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F.D. 21478 (Sub No. 4)
Exhibit No. _____ (WJQ-1)
Witness: William J. Quinn

BEFORE THE
INTERSTATE COMMERCE COMMISSION

FINANCE DOCKET NO. 21478
GREAT NORTHERN PACIFIC & BURLINGTON LINES, INC.-MERGER
ETC.-GREAT NORTHERN RAILWAY COMPANY, ET AL.

FINANCE DOCKET NO. 21478 (SUB-NO. 4)
GREAT NORTHERN PACIFIC & BURLINGTON LINES, INC.-MERGER, ETC.-
GREAT NORTHERN RAILWAY COMPANY, ET AL. (CHICAGO, MILWAUKEE,
ST. PAUL AND PACIFIC RAILROAD COMPANY APPLICATION
FOR INCLUSION IN BURLINGTON NORTHERN, INC.
PURSUANT TO CONDITION 33)

TESTIMONY OF WILLIAM J. QUINN

Chairman of the Board and Chief Executive Officer

Chicago, Milwaukee, St. Paul
and Pacific Railroad Company
516 West Jackson Boulevard
Chicago, Illinois 60606

TESTIMONY OF WILLIAM J. QUINN

Chairman of the Board and Chief Executive Officer

My name is William J. Quinn, and my business address is 516 West Jackson Boulevard, Chicago, Illinois 60606. I am Chairman of the Board and Chief Executive Officer of the Applicant herein, which I shall refer to as "Milwaukee Road," a position I have held since 1970. I am familiar with the Application herein and give this testimony in support thereof.

I was first employed by Milwaukee Road in 1954 in its Law Department. From 1958 to 1966, I was President of the Milwaukee Road. Thereafter, between 1966 and 1970, I was successively President of the Chicago, Burlington & Quincy Railroad, a constituent line of Burlington Northern Inc., and Vice Chairman of the Board of Burlington Northern Inc. On March 16, 1970, I returned to Milwaukee Road, where I am Chairman and Chief Executive Officer. On the creation in 1971 of Chicago Milwaukee Corporation ("CMC"), a holding company which owns 92.2% of the preferred and 96% of the common stock of Milwaukee Road, I became its Chairman of the Board and President, and subsequently also its Chief Executive Officer. I am familiar with the problems of the territory we serve, the operations of railroad carriers in that territory, and the principal industries in the area. As a participant in various merger discussions, negotiations and related Commission proceedings, I have also become familiar with the general issues here involved.

With full approval of the Boards of Directors of CMC and Milwaukee Road, I directed the filing of the Application by which Milwaukee Road seeks inclusion

in the Burlington Northern system through stock control rather than corporate merger. The proposal involves an exchange of Burlington Northern stock for Milwaukee Road stock held by CMC, with the same exchange terms available to the minority public holders of preferred and common stock of Milwaukee Road.

I am fully aware that Milwaukee Road has the burden of establishing before the Commission that the proposal is in all respects consistent with the public interest, notwithstanding opposition of Burlington Northern itself, and possibly of public agencies or shippers which might deem their interests would be otherwise better served.

The Commission must determine the issues presented on the basis of consistency with the public interest, which involves a number of subsidiary factors having a significant bearing on the ultimate determination.

In my testimony I intend to present an over-all approach to the issue of consistency with the public interest, addressing the Milwaukee Road's motivation, its future possibilities, and the business judgment applied by Milwaukee Road management. Because of the subsidiary factors which the Commission must take into consideration, I have assigned various staff personnel of Milwaukee Road to produce data essential to the determinations required to be made. I have also selected a recognized expert to supply material and opinions on valuation and financial matters which are outside the expertise of our staff personnel or require the application of independent judgment, and have retained an economist intimately versed in transportation matters to advise as to the economic aspects of our inclusion.

Included as part of our Application, and as testimony in the subsequent administrative proceedings on our Application, are verified statements covering the significant areas by Worthington L. Smith, President of the Milwaukee Road, Isabel H. Benham, Senior Vice President of Shearson Hayden Stone Inc., L. V. Anderson, Richard F. Kratochwill, George H. Kronberg, Glenn F. Reynolds and Donald M. Wiseman of our staff.

