

Y 4
. P 96/11
94-29

1024

94-29
11/96
94/14

EMERGENCY RAIL PASSENGER SERVICE OPERATING ASSISTANCE

GOVERNMENT
Storage

DOCUMENTS

(94-29)

APR 12 1976

THE LIBRARY
KANSAS STATE UNIVERSITY

HEARING BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 10631 and H.R. 10632

TO AMEND THE URBAN MASS TRANSPORTATION ACT OF
1964 TO AUTHORIZE FINANCIAL ASSISTANCE FOR EMER-
GENCY RAIL PASSENGER SERVICE OPERATING ASSISTANCE

NOVEMBER 13, 1975

Printed for the use of the Committee on Public Works and Transportation



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1976

64-797 O

AY
11/20 9.
PS-42

DOCUMENTS

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

ROBERT E. JONES, Alabama, *Chairman*

JIM WRIGHT, Texas
HAROLD T. JOHNSON, California
DAVID N. HENDERSON, North Carolina
RAY ROBERTS, Texas
JAMES J. HOWARD, New Jersey
GLENN M. ANDERSON, California
ROBERT A. ROE, New Jersey
TENO RONCALIO, Wyoming
MIKE McCORMACK, Washington
JAMES V. STANTON, Ohio
BELLA S. ABZUG, New York
JOHN B. BREAUUX, Louisiana
GERRY E. STUDDS, Massachusetts
BO GINN, Georgia
DALE MILFORD, Texas
NORMAN Y. MINETA, California
KENNETH L. HOLLAND, South Carolina
ALLAN T. HOWE, Utah
ELLIOTT H. LEVITAS, Georgia
JAMES L. OBERSTAR, Minnesota
JEROME A. AMBRO, New York
HENRY J. NOWAK, New York
ROBERT W. EDGAR, Pennsylvania
MARILYN LLOYD, Tennessee
JOHN G. FARY, Illinois

WILLIAM H. HARSHA, Ohio
JAMES C. CLEVELAND, New Hampshire
DON H. CLAUSEN, California
GENE SNYDER, Kentucky
JOHN PAUL HAMMERSCHMIDT, Arkansas
BUD SHUSTER, Pennsylvania
WILLIAM F. WALSH, New York
THAD COCHRAN, Mississippi
JAMES B. ABDNOR, South Dakota
GENE TAYLOR, Missouri
BARRY M. GOLDWATER, Jr., California
TOM HAGEDORN, Minnesota
GARY A. MYERS, Pennsylvania

SUBCOMMITTEE ON SURFACE TRANSPORTATION

JAMES J. HOWARD, New Jersey, *Chairman*

JIM WRIGHT, Texas
HAROLD T. JOHNSON, California
GLENN M. ANDERSON, California
ROBERT A. ROE, New Jersey
MIKE McCORMACK, Washington
JAMES V. STANTON, Ohio
BELLA S. ABZUG, New York
JOHN B. BREAUUX, Louisiana
GERRY E. STUDDS, Massachusetts
BO GINN, Georgia
NORMAN Y. MINETA, California
ELLIOTT H. LEVITAS, Georgia
JEROME A. AMBRO, New York
HENRY J. NOWAK, New York
ROBERT W. EDGAR, Pennsylvania

BUD SHUSTER, Pennsylvania
JAMES C. CLEVELAND, New Hampshire
DON H. CLAUSEN, California
WILLIAM F. WALSH, New York
THAD COCHRAN, Mississippi
TOM HAGEDORN, Minnesota
GARY A. MYERS, Pennsylvania

