grain rates

Crop reporting district	Station	(1) Rates in effect on April 12, 1971	Wheat rates at proposed X-310 level	Percent increase or (decrease) over rates in effect April 12, 1971
		(¢/100 lbs.)	*(¢/100 lbs.)*	*Percent*
1	Stanley	70 1/2	72	2.13
2	Rugby	61 1/2	57	(2.68)
3	Adams	45	49	8.89
4	Golden Valley	60 1/2	70 1/2	16.53
5	Carrington	46	52	13.04
6	Page	40	41 1/2	3.75
7	Mott	61 1/2	70 1/2	14.63
8	Flasher	57 1/2	63	10.96
9	LaMoure	40	44 1/2	11.13
State		53.61	57.78	7.77

(1) Ex Parte No. X-267-B Level.

We conclude that the proposed increase is modest when compared to protestants' own production costs, and that the carriers serving North Dakota, through the publication of limited service rates, have contributed to countering the forces of inflation.

The Board of Trade of Kansas City, Mo., Inc., a business which provides facilities and services for the buying, selling, and trading of grain and grain products, alleges that the exemptions of item 50 through 80 of the Ex Parte No. 310 tariff which provide that the proposed increase shall not apply to certain unit-train tariffs, trainload tariffs, and traffic subject to an annual volume are contrary to the provisions of section 3(1) of the act in that this traffic would be preferred and that such preference would unduly prejudice other traffic in that it would be unduly burdened. In view of this protestant's failure to present evidence of undue preference and prejudice, we find these contentions to be without merit.

Anheuser Busch, Inc., alleges that present rates on barley are unreasonably high and, therefore, discriminatory when compared to the level accorded other grains. Respondents reply that barley is one of the grain commodities which generally utilize the full span of rail services and cite in support of the lawfulness of such rates, *Public Serv. Comm. of N. Dak.* v. *Great Northern Ry. Co.*, 340 I.C.C. 739.

Neither the contentions of 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 on grain and grain products. We are not convinced that a nationwide increase will result in significant diversion, and it appears that such an increase is necessary for the carriers to meet rising costs.

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We conclude that no good reason has been shown for exempting grain from the same increase authorized on commodities generally. Respondents are to observe a 1/2 cent progression in publishing increases on these commodities.

Motor vehicles, motor vehicle equipment, and motor vehicle parts.—The general increase is proposed on motor vehicles, motor vehicle equipment, and motor vehicle parts. Protests to the proposal were filed by the Motor Vehicle Manufacturers Association of the United States, Inc., Ford Motor Company, General Motors Corporation, and Volkswagen of America, Inc.

The protests are directed to the alleged inequities of general rate increases, the cumulative effect of recent increases, the depressed conditions facing the automobile industry, and the inflationary impact of the rate increase on the automobile industry. The proposed rates are alleged to be unjust and unreasonable in violation of section 1 of the act. Specifically, it is contended that rates currently paid for rail transportation for motor vehicle parts and motor vehicles are fully compensatory, and any further increase would render them unjust and unreasonable.

Protestants maintain that diversion of traffic is likely in the event of a rate increase. General Motors Corporation points out that automotive traffic traditionally has borne higher freight rates, and bears a greater burden than other carload traffic, citing Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 290, 349. The continued overburdening of profitable traffic distorts the Nation's rail structure, and if continued, may lead to diversion of this traffic to other modes of transportation. Ford Motor Company contends that the railroads' share of the transportation market has been steadily declining since 1943, falling to a low of 38.6 percent in 1973.

Protestants allege that the rate action proposed by respondents will increase upward pressure on the prices of motor vehicles and automotive products, further contributing to the economic downturn which is being felt by the motor vehicle industry, in which auto production is down and many thousands of auto workers are on indefinite layoff. In the fourth quarter of 1974, retail sales were down 29 percent from 1973 levels. Motor vehicles and allied industries account for one-sixth of the Nation's gross national product. If the motor vehicle manufacturers are forced to bear this significant cost increase during a period of business downturn, the impact would be a serious one. The automotive industry can ill afford further rate increases at this time.

In reply, respondents highlight the investment risk involved, and the higher investment required to transport automobiles. During the current economic slump, large numbers of these specialized cars are in storage. The railroads allege that much of the carrier equipment furnished for handling automotive products is designed and acquired for that specific service and cannot be used by other industries. Respondents argue that the average rate increase per vehicle is miniscule when compared to the total value of the finished automotive product. However, based on the evidence of record, we conclude that any rate increase on motor vehicles, motor vehicle equipment, and motor vehicle parts would be unjust and unreasonable and ultimately cause diversion of this traffic.

Respondents have failed to prove the proposed increase just and reasonable. Also, considering the depressed condition of the automotive industry today, we conclude that any rate increase on motor vehicles, motor vehicle equipment, and motor vehicle parts is unjustified at this time.

Vegetable oils and related products.—Opposing the increase on these commodities are Anderson, Clayton & Co., the Institute of Shortening & Edible Oils, Inc., and Swift Edible Oil Company, a division of Swift & Company. Verified statements were submitted by the Institute and Swift.

The Institute, whose 15 members supply some 85 percent of all edible fats and oils used in the United States, states that its members must provide tank cars to transport fats and oils because the carriers have traditionally refused to do so. Its members supply the tank cars, and the railroads pay an allowance for use of the cars. It is alleged that the mileage allowance paid by the railroads is substantially less than the cost of either owning or renting the cars. The Institute claims that it is wholly unfair and unjust to apply another general rate increase predicated upon increased costs when one of the major railroad costs, the cost of cars, has not increased above a 1964 level when moving edible fats and oils. The Institute complains that allowances paid to its members by the railroads for use of privately owned tank cars have not increased; thus it is urged that fats and oils bear a greatly disproportionate burden of the general rate increase. This protestant also suggests that use of motor carrier service is increasing and will continue if the rate increase is granted. The Institute alleges that the earnings of the railroads are extremely high and that inadequate rate of return is not an industry problem, but rather is the problem of a few carriers most of whom are bankrupt. The Institute states that domestic producers of edible vegetable oils and animal fats are faced with competition from imported oils, specifically palm oil, moving into western ports and that the net effect of the proposed increase will be to further curtail transcontinental oil movements. This protestant concludes that a general rate increase will unjustly enrich the already prosperous railroads without solving the numerous problems of the bankrupt carriers.

Protestant Swift argues: (1) that the proposed increase will further the inflationary spiral; (2) that the carriers should increase the compensation paid for use of privately owned or leased equipment which is used to transport edible fats and oils; (3) that the increase proposed will probably not result in any significant diversion of traffic because it has already diverted all possible tonnage to other modes; and (4) that the continued application of flat percentage amounts in a general increase proceeding adversely affects historic marketing relationships.

In reply, respondents correctly point out that mileage allowances on privately owned tank cars are not properly before the Commission in this proceeding and protestants' comments regarding this subject must be disregarded. With respect to the possibility of diversion of traffic to other modes of transportation, the railroads state that every effort will be made to prevent such loss of traffic, where economically advisable, if the alleged diversion becomes a reality. Regarding foreign palm oil competition, respondents argue that other economic factors, such as cost of production, commodity pricing, and the use of the finished product have a direct bearing on the sale of imported versus domestic products. It is suggested that rail transportation costs, though important, are not controlling as to whether an industry pursues a marketing program in any given geographic location.

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

Beet and cane sugar.—The full 7-percent increase is proposed on all beet and cane sugar. Western producers and shippers of sugar oppose any increase on the grounds that the sugar industry could not bear it. They also seek a holddown which will limit any increase on their traffic to the amount of the increase on the New Orleans-Chicago rate. They maintain that a horizontal rate increase without any such holddown would widen the rate spread between western and gulf sugar refineries and disrupt the rail freight rate structure that has provided the basis for marketing western sugar in the Midwest, the Nation's largest sugar market.