The Commission, as indicated specifically in its regulations, must examine the financial considerations of the proposed transaction. This examination must include studies of the economies to be effected and an analysis on a control basis of before-and-after traffic, revenues, earnings available for fixed charges, and net income of the parties; the total fixed charges before and after the transaction and changes produced by the transaction; guarantees or assumption of payment of dividends or fixed charges involved in the transaction; and other matters affecting the public interest in the capital structures and financial soundness of the parties. Ms. Benham has analyzed and her testimony covers all of these and other aspects, which are of significance to the public and the financial community.

The effect of the proposed control upon adequacy of transportation service to the public and upon carrier employees must be considered and necessary data accumulated and analyzed in order for the Commission to reach its decision. L. V. Anderson is our principal witness in this respect.

As the issue of consistency with the public interest also requires analysis of the effect of the transaction upon other rail carriers in the territory which are not proposed to be parties to the transaction, the data having a bearing on these

issues appears in the testimony of various witnesses, including Mr. Smith, Mr. Anderson, Mr. Kronberg, Mr. Reynolds and Mr. Wiseman, and in my testimony.

The testimony of the persons identified is designed to be a cohesively integrated, complete presentation of evidence which establishes that inclusion of the Milwaukee Road in the Burlington Northern is consistent with the public interest.

Apart from the data and considerations contained in such testimony, I believe that the Commission must have evidence as to possible alternatives if the proposed transaction should not be approved. Accordingly, both Mr. Smith and I will present views concerning the prospects of Milwaukee Road as a continued independent operation, and the consequences if we are unsuccessful. Both Mr. Smith and I considered the long view as well as the immediate view in analyzing the issues before the Commission, recognizing that decisions to be made must not only cover the remainder of this century, but must also take us into the next.

As a backdrop for the conclusions to which I will testify here, it is essential that the Commission have in mind the history of corporate combinations in this territory, including the various proceedings involving the Northern Lines, Milwaukee Road, North Western, and Rock Island.

On April 2, 1962, as President of Milwaukee Road, I testified in the earlier stages of this same proceeding. My testimony appears at pages 6,221 through 6,262 of the transcript of testimony in Finance Docket No. 21478, and Exhibits Nos. 84 and 85 which accompanied my testimony were received in evidence.

My testimony at that time was in support of six conditions on the then proposed Burlington Northern merger which were announced at the start of the hearings and modified at transcript pages 6219-6220.

The approval by the Commission of the Burlington Northern merger included the six "Milwaukee" conditions. It also included Condition 33 under which our present Application for inclusion is submitted, and various other conditions deemed protective of all carriers affected by the merger. Under the then circumstances our analysis of the traffic impact of the merger indicated a reduction of our traffic revenues and increased expense of over \$8 million annually. Without other prospects, the Milwaukee Road would have been flatly opposed to the merger or sought relief of a more substantial nature.

At that time, we had engaged in discussions with the North Western looking to a combination of our two railroads. We then considered that a rationalization of rail service in this territory could be advanced were both the Burlington Northern merger and our combination with the North Western consummated. However, even under those circumstances, it would be necessary to protect the Milwaukee Road in the Burlington Northern merger against the projected \$8 million loss. It is important for the Commission to realize in determining the issues presently presented that the protective conditions proposed by Milwaukee Road for the Burlington Northern merger were designed only to maintain a status quo with respect to the pre-existing volume of revenues, and that they were neither designed for nor anticipated by us to have the effect of enabling an economic penetration by Milwaukee Road of Burlington Northern's traffic to a degree which would exceed such an offsetting amount.

The Milwaukee Road's conditions which came into effect as a consequence of the merger were the opening of eleven western gateways via which both Burlington

Northern and Milwaukee Road could solicit the long haul of traffic; trackage rights for the Milwaukee Road into Portland and Billings, and between Renton-Snohomish and Everett-Bellingham; elimination of the dual basis of switch charges; and the restoration of certain rate relationships. I would emphasize that the Milwaukee Road, by these conditions, merely sought competitive opportunities to offset or protect it from loss. In no respect were the conditions expected to provide a cash bonanza for Milwaukee Road; as the Commission itself recognized, competitive opportunity was all that Milwaukee Road sought.