CONTENTS

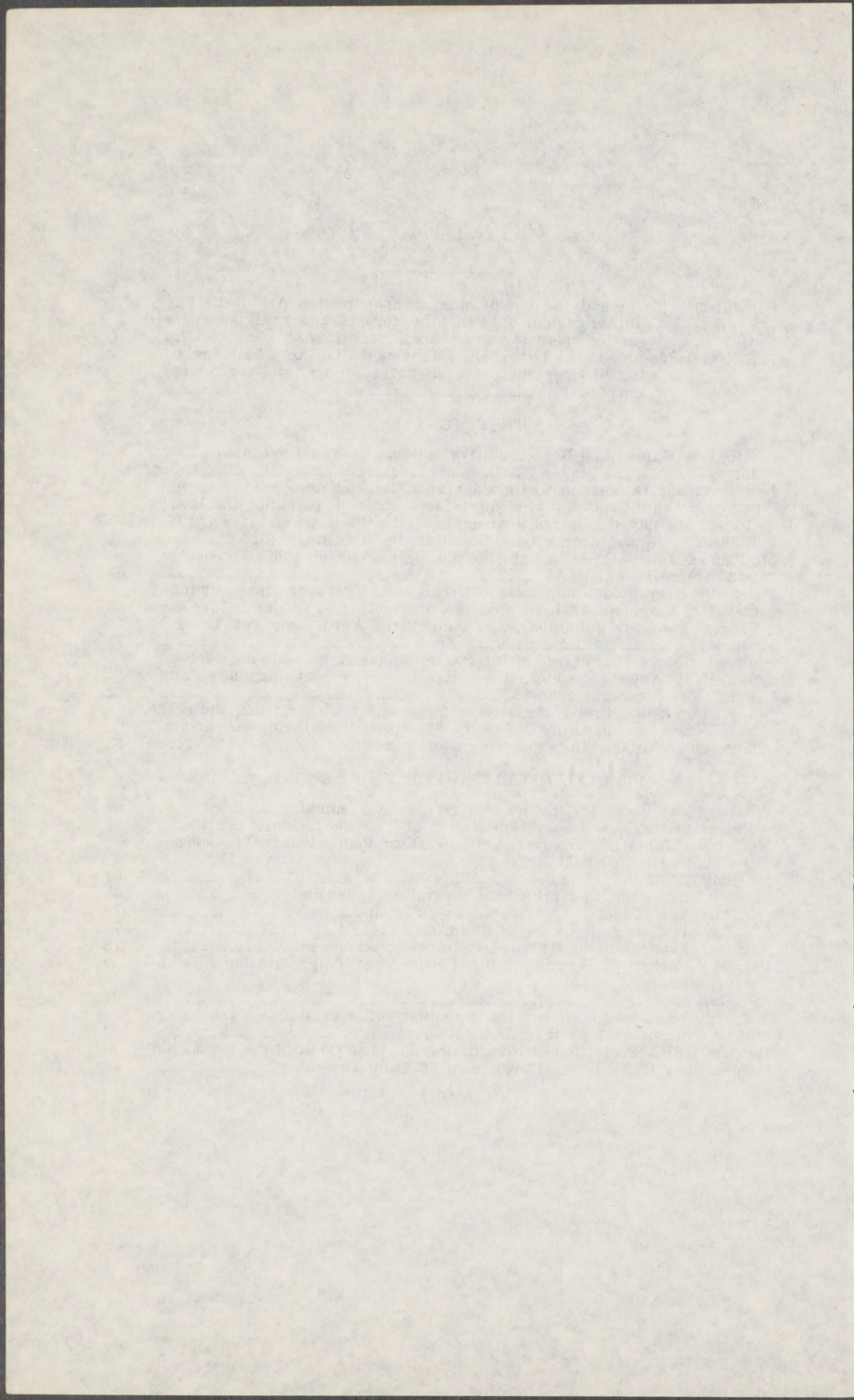
	Page
H.R. 10631: To amend the Urban Mass Transportation Act of 1964 to authorize financial assistance for emergency rail passenger service operating assistance-----	1
H.R. 10632: To amend the Urban Mass Transportation Act of 1964 relating to emergency rail passenger service, and for related purposes -----	5

TESTIMONY

Florio, Hon. James J., a Representative in Congress from the State of New Jersey -----	16
Lewis, Arthur D., chairman, United States Railway Association; accompanied by Paul Cruikshank, vice president, strategic planning, U.S.R.A.; Russell Murphy, director of financial analysis, U.S.R.A.; and Howard W. Robison, vice president, congressional affairs, U.S.R.A.-----	34
McConnon, James C., chairman, Southeastern Pennsylvania Transportation Authority (SEPTA)-----	61
Patricelli, Robert E., administrator, Urban Mass Transportation Administration; accompanied by Sallyanne Payton, chief counsel; Jerome Premo, associate administrator; and Pete Ward, office of general counsel -----	24
Stafford, George M., chairman, Interstate Commerce Commission; accompanied by Allen Fitzwater, director, rail service planning office; and Fritz Kahn, general counsel-----	72
Stangl, Peter, assistant commissioner for public transportation, State of New Jersey; accompanied by Larry Snowwhite, Washington representative; and William Whitehurst, economic consultant-----	52