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 priced out of the midwestern markets if their freight costs increase disproportionately. Rates from California have traditionally been 30 cents per hundredweight higher than the key rate from New Orleans-to-Chicago and the protestants oppose any rate proposal which would increase that spread. It is maintained that a 7-percent rate increase would widen this rate spread by an additional 3 cents per hundredweight, which in combination with other recent general rate increases, would result in a 40 cents per hundredweight 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 oppose any holddown on western sugar shipments. They state that in the past they have without reason surrendered revenues in order to maintain the traditional relationship between western and gulf rates stated above. As a result of the declining value of the dollar, stated to be 39.8 percent between 1968 and 1974, the respondents argue that this differential is too low. They further note that at the time this differential was put in effect (1946), the California-to-Chicago rate on packaged sugar was 75-percent higher than the New Orleans-to-Chicago rate; but under the proposal, it would be only 33-percent higher. On bulk sugar, this reduction would be from 57 percent in 1946 to 41 percent under the proposed tariff. In both instances, they argue that the western sugar shippers would be in a better competitive position after the 7-percent increase than they were in 1946. When it is also considered that the per ton-mile earnings of the California-to-Chicago sugar traffic is about half that of the New Orleans-to-Chicago movements, it is contended, the proposed increase is not discriminatory. Furthermore, a proposed reduction in these rates is now being considered by the carriers.

The respondents argue that the sugar industry can bear the increase since its latest rate of return on net worth is 10.3 percent, compared to 3.5 percent for railroads, and since sugar prices have recently risen by great amounts without any reasonable expectation of declining significantly in the future.

We are satisfied that a nationwide increase of 7 percent may justly and reasonably be applied on beet and cane sugar. It does not appear that such an increase would result in diversion, and we conclude that no holddown on shipments from the West is justified.

Sugar beets.—The proposed general increase is opposed by western producers of sugar beets and by sugar manufacturers utilizing sugar beets. They contend that this increase is unjustified, unreasonable, and unduly prejudicial to this traffic.

The protestants argue that to apply the full 7-percent increase would be excessive on the grounds that sugar beet traffic is efficient and inexpensive for the respondents. As favorable transportation characteristics, the protestants state that sugar beets are of no intrinsic value (except for feeding) until refined, move in a heavy annual volume, are heavy loading, can be handled in multiple-carlots ranging from 15 to 40 or more cars per shipments, and move in train service ranging from 50 to 130 cars with substantially no intermediate service. Other favorable characteristics are: virtually no loss and damage claims, multiple-car billing, materially reduced switching costs, and no special equipment or protective service required. On the basis of the above, it is argued that a lower percentage increase or a holddown should be granted on sugar

beets. The protestants also cite the Commission's action in previous general increase proceedings as support that only a low-percentage increase, if any, can be justified on sugar beets.

The protestants contend that present sugar beet rates are compensatory. In support, they cite a 1970-71 cost study which showed that sugar beet traffic produced an average revenue-variable cost ratio of 179 percent. Since rail rates on sugar beets have increased 23 percent since 1972 while their transportation characteristics have remained favorable, the protestants argue that this figure is probably still accurate. They maintain that this ratio for sugar beets compares favorably with the 1966 and 1969 nationwide average ratios of 131 percent and 123 percent, respectively, on all carload traffic, indicating that present rates on sugar beets are not depressed. The respondents' comparison of these rates with first-class rates is said to be inapplicable and misleading.

The protestants further maintain that the proposed increase will result in a diversion of sugar beet traffic to motor carriage. They note conclusions reached by the Commission in previous proceedings that such diversion has resulted after other general rail rate increases.

The proposal is unduly prejudicial to producers of sugar beets, the protestants state, since no increase is provided on rates for raw cane sugar from Florida shipping points to certain Louisiana and Georgia destinations, thus exempting nearly all interstate movements of raw cane sugar. When it is harvested, sugar cane is transported to facilities in Florida where it is processed into raw cane sugar. Raw cane sugar is then sent to refineries in Louisiana or Georgia where further processing produces refined cane sugar. The protestants maintain that since sugar beets and raw cane sugar have similar transportation characteristics, and since their refined products compete in the Chicago market, they should be treated equally, and they urge that there be no increase on sugar beets since raw cane sugar is excepted.

The respondents maintain that the favorable transportation characteristics of sugar beets have been considered in establishing their commodity rates. Under the proposed tariff, it is argued, these commodity rates would remain very low, amounting to only a small percentage of first-class rates. Present rates are said to be noncompensatory.

As to traffic diversion, the respondents note that motor carriers can provide more flexible, low cost service for short-haul movements and that it is difficult for rail service to be competitive since rail rates must be compensatory.

The respondents deny that the exception for shipments of raw cane sugar is unduly preferential and prejudicial. Sugar cane, not raw sugar, it is asserted, is the product comparable to sugar beets. The movement of raw cane sugar from Florida, they argue, constitutes no more than an intermediate movement from one processing facility to a refinery for further processing into refined sugar and result in extra transportation costs that beet processors do not experience. The respondents contend that the exemption on these raw cane sugar movements is merely an attempt to equalize the transportation burden on cane sugar and does not necessitate a similar exception on sugar beets.

We are persuaded that raw cane sugar and sugar beets are competitive commodities and that they should receive equal treatment under the proposed tariff. Accordingly, we conclude that there should be no increase on sugar beets since raw cane sugar movements are excepted.

Woodpulp, paper, and allied products.—The full increase is proposed on woodpulp, paper, and allied products, except that there would be no increase on woodpulp and woodpulp screenings between points in eastern territory, and between eastern terri-

tory, on the one hand, and southern and western territories, on the other, and that there would be no increase between points in southern territory when freight charges are assessed on the basis of 150,000 pounds or more. The increase is opposed by several primarily western protestants as unjustified and burdensome on their products and as unduly preferential to eastern and southern producers and unduly prejudicial to other producers.

The Wisconsin Paper and Pulp Manufacturers Traffic Association, a nonprofit organization of 11 paper and pulp manufacturers claims that item 570 of the X-310 tariff disrupts the competitive balance in the transportation of woodpulp by excepting from the proposed increase the freight rates applicable within the eastern territory and those between the eastern territory on the one hand, and, the southern and western territories on the other. This protestant claims that it is essential to Wisconsin mills that no greater increase be applied on woodpulp rates from producing points in southern and western territories to Wisconsin than is applied on this traffic from the same producing areas to points in eastern territory. The Association asks that all rates on paper and paper products be accorded equal treatment in this proceeding.

The Kimberly-Clark Corporation complains that the railroad respondents have failed to cost-justify their request for a rate increase on woodpulp rates of the Canadian-Western United States railroads where no increase is being proposed on the rates of the Canadian-Eastern United States railroads. This protestant goes on to claim that taking an established rate territory and breaking out a portion of it for special increase treatment is unwarranted and discriminatory on its face.

The Eastern-Canadian Newsprint Producers object to respondents' failure to cost-justify the proposed increase on newsprint, and allege that newsprint already contributes more than its fair share to carriers' revenues and that any further increase is unjust and unreasonable. The producers maintain that newsprint is a commodity marketed under intense competition. It is advanced that Canadian newsprint directly competes with newsprint produced within the United States, including newsprint produced within the South. Thus, it is alleged that the proposed increase on newsprint is prejudicial to Canadian producers.

The Western Paper Traffic Conference, representing Western paper manufacturers, contends that the requested increase is excessive and that the increase on woodpulp is unduly prejudicial to its members. Woodpulp is stated to be one of the most profitable commodities. They present the following statistics from the Department of Transportation:

	Territory	Ratio rev var costs	Avg haul ton (miles)
All commodities	U.S. to U.S.	127.6	417.6
	WES to SOU	147.4	1,302.6
	WES to WES	130.7	407.3
Paper, except building STCC 262	U.S. to U.S.	138.3	778.0
	WES to SOU	153.1	883.2
	WES to WES	152.0	799.7
Pulp & pulp mill prods STCC 261	U.S. to U.S.	150.0	901.8
	WES to SOU	126.8	1,920.0
	WES to WES	144.2	870.7

Source: *An Estimation of the Distribution of the Rail Revenue Contribution by Commodity Groups and Type of Rail Car, 1969.*

It is argued that western woodpulp producers now suffer competitive disadvantage in marketing of woodpulp since their traffic is long haul and that the proposed increase will have its greatest impact on woodpulp shipped from and to Mountain Pacific (MTP), Southwestern (SW), and Western Trunk Line (WTL) territories. To deny this increase, it is argued, would contribute to restoring competitive relationships allegedly recognized in Ex Parte No. 281, *Increased Freight Rates and Charges, 1972, supra.* The protestant further contends that the proposed limited southern exception would also tend to disrupt these competitive relationships.