There were, of course, certain assumptions underlying the conditions sought by the Milwaukee Road. Foremost among them were assumptions that the conditions would have the effect anticipated from them and that economic conditions in the industry and the nation would remain relatively stable so as to permit a reasonable opportunity for Milwaukee Road to successfully implement the conditions. These assumptions and judgments underlay the testimony I gave in the initial merger hearings, cited above.

After litigation ending with the Supreme Court decision in the Northern Lines Merger Cases, 396 U.S. 491, the Northern Lines and the Burlington merged on March 2, 1970, subject to all the conditions imposed by the Commission on the merger. I entered into my present position with Milwaukee Road on March 16, 1970, and directed that the "Milwaukee conditions" on the Northern Lines merger be placed in effect as quickly as possible. George H. Kronberg, our Vice President-Traffic then and now, will in his testimony here detail precisely how those conditions were implemented and utilized in subsequent years. The only condition that proved

troublesome was the Portland entry, which the Union Pacific delayed by litigation. Our first train did not arrive in Portland until March 22, 1971.

The year 1971 also saw the creation of the National Rail Passenger Corporation (or Amtrak), which Milwaukee Road joined and thereby ended its long-distance passenger service responsibilities and most of the cash drain resulting therefrom. During that year CMC was created, and in 1972 exchanged its stock for that of Milwaukee Road in an effort through diversification to provide some balance to the cyclical nature of the Milwaukee Road's financial returns. Those returns, however, remained erratic at best, as the unprecedented national inflation of the period set in.

As the record in the main merger proceeding, F.D. 21478, reflects (Transcript page 6251), I have been of the opinion for years that there is and has been in the Middle West an oversupply of railroad transportation, railroad plant, and all its concomitant duplication of facilities constructed at a time when no competing forms of transportation existed. My testimony discussed the then-pending attempt to merge the Milwaukee Road and Chicago and North Western into "Chicago, Milwaukee and North Western Transportation Company", F.D. 28142. Hearings in the latter docket were completed during the course of the Commission's decision-making process in the Northern Lines merger and yielded a favorable initial decision by the Hearing Examiner, on December 18, 1968. I approved that consolidation because of the large savings in operating expenses that would have resulted, one of the most evident fruits of reduction in plant. The merger with the North Western did not come to pass by reason of the withdrawal by Northwest Industries, the holding

company parent of North Western, of its exchange offer on February 25, 1970.

Northwest Industries offered to sell only the transportation assets of Chicago and North Western to Milwaukee Road, but it was my judgment and that of the Board that Milwaukee Road's income and cash position could not have sustained the necessary costs involved. Chicago and North Western subsequently sold its transportation assets to its employees.

Milwaukee Road, meanwhile, did not fare as we had hoped despite the "Milwaukee conditions" on the Northern Lines merger. It became apparent to me that Burlington Northern was making a great success of its merger and that Milwaukee Road was losing the competitive struggle. Despite our best efforts at promotion, to which Mr. Kronberg will testify, it appeared that shippers were not fully supporting the implementation of those conditions with their business. Once again, it became necessary to seek relief. Accordingly, a petition for inclusion under Condition 33 of the Burlington Northern merger was filed on April 2, 1973.

Meanwhile, Milwaukee Road's efforts at self-help did not cease. We had begun in late 1969 to take steps to end our chronic Chicago-area commuter service losses, using a Federal program of capital grants for new equipment to two Illinois local Mass Transit Districts of over \$40 million to relieve Milwaukee Road of the burden of financing new commuter equipment. This Commission granted our sought condition on the Louisville & Nashville/Monon merger, and entry into Louisville by means of trackage rights over the old Monon was accomplished on March 1, 1973, giving our Indiana line its long-missed "gateway" terminal. In a further attempt to utilize our conditions on the Burlington Northern merger, we appealed the

Commission's denial of our petition for inclusion in the Peninsula Terminal Railroad at Portland and, after the Supreme Court remanded the case to the Commission, 408 U.S. 811, the Commission granted it, 348 I.C.C. 109.