MATERIAL RECEIVED FOR THE RECORD

Final System Plan: Its Impact on New Jersey Commuter Rail Services. Report of the New Jersey Department of Transportation-----	129
McConnon, James C., chairman, Southeastern Pennsylvania Transportation Authority (SEPTA):	
SEPTA Rail Fact Sheet-----	64
Reading—Penn Central commuter railroad deficits-----	65
Purchase of service payments to railroads-----	71
Technical suggestions for H.R. 10632-----	71
National Association of Railroad Passengers, statement-----	78
Patricelli, Robert E., administrator, Urban Mass Transportation Administration:	
Statement -----	21
Travel and cost statistics for commuter rail operations (Mass.; NY/Conn.; N.J.; Pa.; R.I.; Del.; Md.)-----	33
Report: USRA Projection of Subsidy Payments to ConRail for Passenger Operations (New Jersey Department of Transportation)-----	81



94TH CONGRESS
1ST SESSION

H. R. 10631

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 1975

Mr. HOWARD introduced the following bill; which was referred to the Committee on Public Works and Transportation

A BILL

To amend the Urban Mass Transportation Act of 1964 to authorize financial assistance for emergency rail passenger service operating assistance.

1. *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, the Urban Mass Transportation Act of 1964 as
4 amended (49 U.S.C. 1601) is amended by adding at the
5 end thereof the following new section:

6 "EMERGENCY RAIL PASSENGER SERVICE OPERATING
7 ASSISTANCE

- 8 "SEC. 17. (a) The Secretary shall provide financial as-
9 sistance to States and local bodies and agencies thereof for
10 the purpose of—

I

1 “(1) reimbursing the Consolidated Rail Corpora-
2 tion and, if applicable, the trustee or trustees of the rail-
3 roads in reorganization as defined in section 102 (12)
4 of the Regional Rail Reorganization Act of 1973 for pro-
5 viding rail passenger service pursuant to section 304
6 (e) of such Act during the one hundred and eighty-day
7 period following the date of conveyance of rail proper-
8 ties pursuant to section 303 (b) (1) of such Act. Such
9 reimbursement shall cover all costs not otherwise paid by
10 a State or local or regional transportation authority
11 which would have been payable by such State or local
12 or regional transportation authority pursuant to regula-
13 tions promulgated by the Rail Services Planning Office
14 under section 205 (d) (5) (A) of such Act had such
15 regulations been in effect on the date of conveyance of
16 rail properties; and

17 “(2) defraying additional costs of rail passenger
18 service incurred by such States and local bodies and
19 agencies thereof for the payment of rail passenger
20 service continuation subsidies pursuant to section 304
21 (c) (2) (A) of the Regional Rail Reorganization Act
22 of 1973.

23 “(b) Such assistance shall not apply to intercity rail
24 passenger service provided pursuant to an agreement with

1 the National Railroad Passenger Corporation which was in
2 effect immediately prior to the date of conveyance.

3 “(c) (1) Such assistance shall be subject to such terms,
4 conditions, requirements, and provisions as the Secretary
5 may deem necessary and appropriate with such reasonable
6 exceptions to requirements and provisions otherwise appli-
7 cable under this Act as the Secretary may deem required by
8 the emergency nature of assistance authorized by this sec-
9 tion. Nothing in this section shall authorize the Secretary
10 to waive the provisions of section 13 (c).

11 “(2) The Federal share of such assistance made avail-
12 able from the end of the one hundred and eighty-day period
13 to the end of the fiscal year ending September 30, 1977, shall
14 be 100 per centum of the cost eligible under subsection (a)
15 (2) of this section.

16 “(3) The Federal share of assistance made available for
17 the fiscal year ending September 30, 1978, shall not exceed
18 one-half the cost eligible under subsection (a) (2) of this
19 section. No assistance may be provided for the fiscal year
20 ending September 30, 1978, unless the applicant or other
21 responsible agency provides satisfactory assurances to the
22 Secretary that the service for which such assistance is sought
23 will be continued after the termination of the assistance au-
24 thorized by this section. The terms and provisions applied by
25 the Secretary for assistance provided in the fiscal year ending

1 September 30, 1978, shall be consistent insofar as is prac-
2 ticable with those applicable to operating assistance under
3 section 5.

4 “(d) To finance assistance under this section, the Sec-
5 retary may incur obligations on behalf of the United States
6 in the form of grants, contract agreements or otherwise in
7 an aggregate amount not to exceed \$125,000,000. There are
8 authorized to be appropriated for liquidation of the obliga-
9 tions incurred under this section not to exceed \$40,000,000
10 for the interim fiscal period ending September 30, 1976,
11 \$95,000,000 for the fiscal year ending September 30 1977,
12 and \$125,000,000 for the fiscal year ending September 30,
13 1978. Sums so appropriated shall remain available until
14 expended.”.