The respondents maintain that the proposed increase will not have a significant effect on woodpulp. Almost 90 percent of all woodpulp consumed in 1968 and 1973, it is shown, was either consumed at the millsites or moved between integrated or affiliated companies of the same company. The respondents argue that in the former case, there would be no effect from the changed rates and in the latter case any increased rate becomes an operating cost of producing and obtaining the woodpulp. As for the remaining 10 percent of woodpulp, called market woodpulp, the respondents contend that the woodpulp prices have risen so drastically (27.7 percent in the last half of 1974) that the increased freight rate would be insignificant. The respondents show that the proposed tariff would increase the percent average freight revenue per ton of selling price by only 0.52 percent.

The respondents contend that the protestants have not shown any significant impact of the inbound woodpulp raw material increase on the marketing of the outbound finished product papers in the East or any other area. It is shown, in fact, that the primary market for SWL and WTL paper producers is within the west, not in official or SFA territories. Moreover, several of the protestants have plants in eastern and SFA territories and could not possibly suffer any competitive disadvantage.

The respondents dispute the contention that present rate levels on woodpulp are very profitable, indicating that the study used by protestant Western Paper Traffic Conference may not have an accurate data base and that woodpulp is shown to exceed fully allocated cost by a lesser amount that protestant alleged, viz:

Pulp and Pulpmill products STCC 261

Territory	Ratio revenue to fully allocated costs	Avg. haul per ton miles
U.S. to U.S.	114.9	877
WST to SOU	98.0	1,902
WST to WST	108.7	867
OFF to SOU	112.3	872

Source: Ex Parte No. 270, 345 I.C.C. 1, 41.

The respondents emphasize that these are 1969 figures which do not reflect 5 years of inflation. Furthermore, the respondents state that on a mileage basis, this protestant's freight costs are lower than those for shippers in other territories.

The respondents contend that western producers will not be discriminated against since practically no woodpulp moves from official territory to any other territory. In support, they present the following:

Woodpulp STCC No. 26 111

NUMBER OF CARS IN HUNDREDS

From \ To	OFF	SOU	WTL	SW	MTP
OFF	169	----------	----------	----------	----------
SOU	159	166	17	----------	4
WTL	8	----------	46	----------	10
SW	40	----------	14	25	----------
MTP	54	6	30	4	30

Source: I.C.C. Statement TD-1, Year 1972.

As to the holddown on Southern shipments, the protestant's evidence shows the average weight of a shipment to be only 118,000 pounds per car. Furthermore, it is noted that only 4.5 percent of MTP woodpulp shipments moved to SFA destinations in 1972, with no such movements from the southwest to southern territory in that year.

We conclude that the application of the full general rate increase on woodpulp, paper, and allied products, as proposed by the respondents, is just, reasonable, and otherwise lawful. We also conclude that the exceptions granted to shipments of woodpulp and woodpulp screenings as proposed by the respondents would not be unduly prejudicial to Western shippers of these commodities or otherwise unlawful.

Mechanical protective service.—The full 7-percent increase is proposed on mechanical protective services. Producers and shippers of frozen and fresh foodstuffs, including meat, oppose this increase primarily on the grounds that any increase on such charges should await the completion of the comprehensive investigation by the Commission in Ex Parte No. 300, *Increase in Charges for Mechanical Protective Service, 1973.* It is also noted that an interim increase has already been granted in that proceeding.

The respondents maintain that the full 7-percent increase should be granted on mechanical protective services on the grounds that the costs for such services have escalated as have other operational costs and that the refund provision contained in the proposed tariff is an adequate remedy in the event the charges for such services are later found to be excessive.

A final report in Ex Parte No. 300 was served March 12, 1975, wherein certain permanent increases in charges for mechanical protective services are authorized. In the instant matter, no basis is shown for even greater increases in the charges for such services and we conclude no increase should be taken thereon.

Meat and packinghouse products.—The proposed increase would apply on all meat and packinghouse products and is opposed by several protestants. It is stated by some that past rate increases have resulted in a substantial diversion of this traffic to motor carriers so that most of it moves by truck. One protestant indicated that over 90 percent of its shipments now move by truck.

Protestant Clougherty Packing Company alleges that the proposal is unduly preferential and prejudicial in that it grants a holddown on canned meat of 8 cents per hundredweight but allows the full increase on fresh meat. It also argues that a rate increase would aggravate existing discrimination in the rate relationship between live-

stock and the products of its slaughter. However, protestant admits that this latter question should be handled in a separate proceeding, and thus will not be considered here.

Swift Fresh Meats argues that animal byproducts which are primarily processed into inedible tallow and grease, are recyclable commodities that are important to our environment and help to prevent depletion of our natural resources. It is argued that these byproducts are low margin items subject to severe price fluctuations, whose markets are shrinking as a result of continual freight rate increases and should be excepted from any increase. It further maintains that these animal byproducts move in either shipper-owned or leased equipment, or else poor quality cars, and thus only a minimal investment is needed by the respondents for providing service. This protestant further states that fresh meat and animal byproducts produce more revenue per ton-mile (2.6 cents and 2.3 cents, respectively, per ton-mile) than the national carload average.

The protestant Department of Agriculture contends that a rate increase on these commodities is not justified in that the present rates are compensatory and may even exceed fully allocated costs.

Three protestants also object to the proposal in that it would increase TOFC rates on meat shipments. However, since we are not approving any increase on TOFC shipments, there is no need to consider this matter again.

The respondents contend that overall changes in marketing these products are the causes of any diversion to motor carriers which has occurred, and that the most drastic change has occurred already. They further argue that these shippers find motor carriage more advantageous than rail service so that rail transportation of meat is merely a standby service and standby shippers should bear the burden of the railroads' revenue needs.

As to animal byproducts, the respondents argue that these commodities should bear their share of the railroads' revenue need, particularly since cars used to transport such products have a very high empty return ratio because of contamination and that new cars must be purchased to replace these byproducts cars.

The respondents also deny that the present rates on these products are too high, indicating that the protestant Department of Agriculture's cost study has not been accepted by the Commission and citing an unreported Commission proceeding, I. and S. Docket No. 8536 (Sub-No. 1), *Meat and PMP, TOFC, SWL, WTL, Official Territories* (not printed), decided February 9, 1973, in which the present rates were approved.

On the basis of this record, we do not believe that a 7-percent rate increase will result in any substantial diversion of traffic to motor carriage nor that it would be unjust and unreasonable or unduly preferential or prejudicial. Furthermore, we do not believe that animal products should be excepted as recyclables, especially in light of the service burden which such commodities create for the respondents.

Canned and frozen foodstuffs.—The full increase is proposed on canned or preserved foodstuffs, subject to a maximum increase of 8 cents per hundredweight on carload shipments of various commodities, generally canned goods, when moving (1) between western stations, (2) between southern stations, on the one hand, and, stations in western and Illinois Rate Committee territories, on the other, and (3) between eastern stations, on the one hand, and western stations, on the other. In general, this increase is opposed by frozen foods producers as unjustified and as unduly preferential and prejudicial. One association of canned goods shippers supports the proposal but other such shippers protest that more canned goods should benefit from the holddown or that it should be applied to all territories.

Frozen food producers contend that their commodities are unduly prejudiced in that competing canned goods benefit from the proposed holddown but frozen foods receive the full increase. These protestants ask that the same holddown apply to frozen foods. The American Frozen Food Institute cities previous general increase proceedings, and maintains that historically the Commission has recognized that canned and frozen foodstuffs are competing commodities and should receive the same rate increase so that commodity and market relationships are not disrupted. General Foods Corporation's evidence shows that the proposed tariff would increase the difference between transcontinental rates on frozen goods and canned goods by amounts ranging from 12 cents per hundredweight to 15 cents per hundredweight. This protestant further notes that these frozen foodstuff rates would range from 2.9 percent to 18.3 percent higher than the corresponding canned goods rate, a substantial increase from the range of minus 2 percent to 9.4 percent that existed in 1960.

The protestant Green Giant Company shows the effect of the proposed increase and holddown on its movements of frozen and canned goods from its plant at Waitsburg, Wash., to its distribution centers for eastern markets. From Waitsburg to Vineland, N.J., the rates for a 100,000-pound minimum shipment of frozen foodstuffs would be increased from 284 cents per hundredweight to 304 cents per hundredweight an increase of 20 cents. However, the rates from Waitsburg to Parkesburg, Pa., for a 100,000-pound minimum shipment of canned foodstuffs would increase from 249 cents per hundredweight to 257 cents per hundredweight, an increase of only 8 cents.

Several shippers of frozen foodstuffs also declare that the proposed increase would result in diversion of traffic to motor carriage or perhaps the relocation of plants closer to markets.