We sought to follow up on our petition for inclusion here by conferring with Burlington Northern officers. These discussions, concluded March 14, 1974, contemplated a full merger of the Milwaukee Road into Burlington Northern. Burlington Northern was apparently of the view that a merger with Milwaukee Road would not be sufficiently advantageous to it, and unilaterally broke off discussions on May 31, 1974.

In late 1975 and early 1976, an examination of possible savings from inclusion of the Milwaukee Road in Burlington Northern on a stock control basis was made by representatives of both companies, but no negotiations or agreement with respect to inclusion resulted.

On December 3, 1974, the Commission served its report in the Rock Island proceeding, 347 I.C.C. 556. The Commission denied our petition for inclusion, despite an earlier order granting our request for hearings thereon. Our petition for reconsideration of that denial is still pending, but it does not seem likely that any further action on a Union Pacific-Rock Island merger permitting a petition for inclusion will take place, in view of the Rock Island's bankruptcy. The Commission's Rock Island report, 347 I.C.C. at page 615, also portended disfavor towards our petition for inclusion pursuant to Condition 33 on the Burlington Northern merger.

The analysis which the Commission is required to make of consistency with the public interest of the proposed transaction necessarily involves identification

by the Commission of the "public" affected by the transaction and the "interest" of that public. The most immediately affected, of course, is the public in the northern tier of states from Chicago to the Pacific Northwest and along connecting lines of the Burlington Northern to the Gulf of Mexico and of both companies into Kentucky. I refer the Commission to a map appearing in our Application as Exhibit 8, which shows the relationship of the lines of Burlington Northern and of Milwaukee Road in that area. The Commission will also find in exhibits of other witnesses, including Ms. Benham, data respecting other relevant matters in states served by both Burlington Northern and Milwaukee Road, as well as contiguous areas principally served by one or the other of these two carriers.

The public in the rest of the United States, where traffic handled by these two carriers may originate or terminate, is also involved, though somewhat less directly.

Turning from an identification of the public affected to what its interests may be, I believe that most significant factors are the over-all transportation needs of that public, the extent that rail transportation satisfies those needs, the service required, the costs of such service, and the existence or non-existence of competition by highway, water, or rail.


In the past, the Commission has usually emphasized the importance of rail competition in determining Section 5(2) applications. It has apparently been of the view that good rail service necessarily results from rail competition. I do not mean to suggest that competition does not have a place in regulation of rail

transportation. However, one should not assume that in the last quarter of the 20th Century its role is the same as in the early part of the century. The feasible alternatives to rail transport for most shippers now available from over-the-highway transportation and water carriage make it clear that intermodal competition is frequently the answer to a reduction in intramodal competition. Mr. Kronberg will testify more in detail on this subject.

More fundamentally, however, in cases such as the present, the question which must be answered is not solely whether rail competition -- strong or weak -- should be preserved. In a case of this kind, denial of the Application may have the result of effectively eliminating competition.

I think that public interest and public responsibility during the remainder of this century will insist upon the exercise of a "last clear chance" of saving American railroads under a private enterprise system. If this occurs, the principal economic condition which must give way is the idea that public interest must have rail competition between all principal points.

Thus, I submit that the public interest issue in the present case does not permit of a determination based upon the desirability of competition being preserved between Burlington Northern and Milwaukee Road. The competitive gap between Milwaukee Road and Burlington Northern is becoming more rather than less pronounced despite the "Milwaukee conditions" and our attempted use of those conditions following the Burlington Northern merger to compete effectively with Burlington Northern. Furthermore, in any event, from a territorial standpoint large segments of Milwaukee Road's service area do not now



receive competition from Burlington Northern, including substantial portions of Indiana, Iowa, Michigan, South Dakota, and Wisconsin.

Speculation as to whether competition would be increased for Burlington Northern if Milwaukee Road became affiliated with some other carrier does not address the legal and practical situation with which Milwaukee Road currently is faced. As Chief Executive Officer, I have concluded that Milwaukee Road has no alternative but to file this Application. There is no carrier but Burlington Northern with which the Commission can require an affiliation for the Milwaukee Road. If the Application were not filed, the Milwaukee Road might never again have the opportunity to seek an inclusion which the Commission can require. This is so because under the Transportation Act of 1940, and all subsequent legislation to date, there is no method of enforcing combinations of railroads, such as afforded by Condition 33, except as a condition to authorization of a voluntary merger or control.