94TH CONGRESS
1ST SESSION

H. R. 10632

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 1975

Mr. HOWARD introduced the following bill; which was referred jointly to the Committees on Interstate and Foreign Commerce and Public Works and Transportation

A BILL

To amend the Urban Mass Transportation Act of 1964 relating to emergency rail passenger service, and for related purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. The Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601) is amended by adding at the end thereof the following new section:

“EMERGENCY RAIL PASSENGER SERVICE OPERATING

ASSISTANCE

“SEC. 17. (a) The Secretary shall provide financial assistance to States and local bodies and agencies thereof for the purpose of—

I

1 “(1) reimbursing the Consolidated Rail Corpora-
2 tion and, if applicable, the trustee or trustees of the rail-
3 roads in reorganization as defined in section 102 (12) of
4 the Regional Rail Reorganization Act of 1973 for pro-
5 viding rail passenger service pursuant to section 304 (e)
6 of such Act during the 180-day period following the date
7 of conveyance of rail properties pursuant to section 303
8 (b) (1) of such Act. Such reimbursement shall cover all
9 costs not otherwise paid by a State or local or regional
10 transportation authority which would have been payable
11 by such State or local or regional transportation author-
12 ity pursuant to regulations promulgated by the Rail
13 Services Planning Office under section 205 (d) (5) (A)
14 of such Act had such regulations been in effect on the date
15 of conveyance of rail properties; and

16 “(2) defraying additional costs of rail passenger
17 service incurred by such States and local bodies and
18 agencies thereof for the payment of rail passenger
19 service continuation subsidies pursuant to section 304
20 (c) (2) (A) of the Regional Rail Reorganization Act
21 of 1973.

22 “(b) Such assistance shall not apply to intercity rail
23 passenger service provided pursuant to an agreement with
24 the National Railroad Passenger Corporation which was in
25 effect immediately prior to the date of conveyance.

1 “(c) (1) Such assistance shall be subject to such terms,
2 conditions, requirements, and provisions as the Secretary
3 may deem necessary and appropriate with such reasonable
4 exceptions to requirements and provisions otherwise appli-
5 cable under this Act as the Secretary may deem required by
6 the emergency nature of assistance authorized by this sec-
7 tion. Nothing in this section shall authorize the Secretary
8 to waive the provisions of section 13 (c).

9 “(2) The Federal share of such assistance made avail-
10 able from the end of the 180-day period to the end of the
11 fiscal year ending September 30, 1977, shall be 100 per
12 centum of the cost eligible under subsection (a) (2) of this
13 section.

14 “(3) The Federal share of assistance made available for
15 the fiscal year ending September 30, 1978, shall not exceed
16 one-half the cost eligible under subsection (a) (2) of this
17 section. No assistance may be provided for the fiscal year
18 ending September 30, 1978, unless the applicant or other
19 responsible agency provides satisfactory assurances to the
20 Secretary that the service for which such assistance is sought
21 will be continued after the termination of the assistance
22 authorized by this section. The terms and provisions applied
23 by the Secretary for assistance provided in the fiscal year
24 ending September 30, 1978, shall be consistent insofar as is

1 practicable with those applicable to operating assistance
2 under section 5.

3 “(d) To finance assistance under this section, the Sec-
4 retary may incur obligations on behalf of the United States
5 in the form of grants, contract agreements, or otherwise in an
6 aggregate amount not to exceed \$125,000,000. There are
7 authorized to be appropriated for liquidation of the obliga-
8 tions incurred under this section not to exceed \$40,000,000
9 for the interim fiscal period ending September 30, 1976,
10 \$95,000,000 for the fiscal year ending September 30, 1977,
11 and \$125,000,000 for the fiscal year ending September 30,
12 1978. Sums so appropriated shall remain available until
13 expended.”.

14 TITLE II

15 SEC. 201. Section 205 (d) of the Regional Rail Reor-
16 ganization Act of 1973 (45 U.S.C. 715 (d)) is amended by
17 striking “and” at the end of paragraph (3) and inserting
18 at the end of paragraph (4) “and” and the following new
19 paragraph:

20 “(5) within 180 days after the effective date of the
21 final system plan, issue additional regulations, after con-
22 ducting a proceeding in accordance with the provisions
23 of section 553 of title 5, United States Code, which
24 contain—

25 “(A) standards for the computation of sub-

1 sidies for rail passenger service as provided in
2 section 304 (c) (2) (A) ; and

3 “(B) standards for the determination of emer-
4 gency rail passenger service operating assistance
5 provided by the Secretary pursuant to section 17
6 of the Urban Mass Transportation Act of 1964.”.