The respondents defend the differing treatment accorded canned foodstuffs and frozen foods, including frozen potatioes and fried or dehydrated potatoes. They contend that protestants have not shown that canned foodstuffs and these other commodities have the same level of rates and that there are substantial differences in the type of protective service required, loading characteristics, rate levels, and other characteristics. The one specific difference that respondents raise is that canned foodstuffs can move in standard boxcars, whereas, these other commodities require protection against heat. The respondents conclude that a study of the rate levels of these commodities should be handled under section 5(a) procedures and not within a general increase proceeding.

The Canned Good Shippers Conference contends that the territorial limitations on the holddown on canned goods are discriminatory and unduly preferential and should have uniform nationwide application. It is noted that the proposed holddown would not apply on shipments between stations in eastern territory, between stations in southern territory, or between stations in eastern territory, on the one hand, and stations in southern territory, on the other. Southern and eastern canned goods shippers, it is argued, will suffer irrevocable losses in sales, since they will be unable to compete in eastern and southern markets.

Southern respondents maintain that the proposed holddown is not unduly prejudicial and is justified as a means to assist long-haul shippers to compete in distant markets with competing producers located closer to such markets. Producers in eastern and southern territories enjoy lower rates than do western shippers, it is argued, because of their geographical proximity to eastern and southern markets. For example, one respondent shows that protestant's eastern members would benefit little from the proposed holddown since for the vast majority of their canned goods shipments, a 7-percent increase would produce an increase of only 8 cents per hundredweight or less on average shipments.

Protestant Heinz U.S.A.—Division of H. J. Heinz Company maintains that the proposed holddown should be applied to five specific kinds of bulk food ingredients moving in tank cars. The respondents contend that these five commodities do not enjoy the same level of rates as applicable on canned or preserved foodstuffs in packages and further that the transportation characteristics of the two types of movements are so different that they do not require equal rate treatment.

It has been proposed by some protestants that in the event a 5-percent increase is approved, the proposed holddown should be reduced to a maximum 6 cents per hundredweight, calculated as 5 percent of the "average to market" canned goods freight rate, 115 cents per hundredweight. The respondents maintain that such an automatic reduction in the holddown as the general percentage increase is reduced ignores the carriers' revenue need.

We are not convinced that bulk shipments of food ingredients should receive the same holddown as canned goods. Furthermore, we conclude that any such holddown for canned goods need not apply nationwide since, as respondents show, eastern and southern shippers of canned goods will not be prejudiced in eastern and southern markets.

As the protestants indicate, equal treatment has been afforded canned goods and frozen foodstuffs, including dried potatoes, in previous general rate increase proceedings. Ex Parte No. 281, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 290, 438. The only different characteristic claimed by respondents for frozen foodstuffs pertains to mechanical protective service for which there is a separate charge and should not be considered here. We conclude that canned and frozen foods, including dried potatoes, should receive the same increase. We further conclude that such a low percentage increase is not likely to cause diversion of this traffic.

Fresh fruits, vegetables, and nuts.—The full general increase is proposed on these commodities. Western shippers, in general, contend that a straight percentage increase on fresh fruit, vegetables, and edible nuts will disrupt relationships with similar canned commodities, destroy their ability to compete with other producing areas, penalize long-haul shippers and result in further diversion to motor carriers. A holddown or exemption is sought.

There is confusion within the protestants' statements as to level of the present rates. Effective December 31, 1974, and existing at the time the protestants' verified statements were filed, was a new rate structure on these commodities. However, in a decision and order by the Commission in I. and S. docket No. 8944, *Fresh Fruits and Vegetables, Transcontinental and Western Points*, dated December 30, 1974, the Commission found these new rates had not been shown to be just and reasonable and ordered them to be canceled no later than January 29, 1975. The present rates are thus the ones in effect prior to December 31, 1974. The respondents rely on findings in several Commission decisions involving these commodities which indicate that the present 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 *Vegetable & Melons Transcontinental Eastbound*, 335 I.C.C. 798, 858.

The California Grape and Tree Fruit League, representing California and Arizona growers, seeks to limit any increase to no more than 7 cents per hundredweight on fresh grapes and deciduous tree fruits, from California and Arizona, as proposed for other commodities, in order to protect their competitive position in eastern and midwestern markets. It contends that the Commission's action in I. and S. docket No. 8944 was an affirmation that the present rates are just and reasonable rather than that

the proposed changes were not shown to be just and reasonable by the railroads. The protestant maintains that a holddown should be granted since fresh fruit is essential for a proper diet and the proposed increase would divert this traffic to competing modes. The protestant's evidence shows that interstate rail decidous tree fruit traffic from California has dramatically declined from 32,611 shipments in 1965 to 16,072 shipments in 1973. Instead of reducing their rates to counteract such diversion, the railroads have steadily increased their rates. This protestant also requests that any rate increase on its members' commodities should be conditioned on better service and equipment, showing escalating rail loss and damage to its members' products since 1965.

The Western Growers Association, a trade association representing over 80 percent of the California and Arizona fresh vegetable, melon, and potato growers, contends that the proposed tariff would increase the disparity in rates between its members and their midwestern, southern, and eastern competitors to the large eastern markets. The protestant also argues that historically the Commission has granted holddowns on these fresh commodities. The holddown on canned goods, it is stated, constitutes a competitive advantage to canned goods, especially in that it applies to mixed carloads, based only on the mode of preparation. It is also stated that the diets of Americans would be detrimentally affected in that canned foodstuffs are less nutritious than fresh commodities. The protestant further maintains that without a holddown, the respondents will lose perishable traffic, as shown by a decline in rail perishable traffic into New York City after the last general increase and a corresponding increase in truck traffic.

This protestant also asserts discrimination in the rate structure against California and Arizona potato shippers. However, this is a matter that cannot be handled in a general increase proceeding, and accordingly will not be considered.

Sunkist Growers, Inc., a producer of citrus fruits, opposes any increase since the rate reform directed in Ex Parte No. 295 has not been accomplished. It also maintains that there has been a steady erosion of California and Arizona fresh citrus tonnage from rail to truck, even for long-haul movements. Instead of moving 67 percent of protestant's interstate traffic as they did in 1968-1969, rails moved only 53 percent in 1972-1973.

In 1973, the percentage participation of rail carriers in protestant's domestic shipments in the months of June, July, August, September, and October was 49 percent, 45 percent, 42 percent, 39 percent, and 42 percent, respectively. The same months in 1974 show 39 percent, 31 percent, 31 percent, 34 percent, and 26 percent. In 1969, they were 63 percent, 63 percent, 64 percent, 56 percent, and 48 percent. Any further rate increase, it is argued, would only increase this diversion. The protestant asks that the Commission prescribe the rates sought in another proceeding, currently pending before the Commission. A holddown on canned goods, it is also argued, will further distort the relationship between canned goods and fresh or frozen citrus products, encouraging the use of motor carriers.

Diamond Walnut Growers, Inc., an agricultural marketing cooperative engaged in distributing and marketing walnuts, opposes any increase on edible nuts on the grounds that it will produce diversion to motor carriage and thus, cause serious environmental effects. In 1967, it is pointed out, rail moved all of protestant's traffic but now it accounts for only 58 percent. Increased use of motor carriers would have an adverse effect on national energy and environmental policy. It is claimed that rail carriers have lost an average of over $600,000 gross revenue per year over the last 3 years as a result of this diversion.

On behalf of the State's potato industry, the Idaho Shippers Association and the Idaho Potato Commission seek the same holddown as that proposed for dehydrated potatoes for fresh potatoes to protect the competitive position of Idaho shippers due to their remote location from their major markets. It is further maintained that the present rate level on Idaho potato traffic is compensatory and very profitable, referring to the record in I. and S. docket No. 8944, *Increased Rates on Fresh Fruits and Vegetables Transcontinental*. This protestant and the Idaho Potato Commission state that Idaho shippers utilize primarily rail transportation, whereas, most major competitive areas use rail only as a standby. However, the Idaho Potato Commission noted a trend from rail to truck movement that has accelerated, allegedly due to lack of a holddown on fresh potatoes in the last two general increases.

The rail carriers maintain that holddowns would deprive carriers of needed revenue for better equipment and service and shift to other traffic and short-haul shippers an even greater burden of providing carrier revenue requirements. It is claimed, for example, that an 8 cents per hundredweight holddown would result in an increase on only about 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.