Apart from the philosophical question of limited rail competition, it seems to me that all of the other factors involved in the consideration by the Commission of the public interest in the proposed transaction should be deemed favorable to its approval, including such matters as service and availability of transportation. Burlington Northern is a major carrier which to my personal knowledge is capable of providing good service and comprehensive transportation. Its financial plans are matters to which I cannot testify, but I believe that Burlington Northern spokesmen have publicly stated that it will require extremely large capital investments in the next decade, with particular reference to its service of coal shippers.

From the standpoint of the Application, however, I am satisfied that no additional burden upon such financing is being created. Ms. Benham's testimony analyzes in detail the consequences of the Application on Burlington Northern with respect to its capital structure, its requirements for debt service, its margin of safety in servicing its debt, its bond ratings and other related subjects.

From the standpoint of operations, Mr. Anderson's testimony and the studies which have been made jointly by Burlington Northern and Milwaukee Road, and which appear as Exhibit 9 to our Application, establish that significant savings can be produced from the combination. Mr. Anderson has also testified to additional areas of potential massive savings available to the Burlington Northern. Such savings can be realized, for example, through utilization of Milwaukee Road's presently existing facilities in lieu of construction of additional Burlington Northern facilities which otherwise would seem to be required.

Despite the fact established in Ms. Benham's testimony that the area served jointly by Burlington Northern and Milwaukee Road has important growth characteristics, past experience makes it appear most unlikely that Milwaukee Road will be able to secure a sufficient share of that traffic so as to obviate the need for the present Application.

The testimony of various of our witnesses shows that the Milwaukee Road cannot break even, in view of its increasing expenses, without a major improvement in its traffic revenues. A possibility of such an increase in revenues would come from a penetration of Burlington Northern's present traffic. This can be done only with major improvements in our service. For example, we cannot compete with

Burlington Northern in the transit time from Chicago to the Pacific Northwest unless we reduce our schedules by nearly a full day. We cannot achieve that kind of improvement without an immense capital expenditure. At the same time that we attempt thus to penetrate Burlington Northern's traffic, it is open to Burlington Northern with its economic headstart to take innovative steps which would cause us to remain behind.

That is not to say that Milwaukee Road is giving up the race either by reason of its difficult competitive situation or because it is our judgment that all persons concerned are best served by the proposed inclusion of Milwaukee Road in the Burlington Northern system. I have authorized the preparation and filing of the necessary documentation to seek rehabilitation funds under Title V of the 4-R Act, although this alone is no final solution to our problems, and is subject to approval by the Federal Railroad Administration and Congressional appropriations. The point I wish to stress is that we are striving and will continue to strive to make Milwaukee Road viable.

The question which the Commission must decide is the anticipated impact on the public interest if there were no Milwaukee Road. As I have already indicated, the public would be well served by an approval of our Application. The Commission must now consider whether the public would be disserved if our Application is rejected.

With regard to the latter consideration, I have already testified that we can improve viability only by major increases in traffic, and that because of Burlington Northern's strength, the likelihood of achieving that result must fairly be considered

as uncertain. Moreover, in my opinion, we are unable in the near term, and have no likelihood over the long term, of becoming a reasonably strong competition for Burlington Northern.

I believe that with the effort our personnel is making, we will, for the short term, continue to meet our obligations, but the consequence of continuing at best a hand-to-mouth existence is not, in my opinion, in the public interest.

As the Commission knows, Section 77 of the Bankruptcy Act is the course provided by law should we fail to meet our obligations. The concept of Section 77 is that the public can insist upon capital structure revisions and modification of contracts between the carrier and its creditors with respect to the nature and service requirements of the carrier's debt. But debt service is not the Milwaukee Road's fundamental problem. Our capital structure, as pointed out in Ms. Benham's testimony, is quite favorable with respect to coupons, distant maturities and contingent interest. If we are unable to generate the volume of traffic which would produce adequate net railway operating income, there could be no conventional reorganization under Section 77.