7 SEC. 202. Section 206 (d) (5) of the Regional Rail
8 Reorganization Act of 1973 (45 U.S.C. 716 (d)) is amend-
9 ed to read as follows:

10 “(5) All properties—

11 “(A) sold by the Corporation pursuant to sec-
12 tion 206 (c) (1) (C) and 601 (d) ;

13 “(B) sold by the Corporation to any State or
14 local or regional transportation authority pursuant
15 to subsection (c) (1) (D) of this section; or

16 “(C) sold by the Corporation to any State or
17 local or regional transportation authority within 900
18 days after the date of conveyance to meet the needs
19 of commuter or intercity rail passenger service,

20 shall be transferred at a value related to the value received
21 for the transfer to the Corporation of such properties. The
22 value of such properties transferred pursuant to subpara-
23 graph (B) of this paragraph shall be adjusted to reflect
24 the value attributable to maintenance and improvement pro-
25 vided to such rail properties by the Corporation.”.

1 SEC. 203. Section 214 (b) of the Regional Rail Reorga-
2 nization Act of 1973 (45 U.S.C. 724 (b)) is amended by
3 striking out "\$5,000,000" and inserting in lieu thereof
4 "\$7,000,000".

5 SEC. 204. (a) Subparagraph (B) of section 304 (a)
6 (2) of the Regional Rail Reorganization Act of 1973 (45
7 U.S.C. 744) is amended to read as follows:

8 "(B) not sooner than 30 days following the effec-
9 tive date of the final system plan the trustee or trustees
10 of the applicable railroad in reorganization or a profit-
11 able railroad give notice in writing of intent to discon-
12 tinue such service on a date certain which is not sooner
13 than 60 days after the date of such notice or than the
14 date of conveyance ordered by the special court pursuant
15 to section 303 (b) (1), whichever is later;"

16 (b) Section 304 (c) is amended by—

17 (1) striking out "or" at the end of paragraph (1) ;

18 (2) inserting before the semicolon at the end of
19 paragraph (2) (A) a colon and the following: "*Pro-*
20 *vided*, That if a rail service continuation subsidy is offered
21 for both freight and passenger service on the same rail
22 property, the owner of such property may not be entitled
23 to more than one payment of a reasonable return on the
24 value of such property";

25 (3) striking out the period at the end of subpara-

1 graph (C) of paragraph (2) and inserting in lieu there-
 2 of a semicolon and "or";

3 (4) inserting after paragraph (2) the following
 4 new paragraph:

5 " (3) if rail passenger service is being provided over
 6 such properties pursuant to subsection (e) of this sec-
 7 tion.";

8 (5) (A) designating the last paragraph of subsec-
 9 tion (c) as subsection (d), inserting "FREIGHT AGREE-
 10 MENTS.—" at the beginning of such new subsection, and

11 (B) inserting "freight" before "service" wherever
 12 it appears and inserting "pursuant to subsection (c) (2)
 13 (A) of this section" after "offered";

14 (6) inserting at the end of subsection (d) the fol-
 15 lowing new subsection:

16 "(e) PASSENGER AGREEMENTS.—The Corporation
 17 shall provide rail passenger service for a period of 180 days
 18 following the date of conveyance on all rail properties on
 19 which such service was being provided by the railroads in
 20 reorganization immediately prior to the date of conveyance,
 21 regardless of whether such properties are designated for
 22 inclusion in or exclusion from the final system plan, except
 23 on rail properties on which such service is provided by the
 24 National Railroad Passenger Corporation. If a State or a
 25 local or regional transportation authority was providing