The respondents defend the holddown on canned foodstuffs without a corresponding holddown on fresh produce on the grounds that people will buy nutritious foods over less expensive ones and that there is no relation between the transportation of these two types of commodities. Differences are asserted to exist in protective conditions, loss and damage ratios, type of service, rate levels, and competitive conditions.

As to 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 exempt carriers can thus charge less than the railroads, which characterize their position as that of a standby mode. It is further noted that weather conditions can affect the volume produced and thus available for rail transportation. The respondents maintain that whenever any rate adjustment is required to meet changing conditions, it will be considered.

The evidence presented demonstrates that there is competition between western origins and other origin areas of the country for the sale of fresh fruits and vegetables. Furthermore, we are convinced that the granting of a holddown on canned foodstuffs but applying the full general increase on fresh produce would be unduly prejudicial. We are not persuaded that the sale of fresh produce will not be affected nor that the different characteristics enumerated by protestants mean that a similar holddown on fresh produce is not warranted. Indeed, to us, they appear to be competing commodities and should receive equal treatment. Accordingly, the 7-percent rate increase on fresh fruits, vegetables, and nuts is granted, subject to a maximum of 8 cents per hundredweight with the same territorial restrictions as imposed on the holddown for canned foodstuffs.

Lumber and other forest products.—The general increase is proposed on lumber and other forest products, except that from and between points in mountain Pacific territory and from some points in the Rocky Mountain area, a maximum increase of 8 cents per 100 pounds is proposed, applicable to fully loaded cars of softwood lumber, at varying minima.

The protesting western shippers contend that the proposed general increase is unjustified and would contribute to the present decline in lumber shipments, but advocate that if the increase is granted, the proposed holddown should be extended to all shipments of lumber and lumber articles from the West including moulding millwork. These protestants are primarily concerned with the effect of horizontal rate increases on the volume of lumber traffic from the West to Western Trunk Line and official territory. Their statistics show that by 1973, southern lumber producers had increased their shipments to these two major consuming areas by 267,400,000 board feet over the 1967 level, but western lumber shipments to these same areas had declined by 891,600,000 board feet over the same period. The latest 1974 statistics indicate that this trend is continuing. These western protestants contend that this change in purchasing is the result of across-the-board percentage increases during this period.

To demonstrate how their competitive relationships with southern lumber producers have been disrupted by past horizontal increases and, correspondingly, the need for a holddown on all western lumber and lumber article shipments, these protestants compare the rates on a 75,000-pound lumber shipment from western and southern origins to 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 per hundredweight. The present rate from Portland is 216 cents per hundredweight and from Hattiesburg 99.4 cents per hundredweight. Thus, the rate spread has increased from 35.5 cents in 1943 to 116 cents in 1974. This spread would be increased to 118 cents if the proposed tariff, including the 8-cent maximum, is implemented. The protestants state that the increase in the spread in favor of the South (82.5 cents per hundredweight) results in an additional transportation cost of $678.65 for moving a car containing 35,000 board feet from Portland to Chicago. Similar increased rate spreads are demonstrated for other destinations. These amounts must be absorbed by these western producers if they wish to compete with southern producers in the same markets, and thus, the protestants argue that the proposed holddown is essential. They further maintain that if the entire 7-percent increase is approved, the holddown of 8 cents per hundredweight should be correspondingly reduced.

These protestants also state that any rate increase will result in the diversion of softwood lumber to motor carriage. They offer statistics showing that the percentage of this traffic moving by rail has decreased from 74.8 percent of the total shipments in 1967 to 59.6 percent for the third quarter of 1974.

The Southern Forest Products Association, representing the producers of southern pine, is opposed to the general rate increase and specifically to any holddown on western lumber and lumber shipments. It contends that any rail rate increase would harm the southern lumber industry already suffering from a depressed housing market, reflected by fewer housing starts, mill closings, reduced lumber prices, and a decline in shipments by its members in 1974. The national interest in a revitalized housing market necessitates that there not be a rate increase on lumber, it is argued. The protestant also objects to the proposed holddown on western lumber shipments as unduly preferential to western producers. It maintains that the respondents have failed to show any justification for such a holddown, that southern shippers would be forced to absorb the increased transportation costs that western shippers should share, and that western shippers currently dominate in the official territory market and have increased their participation in western and southern markets. This protestant characterizes the rate spread alleged by the western shippers as inaccurate

and misleading in that since July 1, 1964, lumber rates from southern and southwestern origins to Chicago and New York, N.Y., have increased by greater percentages than such rates from Portland. The protestant contends that its evidence shows that the respondents have given favorable treatment to western shippers, considering the great difference in mileage. Such treatment, it is argued, is unnecessary since long-haul rates are traditionally established so that they provide a lower charge per mile for the greater distances. In addition, the protestant calculates that lumber and plywood traffic from southern and southwestern territories to official territory provides more revenue per dollar of variable and fully allocated expenses, based on alleged average and representative carload costs, than such traffic from mountain Pacific territory to official territory. As to the complicated restrictions involving weight and car length placed upon the proposed holddown, the protestant emphasizes that they are similar to those proposed and approved in Ex Parte No. 281 which were completely waived by the respondents, effective December 5, 1974. Thus, the restrictions in Ex Parte No. 310, when offered by the respondents as protection against undue preference to western shippers, should be considered in light of a possible future waiver.

The protestant finally asks that if the Commission concludes the proposed holddown to be justified, any increase granted to, from, or between the south or southwestern territory should be subject to the following holddowns: a maximum of 4 cents per hundredweight on rates not exceeding $1 per hundredweight, a maximum of 6 cents per hundredweight on rates exceeding $1 but less than $2 per hundredweight, and a maximum of 8 cents per hundredweight on rates exceeding $2 per hundredweight.

The Wm. Cameron & Co., Wholesale, and Ideal Company, Division of Certain-Teed Products Corp., which manufacture and distribute sash, doors, and millwork, argue that the proposed holddown on western lumber traffic is unduly prejudicial to millwork producers in that millwork is so light that it cannot be loaded to the minima required for the application of the holddown. At present, lumber from the west coast is received at the manufacturing point, Waco, Tex., and freight charges on lumber are paid from origin to Waco. The millwork products are then shipped from Waco to destinations in western, eastern, and southern territories, under "balance out" charges which are the through rates on such products from the west coast origin to the final destination, less the inbound charges on lumber at Waco. Since the proposed holddown could not practically be applied to millwork products, the millwork rates from the west coast to the final destinations would be increased by the full 7 percent. The protestants show that increases in their balance out charges, ranging from 12 percent to 30 percent, would result for movements of millwork from Waco to four allegedly representative destinations, with an allegedly representative California origin for the lumber involved. It is maintained that rates on lumber and millwork should be so related as to reflect relative transportation costs and thus that the minimum weight provisions of the proposed holddown on lumber articles should not be applied to millwork products.

The Southern Hardwood Traffic Association and Associated Cooperage Industries of America, trade associations whose members are located generally east of the Rocky Mountains, oppose the general increase and specifically oppose the proposed holddown on western shipments of lumber and lumber articles. These protestants state that the lumber and building materials markets are too depressed to sustain a 7-percent rate increase. They also argue that any rate increase would divert lumber and related traffic to motor carriage. They present various statistics showing that the

railroad percentage share of this traffic has declined over past years, allegedly because of rate increases and poor service. Also, these protestants show that for at least a few lumber and related wood products, rail rates under the proposed tariff would exceed the present motor carrier rates. Furthermore, these protestants contend that since the proposed holddown does not apply to lumber and related articles moving westbound under TCFB Tariff ICC 1890 but does apply to other TCFB agency tariffs moving these commodities eastbound, this holddown is so one-sided as to be unjust and unreasonable, discriminatory, and unduly preferential and prejudicial. These protestants also present statistics of lumber production and shipments according to region for the 5-year period, 1970-1974, to show that western producers can effectively compete with southern producers despite horizontal general increases over that period.

The American Plywood Association, representing 150 softwood plywood plants which produce 80 percent of all softwood plywood produced in the United States, opposes the general rate increase. The plywood industry, it states, is seriously affected by the decline in residential construction, rising manufacturing costs (28 percent over 1973 costs), declining plywood prices that are as much as 43 percent lower on some grades than in 1973, plant closings and curtailments, and layoffs of employees. If the proposed increase is approved, the industry would further suffer. The protestant then compares this situation with the increased operating revenues and net income of the Southern Railway for the first 9 months of 1974. The protestant also notes that if the 7-percent increase is approved on plywood, the rates on that commodity would be 47 percent higher than in 1968. Better management, it suggests, is the solution for any financial problem of respondents. The protestant also argues that past rail rate increases have resulted in the diversion of this traffic to motor carrier transportation and have forced plywood producers to change their marketing and distribution patterns to short-haul movements, which also increases the attractiveness of motor carriers.