If bankruptcy resulted, the railroad could continue operations only so long as cash sufficient to take care of obligations present, even in a bankruptcy situation, such as payrolls held out.

It is not significant for my present testimony to theorize concerning the circumstances that would permit under bankruptcy a termination of operations and a liquidation to occur.

The point I am making is that if bankruptcy occurred, there is nothing further that could be accomplished by self-help on the part of the railroad's management. Outside help from the Congress or other sources to keep the railroad operating rather than being liquidated cannot be counted on and can only be speculated about now. In any event, the important conclusion is that the public in exclusive Milwaukee Road service area would run the serious risk of not having rail service.

If those circumstances came to pass, it might be that there would be federal aid of some form. We can hypothesize for this purpose that there might be a new version of Conrail or an extension of the existing Conrail authorized to avoid the termination of service. While that hypothesis is permissible from the standpoint of the gamut of conceivable possibilities, I cannot at this time assume that the hypothesis would become fact.

The legislative history makes it clear that when the Rail Act was under consideration the fundamental concept of the Congress was that the United States would not be responsible for any payments to the roads being required to convey their property to Conrail. It was believed by the Congress that the securities of Conrail could legally constitute the entire consideration to which the transferor railroads would be entitled. In the constitutional litigation which followed that year, a brief was filed in the Supreme Court by more than 100 Congressmen, and oral argument was made to the Court on their behalf that Congress did not intend that the United States would be required in any way to underwrite a deficiency between the value of the Conrail securities available for payment and the

properties conveyed to Conrail. As the Commission is aware, the Supreme Court decided that, whatever Congress may have intended, the effect of that statute was that the transferor railroads would be entitled to recover in the Court of Claims under the Tucker Act any short-fall between the value ultimately found for the Conrail securities and the value of the properties required to be conveyed to Conrail.

Both sides of that valuation issue remain to be determined. The value of Conrail will depend upon its ultimate operating viability as demonstrated over a period of time which it is recognized will extend well into the next decade. The valuation of the properties conveyed is a matter before the special court and has been recognized by all persons involved as one which may require some ten or more years.

Under such circumstances, it would be irresponsible for me, as the Chief Executive Officer of Milwaukee Road, to assume that if we fail at any time within the next ten years to achieve viability, Congress can be expected to rush to our aid. The Supreme Court has already made it clear to Congress that it has signed a blank check on the Treasury of the United States with regard to payment of the carriers which transferred property to Conrail. The amount to be written into that check, if the transferor railroads achieve only a material part of their claims, would involve multi-billions. I cannot assume that Congress would sign a second blank check for the benefit of the Milwaukee Road.

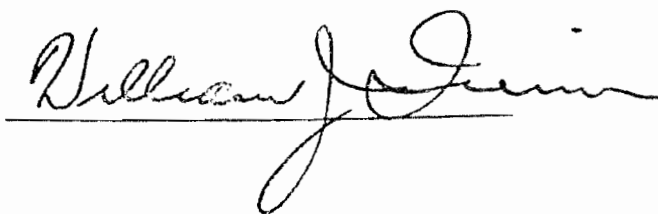
I have endeavored to testify to the choices which I consider are before the Commission. If the Commission determines on the evidence which we have presented that the Application is consistent with the public interest, it will be making a

decision which will not adversely affect the Burlington Northern's financial condition, future prospects or operating characteristics. If the Commission determines, notwithstanding our case, that it considers the Application is not consistent with the public interest, we will pursue our attempts to make this carrier viable and, failing the same, the public will be faced with the possibility of termination of our service over a 10,000-mile system.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

V E R I F I C A T I O N

WILLIAM J. QUINN, being first duly sworn on oath,
says that he is Chairman of the Board and Chief Executive Officer
of Chicago, Milwaukee, St. Paul and Pacific Railroad Company;
that he has read the above Testimony and knows the contents
thereof; and that the same is true to the best of his knowledge
and belief.



Subscribed and Sworn to before
me this 26th day of November, 1976.



Notary Public

My Commission expires: Oct. 21, 1979.