1 financial support for the continuation of rail passenger serv-
2 ice pursuant to a lease or agreement which was in effect
3 immediately prior to the date of conveyance, the Corpora-
4 tion shall be bound by such lease or agreement for the
5 180-day period. If no financial support was being provided,
6 or if no lease or agreement was in effect immediately prior
7 to the date of conveyance, the Corporation shall provide the
8 level of service which was being provided by the railroads in
9 reorganization immediately prior to the date of conveyance
10 for the 180-day period. In any case where a State or a local
11 or regional transportation authority was providing financial
12 support for the continuation of rail passenger service imme-
13 diately prior to the date of conveyance, such State or local
14 or regional transportation authority shall maintain the level
15 of such financial support for the 180-day period. If such
16 financial support is not provided, or if at the end of the
17 180-day period a State or a local or regional transportation
18 authority has not offered a rail passenger service continua-
19 tion subsidy pursuant to subsection (c) (2) (A) of this sec-
20 tion, the Corporation and, where applicable, the trustee or
21 trustees of the railroads in reorganization may discontinue
22 such service, and, in the case of rail properties not desig-
23 nated for inclusion in the final system plan, abandon such
24 properties pursuant to subsections (a) and (b) of this

1 section. Nothing in this subsection shall affect the obliga-
2 tions of the Corporation or the trustee or trustees of the rail-
3 roads in reorganization to provide rail passenger service pur-
4 suant to section 303 (b) (2) or 304 (c) (2) (B). If at the
5 end of the 180-day period a State or a local or regional
6 transportation authority has offered a rail passenger service
7 continuation subsidy pursuant to subsection (c) (2) (A) of
8 this section, the Corporation shall continue to provide such
9 service. In any dispute over the application of regulations
10 promulgated pursuant to section 205 (d) (5) (A), the par-
11 ties thereto may agree to arbitration by a third party; in
12 the event the parties cannot agree to an arbitrator, the Di-
13 rector of the Office shall serve in that capacity. The Corpo-
14 ration shall be relieved of all obligations to provide rail
15 passenger service under this subsection on rail properties
16 for which a State or a local or regional transportation au-
17 thority contracts with an operator other than the Corpora-
18 tion to provide such rail passenger service. The Corpora-
19 tion shall provide access to such rail properties for such
20 service.”.

21 (c) The first sentence of section 304 (e) is amended by
22 inserting before the period at the end thereof the following:
23 “and where the Corporation can demonstrate that no State
24 of local or regional transportation authority is willing to

1 offer or to continue to offer a rail freight or passenger serv-
2 ice continuation subsidy pursuant to subsection (c) of this
3 section”.

4 (d) Section 304 is further amended by redesignating
5 subsections (d), (e), and (f) as (f), (g), and (h), re-
6 spectively.

EMERGENCY RAIL PASSENGER SERVICE OPERATING ASSISTANCE

THURSDAY, NOVEMBER 13, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

The subcommittee met at 10:40 a.m., in room 2293, Rayburn House Office Building, Hon. James J. Howard (chairman of the subcommittee) presiding.

Mr. HOWARD. The Subcommittee on Surface Transportation of the Committee on Public Works and Transportation will come to order.

The subcommittee is meeting this morning for the purpose of hearing testimony on two bills, H.R. 10631 and H.R. 10632, which were introduced by the chairman of the subcommittee. These bills are designed to maintain rail commuter service that may be in some jeopardy of being curtailed as a result of the implementation of the Final System Plan that went into effect last Sunday pursuant to the provisions of the Regional Rail Reorganization Act of 1973.

In order to prevent any disruption in commuter service, the bills would provide emergency funds through the medium of subsidies. The relief afforded would terminate September 30, 1978; by that time it is anticipated that the responsible parties at the State and local level would have been able to resolve the problem.

However, for the immediate future a problem exists and some responsible action must be taken to resolve that problem. Today we intend to find, as precisely as possible, the operational and financial scope of the problem and to determine the best means of overcoming it.

The Chair recognizes the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. I thank the distinguished chairman.

By way of preface, Mr. Chairman, I might comment that I have some difficulty with this legislation. I have some difficulty with it because, from the day I first came to the Congress, I have supported Federal aid to mass transit for system improvement and I have opposed Federal aid to mass transit for operating subsidies.

Now, I may find myself constrained to ultimately oppose this legislation. However, I am, I assure you, approaching this in these next days with a view toward finding ways to persuade myself to be able to support this legislation, not with a view toward confirming my concerns. However, I feel that in all candor, I should state these reservations from the beginning here, and would urge the witnesses to ad-

dress themselves, if they so care, particularly to the issue of why is this different from operating subsidies for other mass transit systems?

And in conclusion, again, I hope that I shall ultimately be able to persuade myself that I can support this legislation. Thank you.

Mr. HOWARD. Are there other comments by the members?

[No response.]

Mr. HOWARD. The Chair is very happy to welcome as our first witness this morning one of our able colleagues from the State of New Jersey, a gentleman from the First District in New Jersey, who is one of the new members of our delegation, one of the more knowledgeable and effective of the new members, an able member of the Committee on Interstate and Foreign Commerce, Congressman James J. Florio.