The respondents contend that freight rates are not important in determining the consumption of lumber and forest products. They argue that housing starts are the dominant barometer of demand, and they present evidence to show that for the years 1967 to 1974 (third quarter) lumber prices tended to rise and fall as did housing starts. This evidence also shows that housing starts have declined sharply in 1974.

The respondents maintain that car shortages are the major problem for the forest products industry and that since revenue is needed to provide more equipment and better service, the proposed increase should be approved on these commodities. As to the proposed holddown on western shipments, they estimate that it would reduce revenue from the proposed 7-percent increase by $19,996,900. They maintain that the holddown proposed by southern protestants would result in a further reduction of $6,752,900. This additional holddown is unacceptable, they argue, since the holddown on western shipments proposed here and the holddown on all lumber shipments granted in Ex Parte No. 305 would amount to a surrender of $36,100,000. They also state that because of their revenue need, if the full 7-percent rate increase is not granted, no holddown at all should be imposed.

The respondents argue that a holddown on western shipments is not necessary because lumber consumption has grown faster in the West than in the Northeast and north-central regions so that more western productions is shifting to the West. They also note that the consumption of western lumber has increased in the South. Furthermore, as for plywood, the respondents state that under the proposed tariff, transportation cost would be a lesser percentage of the f.o.b. mill plywood price from the Pacific coast to New York City than in 1968.

The respondents also contend that the southern shippers' proposed holddown is unnecessary since a large percentage of southern traffic moves by truck, that any waiver of the restrictions on the western holddown should be considered when it is proposed, and that western production of hardwood lumber is so insignificant that it offers little, if any, competition to southern hardwood shippers.

As for the protests of millwork producers, the respondents contend that the restrictions proposed in connection with the western holddown were chosen so as to obtain the best car utilization and that they cannot surrender any more revenue.

As to diversion, the respondents maintain that the growth of the western market, involving only short-haul movements and the chronic car shortage, has caused any diversion of its traffic to motor carriage, not increased freight rates. The respondents also state that the protestants have ignored the incentive loading rates at high minima, which were established to meet truck competition, and that when such rates are considered, rail rates are lower than motor carrier rates.

The protestants' evidence shows that industries producing lumber and lumber articles have been seriously hurt as a result of the depressed housing market. The respondents maintain that the demand for these products will increase as the housing market improves, yet the respondents' evidence shows that housing starts are continuing to decline. To impose a 7-percent rate increase on shipments of these products would only aggravate their situation and be unjust and unreasonable. Thus, we conclude that there should be no increase on lumber and other forest products. Due to this disposition, we have not considered the question of any holddown on western shipments.

APPENDIX D

The railroads calculate fuel costs not covered by previous rate increases to be $97 million. This figure is developed by applying the price difference between October 1, 1973, and October 1, 1974, to the annual consumption in gallons of fuel for 1973. This results in an increase in fuel costs of $584 million, or approximately 106 percent. For diesel fuel the railroads' AAR Index price during this period rose from 13.59 cents to 28.04 cents per gallon, but has risen only from 26.66 cents on May 10, 1974, and from 27.39 cents on July 10, 1974, according to all class I railroad figures. A cumulative fuel surcharge of 3.3 percent imposed subsequent to October 1, 1973, and now incorporated as a rate table in tariff X-305-A tariff, produces approximately $487 million annually, leaving $97 million which the railroads claim is uncovered by any rate increase (a 0.2 percent fuel related increase in the East and West filed in I. and S. docket No. 8968, was denied by order of division 2 without prejudice to recovery herein of any fuel cost increases which have been incurred). No overlap is intended between the 3.3 percent increase already covering fuel price increases and the increase being sought here. The 3.3 percent increase was based on class I railroad fuel prices as of May 10, 1974.

Essentially, the fuel cost increases sought here are based on AAR Index fuel prices as of October 1, 1974, assertedly as they have increased since May 10, 1974. Recent increases in the price of diesel fuel appear to be marginal, that is (00.65cents) between July 10, 1974, and October 1, 1974, an amount even less than the increase (00.73 cents) between May 10, 1974, and July 10, 1974. Thus, it can be argued that much of the $73 million figure claimed by the railroads as not being covered by other rate increase proceedings belongs in the shortfall category. We are aware that fuel costs of all class I carriers generally have been reported as being higher than the fuel costs

reported in the AAR Index which covers only 11 carriers, but class I figures are not made available herein for October 1, 1974. Necessarily, we compute the fuel cost increase since May 10, 1974, to be around $56 million. (Consumption of diesel fuel in 1973 was 4,046 million gallons. That figure times the 01.38 increase since May 10, 1974, equals almost $56 million, $24 million of which was sought in I. and S. docket No. 8968).

Protestants also challenge the fuel price increase calculation on the basis that the wholesale price index for all refined petroleum products showed a small decline between August and November 1974. However, the wholesale price index for diesel fuel alone, while broader in scope than for diesel fuel as used by the railroads, is not necessarily inconsistent with the railroads' showing herein. For example, the wholesale price indexes for diesel fuel for September and October were up 111 percent and 102 percent, respectively, over the indexes 1 year earlier.

The railroads compute the annual cost of price increases for materials and supplies, other than fuel, to be $978 million, which is reduced by $443 million, representing the yield from Ex Parte No. 305 for a 1-year period. The remaining costs of $535 million are then considered to be new cost escalations not covered by previous rate increases.

In developing the increase of $978 million, the railroads use a spot index determined by the AAR. The use of the spot index results in the increase being shown on a *pro forma* basis which assumes that all purchases are made at the latest, and the highest, prices. Another index used by the railroads, the charge out index, reflects an average of quarterly spot price charges. We have accepted the use of spot index in previous proceedings as representative of *pro forma*, or annualized, costs. In our view, a statement of the railroads' increased costs, as nearly as possible, should reflect current costs, not an average of increases reported quarterly during the prior year.

Protestants challenge the railroads' computations concerning materials and supplies on several grounds. These are (1) that fuel costs are included, (2) that the materials and supplies costs are based on AAR figures which are shown to be unreliable and untrustworthy, (3) that inadequate allowance was made by the respondents in their cost computations for the recoupment of material and supply expenses out of Ex Parte No. 305 revenues, and (4) that the computation of increased costs for materials and supplies should not be based on price increases between October 1, 1973, and October 1, 1974, but rather between April 1, 1974, and October 1, 1974. October 1, 1973, was the last date used in Ex Parte No. 303 for increased costs of materials and supplies, whereas, April 1, 1974, was the final date used for the increased costs claimed in Ex Parte No. 305.

Concerning the foregoing, we find that fuel costs are not included in the claimed $978 million price increase in materials and supplies. We also find that except for a few minor mistakes, no error is shown in the listing of AAR prices and there is not substantial basis upon which to find that the underlying cost information used by the railroads is untrustworthy or unreliable.

As to the extent that Ex Parte No. 305 funds are being used for increased costs for materials and supplies some explanation is required. In Ex Parte No. 305 we authorized for 1 year, subject to possible extension, a 10-percent freight rate increase. Our orders therein impose a number of substantive accounting requirements designed to insure that the additional freight revenues realized from that increase shall be utilized for the purposes intended. The basic requirements in Ex Parte No. 305 are (1) that up to 3 percentage points of the 10-percent authorization may be applied to increased material and supply costs, excluding fuel, provided such costs have incurred, and (2) that the remaining amount, less increased income tax paid as a result

of the increase, shall be applied to deferred maintenance and delayed capital improvements. The expenditures contemplated for deferred maintenance and delayed capital improvements generally are defined as expenditures in excess of maintenance and capital expenditures which were budgeted for current and prior years, 1973 among them.

The railroads use 1973 as the base year for the computation of the increased expenses claimed in this proceeding and, as a result, the increased expenditures for maintenance which are mandated by our Ex Parte No. 305 orders, should not cover expenses for materials and supplies as "ordinarily" budgeted by the railroads. Consequently, even though expenditures for deferred maintenance require the purchase of materials and supplies, the cost of these are not included in respondents' computation herein of increased costs for materials and supplies.