Mr. Florio, welcome to the subcommittee; we are very happy to have you with us this morning. We know how busy you are and wish to thank you for taking the time.

TESTIMONY OF HON. JAMES J. FLORIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. FLORIO. Thank you very much; I appreciate the opportunity to speak to you.

Right now, the Transportation Committee is meeting in markup on the bill, H.R. 9802, which deals with this very problem. I think my remarks will clarify why I think that your committee, sharing jurisdiction as we do, is probably more appropriately able to deal with the problem, particularly with regard to commuter subsidies.

Mr. Chairman, at the outset I want to express my deep appreciation for your prompt response to my request for a resolution of the commuter issues raised by the approval of a Final System Plan in the operation of ConRail. As you know, the Committee on Transportation and Commerce on which I serve is now in the process of marking up the bill 9802, which creates the basic statutory guidelines and enabling legislation to insure the viability of ConRail. An often overshadowed issue, but of prime importance to the State of New Jersey, has been commuter service. This is a matter of jurisdiction shared by both of our committees. Therefore, I want to express my appreciation for the positive response I have received from you and your staff on this issue.

In the next few months, ConRail will assume the responsibilities for commuter operations which, in New Jersey, are now being undertaken by the bankrupt Erie Lackawanna, Central Railroad of New Jersey, Penn Central, Pennsylvania Reading and Seashore Line, and the New York and Long Branch Line.

Except for the Erie Lackawanna, the State will have to renegotiate all of the operating contracts with ConRail if present service is to be continued. The Erie Lackawanna contract can be canceled at any time 1 year of notice is given. In those new contracts, the State of New Jersey would have to conform to the cost-sharing principles detailed in the USRA's Final System Plan. The State anticipates that ConRail will be seeking a substantial increase in their payments by shifting the cost-sharing burden in accordance with USRA's principles of passenger-dominant service.

The New Jersey Department of Transportation has determined that USRA's pro forma financial forecast for ConRail passenger operations projects that the State of New Jersey will pay ConRail approximately \$75 million more in commuter rail subsidies in 1976. This represents a \$20 million increase that New Jersey believes will be fairly due to ConRail for these services, and further constitutes an abrupt 35-percent increase over New Jersey's current commuter rail subsidy payments.

I have no quarrel with both passenger and freight paying their own way. I am concerned, however, that the end result of this plan will be the subsidization of freight service by passenger service. I say this because ConRail's profitability is based on substantial increases over and above present subsidies being paid by commuter operators to the railroads.

The legislation before these committees, H.R. 10631 and H.R. 10632, will remedy the three most important problems; it will eliminate the threat of discontinuance of service by providing service for 6 months while the States can renegotiate these contracts. A temporary impact aid program will be enacted to enable the States to assume these new contracts without burdening ConRail's viability or that of the States while budgets are being adjusted. And standards for the negotiations of fair contracts will be determined by a third party, and this third party can arbitrate in any disputes which may arise.

There are several problems with the concept of directed service, which is contained in H.R. 9802, the bill currently being marked up in the Transportation Committee. That directed service concept is the alternative to the more preferable approach as contained in your bill, H.R. 10631 and H.R. 10632. Directed service, the concept in our bill, would be administered through the Interstate Commerce Commission, rather than through the Urban Mass Transportation Authority. I believe that UMTA is the appropriate agency to administer the impact aid because of its experience in this field with regard to commuter operations and particularly with respect to operating assistance.

I think that we should agree that this is a complicated procedure, and that when we are dealing with such a procedure we should call upon the agency which has the most experience in dealing with commuter service. Directed service would only last 8 months, as presently contained in the bill 9802, and to the gentleman who has expressed some reservations, I suspect probably in terms of just the economy of the situation, the 9802 provision for directed service provides 8 months at \$75 million. As you can see, in this bill we are talking about substantially a larger period of time, a longer period of time at proportionally a less amount; we are getting more for the taxpayers' money.

Eight months does not provide the States with enough time to adjust their fiscal budgets for this sudden inflow of money. Over a comparable period of time, directed service is too expensive, and would therefore have a much more severe impact upon the Federal budget.

In contrast, your bills would provide for \$125 million over 2½ years. Its duration gives the States adequate time to adjust their fiscal budgets and integrate any new costs into their budgetary processes. The authorization is a ceiling; in fact, the actual outlays will await determination by the Rail Service Planning Office of what the recalculated costs will be. This provides a safeguard for overexpenditure by the

Federal Government. If the cost incurred by the States from entering into contracts with ConRail does not exceed what the States are now paying the trustees for rail services, the outlay will not be necessary. This is just a short-term impact aid program which provides insurance to the States, and may never have to be used.