Certain other facts concerning Ex Parte No. 305 must be discussed. Pursuant to a temporary restraining order entered on August 18, 1974, by the United States District Court for the Eastern District of Virginia in civil action No. 74-0370-R, *Chesapeake and Ohio Railway Company, Et. Al.* v. *United States of America, Et. Al.*, the Chessie System of carriers may take the full 10-percent increase in Ex Parte No. 310 without regard to our requirements concerning deferred maintenance and delayed capital improvements. In addition, pursuant to our order, dated October 3, 1974, railroads in reorganization are allowed to use Ex Parte No. 310 funds as necessary to meet cash requirements for continued operation, subject to reporting requirements. Also, any railroad not in reorganization which finds it imperative to expend the funds generated by the authorized Ex Parte No. 310 increase for operating purposes to avoid curtailment of transportation service or to avoid the filing of a petition in reorganization may make application for use of such funds, subject to the submission of supporting documentation. Such an application was filed by the Chicago, Rock Island and Pacific Railroad Company. The application was granted by order of division 2, dated February 28, 1975.

In our judgment, the various orders granting relief from the segregation of Ex Parte No. 305 funds do not have the effect of undercutiing the revenue increase justification submitted by the petitioning respondents. The Chessie System does not seek the instant increase and the record herein reflects a great cash need by bankrupt carriers such as the Penn Central Transportation Company. However, in the computations which follow we do note the effect that the bankrupt carriers' utilization of Ex Parte No. 305 funds has upon the increased costs for materials and supplies which respondents claim not to be covered by Ex Parte No. 305 revenue.

The respondents base their claim of cost increases for materials and supplies on those for the year ending October 1, 1974. However, the evidence presented in Ex Parte No. 305 was based on cost increase in materials and supplies for the 6 months ending April 1, 1974. We note that if the cost increase on materials and supplies here involved are computed for the 6 months ending October 1, 1974, and not for the entire year, the end result places respondents in a better position to claim increased material and supply costs, but reduces by a corresponding amount any claim by respondents that "shortfall" provides a basis herein for authorizing a rate increase.

Table A reflects the foregoing both for material and supply costs and for fuel costs.

TABLE A

Segregation of new cost escalations

(Dollars in millions)

A. Material and supply costs:			
1. Increase Apr. 1, 1974 over Oct. 1, 1973	$365		
2. Increase Oct. 1, 1974 over Apr. 1, 1974		$612	
3. Increase Oct. 1, 1974 over Oct. 1, 1973			$977
B. Fuel costs:			
1. Increase May 10, 1974 over Oct. 1, 1973	529		
2. Increase Oct. 1, 1974 over May 10, 1974		56	
3. Increase Oct. 1, 1974 over Oct. 1, 1973			585
C. Cost increases prior to Apr. 1, 1974 (M & S) and May 10, 1974 (fuel)	894		
Cost increases subsequent to Apr. 1, 1974 (M & S) and May 10, 1974 (fuel)		668	
Total cost increases			1,562
D. Offsetting revenues:			
1. Estimated for X-305	$443		
2. Estimated for X-305-A	511		
3. Total	954		
E. Net cost escalations (items C & D)	(60)	668	608

The total of item E ($608), represents $535 for materials and $73 for fuel, as claimed by the railroads. This total of $608 is less than our estimated cost increases for the periods subsequent to X-305 and X-305-A, or $668. Thus, the previous rate increases involved herein have not created a shortfall, but rather excess revenues.

In the light of table A, no reduction in respondents' claimed amount of increased costs for materials and supplies is achieved by considering only the 6-month increase between April 1, 1974, and October 1, 1974. Accordingly, we accept the materials and supplies cost increases shown in table 4, supra. We note that the figures there stated possibly could be reduced by $106 million for the United States and the eastern district as a result of our orders permitting bankrupt carriers more freedom in their utilization of Ex Parte No. 305 funds. However, to do this would require an arbitrary assumption as to what use the additional revenues from Ex Parte No. 305 have been put to, this in the face of a demonstrated cash need by the bankrupts. If the Chessie System is included, the possible reduction would be $161 million.

The amounts claimed for increased payroll taxes effective January 1, 1975, arise under statutory provisions which tie the tax base for Railroad Retirement to the Social Security tax base and tie the latter to general wage levels, as well as an increase in the tax for supplemental annuities from 7.5 cents to 8.5 cents per man-hour. The cost to the railroads of these increases in payroll taxes is calculated at $74 million on an annual basis. The respondents indicate that a tentative decision has been made to seek these increases in a separate petition.

In an order served January 8, 1975, in Ex Parte No. 299, Increase in Freight Rates and Charges to Offset Retirement Tax Increases—1973, we ordered rail carriers to file certain supplemental information by February 10, 1975.

The requested information, although extensive, relates essentially to expense and revenue itemizations involved in prior specialized proceedings which were handled under shortened procedures. Such abbreviated procedures are not relied upon in the instant case and we see no need to carry over into this proceeding matters which are involved in Ex Parte No. 299.

We conclude that the payroll tax increases shown herein have been incurred and properly are included as part of the instant proceeding.

No material challenge is presented concerning the increased costs represented by supplemental sickness benefits and we find no significant overstatement here.

The claimed cost of increased vacation allowances and paid holidays is not adequately supported. Table B shows the railroads' method of computation of these claimed cost increases which became effective in 1973.

TABLE B

Calculation of annual cost of increased vacation allowances and paid holidays

Item	United States 1	Eastern district 2	Southern district 3	Western district 4
1. Vacations, holidays, and other allowances, average hours per employee:				
2. Year 1972	282	277	250	297
3. Year 1973	319	304	281	343
4. Increase 1973/1972	37	27	31	46
5. Compensation per hour for vacations, holidays, and other allowances 1973	$5.33	$5.51	$5.35	$5.20
6. Employment, 1973 (mid-month count)	520,153	201,407	80,493	238,253
7. Annual cost of increased allowances (4x5x6) (millions)	$100	$30	$13	$57

The railroads' figures might be considered conservative in the sense that 1973 average wage level is used, rather than higher levels for 1974 or 1975. However, the total number of employees decreased somewhat in 1974. In addition, the computations of the respondents include all employees, many of whom are not normally replaced on holidays and during vacations.

With regard to the foregoing, the respondents state as follows:

This category of cost increase has been challenged on the ground that additional employees are not necessarily added to replace those given additional vacation or holidays ***[T]here is no way to identify additional employees added to the rolls

because of the additional time off. However, wage statistics for 1973 show only a small reduction in straight time and an increase in overtime hours per employee from the 1972 average. As compared with the increase of 37 hours per employee in the category of "vacations, holidays, and other allowances," straight-time hours per employee were down by only 11.1, while overtime hours increased by 6.5. One overtime hour costs nearly 1 1/2 times as much as a straight-time hour. Thus, total compensated hours per employee, giving appropriate weight to overtime hours, increased by almost as much as the 37-hour increase in the category of time paid for but not worked.

We do not find the explanation entirely convincing and conclude that this cost increase should be reduced by about one-third to $66 million, a decrease which approximately corresponds to the 2 to 1 ratio of train and engine employees to nonoperating personnel.

Another cost escalation reflects 1974 increases in equipment rents, State and local taxes, and fixed charges, which are increasing at an annual rate of $93 million. The chief criticism leveled at these statistics is the acceptance of the rate of increase in these items during the first 6 months of 1974 over the rate during the corresponding period of 1973 as indicating the current annual rate of increase. We believe that the method utilized results in a conservative evaluation of these items. Also, it was shown, contrary to the assertions of one of the protestants, that the increase in equipment rents for the United States does not include debits owed by one railroad to another. Instead the United States total is largely the result of increases in lease financing of new equipment from outside sources. However, it is true that the district totals do reflect corresponding debit and credit interterritorial equipment rentals between carriers.

The remaining categories of expenses are loss and damage, personal injuries, insurance, and pensions which increased by $46 million in 1973 over 1972. No serious challenge of these statistics is made. In addition, these categories of cost escalations have been submitted in prior general rate increase proceedings on the basis of calendar year expenses as reflected in annual reports. The resulting timelag between cost increase and rate increase has appeared to be unavoidable as a practical matter.

APPENDIX E

Net railway operating income and rate of return class I railroads in the United States 12 months ended September 30, 1974

(DOLLARS IN MILLIONS)

District and road	Net railway operating income before deferred taxes	Rate of return before deferred taxes
Eastern district:		
Akron, Canton & Youngstown	1	7.17
Ann Arbor	(3)	Def.
Baltimore & Ohio	65	6.66
Bangor & Aroostook	2	3.29
Bessemer & Lake Erie	9	12.46
Boston & Maine	(1)	Def.
Canadian Pacific (Lines in Maine)	(1)	Def.
Central RR of New Jersey	(9)	Def.
Central Vermont	1	3.06
Chesapeake & Ohio	63	7.48
Chicago & Eastern Illinois	11	11.02
Delaware & Hudson	2	2.62
Detroit & Toledo Shore Line	1	4.24
Detroit, Toledo & Ironton	2	2.56
Elgin, Joliet & Eastern	12	18.92
Erie Lackawanna	(5)	Def.
Grand Truck Western	(9)	Def.
Illinois Terminal	2	9.33
Lehigh Valley	(4)	Def.
Long Island	(99)	Def.
Maine Central	3	4.39
Missouri-Illinois	4	9.63
Monongahela	1	3.31
Norfolk & Western	129	6.43
Penn Central	(64)	Def.
Penn-Reading Seashore Lines	(4)	Def.
Pittsburgh & Lake Erie	11	5.24
Reading	(3)	Def.
Richmond, Fredericksburg & Potomac	6	9.61
Western Maryland	8	5.80
Southern district:		
Atlanta & West Point/Western Ry. of Alabama	1	3.50
Clinchfield	13	11.01
Florida East Coast	5	6.46
Georgia	(0)	Def.
Illinois Central Gulf	36	3.61
Louisville & Nashville	60	5.74
Seaboard Coast Line	53	4.46
Southern System	139	8.74

APPENDIX E

Net railway operating income and rate of return class I railroads in the United States 12 months ended September 30, 1974—Continued

(DOLLARS IN MILLIONS)

District and road	Net railway operating income before deferred taxes	Rate of return before deferred taxes
Western district:		
Atchison, Topeka & Santa Fe	84	4.93
Burlington Northern	84	3.51
Chicago & North Western	14	2.16
Chicago, M., St. Paul & Pac	1	0.09
Chicago, Rock Island & Pac	(21)	Def.
Colorado & Southern	6	6.96
Denver & Rio Grande Western	18	6.92
Duluth, Missabe & Iron Range	10	10.88
Duluth, Winnipeg & Pacific	4	41.71
Fort Worth & Denver	(5)	Def.
Green Bay & Western	0	0.37
Kansas City Southern (incl. L&A)	5	2.50
Lake Superior & Ishpeming	(0)	Def.
Minneapolis, Northfield & Southern	0	1.88
Missouri-Kansas-Texas	(1)	Def.
Missouri Pacific	60	6.89
Northwestern Pacific	(1)	Def.
Oregon Electric	0	0.52
St. Louis-San Francisco	22	5.01
St. Louis Southwestern	44	12.11
Soo Line	17	6.39
Southern Pacific	90	4.33
Texas & Pacific	13	5.46
Texas Mexican	1	12.57
Toledo, Peoria & Western	0	2.00
Union Pacific/Spokane International	157	8.07
Western Pacific	2	1.15

APPENDIX F

Nonapplication and holddowns of increases in rates and charges

Line-haul rates and line-haul charges on export or import and TOFC-COFC traffic shall take no increase.

Rates and charges on materials which are moving for purposes of recycling, with the exception of iron and steel scrap, shall take no increase.

Rates and charges on motor vehicles, motor vehicle equipment, and motor vehicle parts shall take no increase.

Rates and charges on asphalt building and roofing materials, fiberglass insulating materials, asbestos cement, and plastic pipe as itemized in appendix C shall take no increase.

Rates and charges on sugar beets shall take no increase.

Rates and charges on lumber and related products as described in item 568 of the proposed tariff shall take no increase.

Rates and charges on mechanical protective servies shall take no increase.

Increased rates and charges on iron and steel scrap are not to exceed the same percentage increase approved for iron ore, subject to a holddown in cents per ton not to exceed the increase on iron ore.

Increased rates and charges on canned and preserved foodstuffs, frozen foodstuffs and fresh fruits, vegetables, and nuts are not to exceed 8 cents per hundredweight with the same territorial application as respondents propose for item 518 of the proposed tariff.

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 21st day of March 1975.

Ex Parte No. 310

INCREASED FREIGHT RATES AND CHARGES, 1975, NATIONWIDE

The Commission having this day made a report on its investigation of increases in freight rates and charges proposed by common carriers by railroad in the United States in their petition filed November 15, 1974, and subsequent petitions related thereto, said report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That the respondent railroads be, and they are hereby required to cancel the schedules suspended by the order of January 29, 1975, to the extent not approved or otherwise provided herein, on or before May 1, 1975, upon not less than 1 day's notice to the Commission and the general public by filing and posting in the manner prescribed by the Commission under the Interstate Commerce Act, without prejudice to the establishment and maintenance of schedules in conformity with the findings herein;

It is further ordered, That further changes in freight rates and charges, to the extent authorized herein, may be made effective upon not less than 15 days' notice to the Commission and the general public, by filing and posting in the manner prescribed in the act;

It is further ordered, That outstanding orders in other proceedings are hereby modified so as to permit establishment of the further changes in interstate freight rates and charges herein authorized;

It is further ordered, That all tariff schedules changing interstate rates or charges under the authority of this order, which rates or charges are now maintained or held in force by virtue of outstanding orders of the Commission, shall make specific reference to this order;

It is further ordered, That respondents herein be, and they are hereby, required to continue on a priority basis their efforts to bring tariff schedules up to date, and they

shall report their progress to the Commission's Bureau of Traffic not later than April 1, 1975, and quarterly thereafter until otherwise ordered;

It is further ordered, That the respondents shall take appropriate action to eliminate service deficiencies of the type discussed in the report herein and shall continue to file quarterly reports (i.e., April 1, 1975, July 1, 1975, et cetera), as originally ordered in Ex Parte No. 265, *Increased Freight Rates, 1970 and 1971*, 339 I.C.C. 125, 307, informing the Commission of corrective actions taken;

It is further ordered, That in making effective any increases in rates and charges herein authorized, the respondents be, and they are hereby, required to protect and maintain all existing port relationships and to apply any such increases on export or import traffic subject to the limitations provided in this report;

It is further ordered, That in all other respects the original petition, as amended, seeking authority to increase the interstate freight rates and charges, be, and it is hereby, denied;

And it is further ordered, That this proceeding be, and is it hereby, discontinued.

FOURTH-SECTION ORDER NO. 20473

It appearing, That carriers parties to the proceeding applied for relief from the provisions of section 4 of the act necessary to establish the rates and charges sought; that the increase in rates and charges authorized herein cannot be published and made effective without producing in some instances rates or charges that yield greater compensation in the aggregate for the transportation of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, or greater compensation as a through rate or charge than the aggregate of intermediate rates or charges subject to the act, in contravention of section 4 thereof;

It is ordered, That carriers subject to the Interstate Commerce Act and parties to said proceeding be, and they are hereby, authorized to depart from the provisions of section 4 of the act to the extent necessary to establish and maintain the increases in rates and charges authorized in the order in Ex Parte No. 310 of this date;

It is further ordered, That carriers parties to said proceeding be, and they are hereby, authorized to establish and maintain rates and charges authorized in order of this date, without observing the long- and short-haul provisions of section 4 of the act in cases arising out of the failure to apply the full increases in rates and charges over interstate routes between points in a single State, in turn caused by the filure of the State authorities to authorize the full increases permitted in said proceeding;

And it is further ordered, That in those instances in which rates in contravention of section 4 are established under authority contained herein, the schedules containing such rates shall make reference to this order in the manner required by Rule 28 of the Tariff Circular No. 20.

AMENDMENT TO SPECIAL PERMISSION NO. 75-2100, AS AMENDED, AUTHORIZING CERTAIN DEPARTURES FROM THE COMMISSION'S PUBLISHED TARIFF REGULATIONS

It is ordered, That Special Permission No. 75-2100, as amended, be, and it is hereby, further amended to permit the establishment of the increases in freight rates and charges authorized by the Commission in this order, subject to the terms, conditions, and limitations therein;

It is further ordered, That said special permission, as amended, be, and it is hereby, further modified and amended so as to provide that all rule relief authorized shall expire on April 1, 1976.

And it is further ordered, That, in all other respects, the terms of the original permission, as heretofore amended, shall remain the same.