Time is of the essence in obtaining favorable consideration of this legislation, so that when the final bill is considered by the House, the objectives of the Regional Rail Reorganization Act can be met. I appreciate the committee's consideration of this bill, and would hope that some rapid consideration would be provided for a final version of this bill, so that when the bill 9802 does hit the floor, which hopefully will be in the space of about a week or so, that this committee would be in a position to offer your bills as an amendment to our bill, so that we can have a comprehensive omnibus bill come out and deal with all the problems of ConRail, one of the most important of those being commuter-operating subsidies.

Mr. HOWARD. Thank you very much, Mr. Florio. Just a couple of questions.

Although we know now of a few States that are in a difficult situation and have great need for this legislation, this legislation does cover the entire ConRail system, about 17 States? Is that correct?

Mr. FLORIO. That is correct. The severest impact is felt upon New Jersey and Pennsylvania, if I might add, SEPTA being one of the entities that will benefit from this.

Mr. HOWARD. And also, without this legislation, you feel that it will be the commuter and passenger services that will be suffering?

Mr. FLORIO. Well, there is no doubt about that, because ConRail has already announced that the contracts in existence will be terminated and will have to be renegotiated.

Mr. HOWARD. Should the Subcommittee and the full Committee on Public Works and Transportation approve this bill, it would probably be good procedure to have this as an amendment to the bill H.R. 9802 from the Committee on Commerce and Health.

Mr. FLORIO. That is correct, and I have been in contact with Chairman Rooney of my committee. He sees this procedure as a very viable procedure.

Mr. HOWARD. One that might be very well accepted, as you know, by the committee?

Mr. FLORIO. Yes.

Mr. HOWARD. We recess for the Thanksgiving holidays next Thursday. Do you feel, for practical purposes, that you will be able to have your bill on the floor by or before next Thursday?

Mr. FLORIO. I doubt that. "A week or so" I was making reference to the bill being completed by our committee.

Mr. HOWARD. Thank you; I am very relieved by that.

Mr. SHUSTER. I believe I need to understand a little better, Mr. Congressman, the difference between the directed service and the administration of it by the ICC as opposed to the administration by UMTA. What does that mean?

Mr. FLORIO. Yes; in essence, what is being said is that with the authority, or with the requirement by USRA, i.e., ConRail, these contracts will be terminated, and that there will be renegotiations. Ob-

viously it is possible that there will be a lapse—that is, prior to the termination and before the contracts are renegotiated. There will be a time when there will be no commuter service.

Mr. SHUSTER. Who would renegotiate, then? You mean negotiations between ConRail—

Mr. FLORIO. And the commuter operating agencies in the service.

Mr. SHUSTER. Like SEPTA?

Mr. FLORIO. That is right.

Mr. SHUSTER. Wouldn't it be in the interest of the mass transit agencies to see to it that they do negotiate?

Mr. FLORIO. There is no question that they would have to negotiate. All we are saying is, during the period of time when there will be negotiations—hopefully good faith negotiations, there will be a lapse undoubtedly. During that lapse time, ICC and the bill 9802 will provide that ICC has the ability to direct another railroad to maintain service.

The provision in our bill provides for 8 months of directed service; during this time hopefully there will be negotiations, successful, hopefully not too costly to the States. But during that time the railroads will be required to assume the responsibility. The provisions in our bill provides for \$75 million for this 8-month period. The time is not sufficient for directed service, and the mount, in my opinion, is entirely too costly. It is not efficient.

ICC will be supervising that directed service. I don't feel that ICC is the most effective Agency for doing that. UMTA is clearly a more effective Agency. This approach of providing grants during that period of time is much more economical.

Mr. SHUSTER. With UMTA—the alternative being, if I understand you correctly, that UMTA would direct the ConRail service?

Mr. FLORIO. UMTA would provide the moneys so the existing system can carry on while negotiations are being provided.

Also an important point of the bill—both bills—is that standards for the renegotiations are provided. As of now there are no standards. We are now debating at this moment questions as to avoidable costs or allocated costs; the basic essence of what it is that is going to be talked about. What are the standards for the renegotiation? That is sort of up in the air right now.

This is why we are looking forward to some extended period of time, hopefully not too long, but it is not a clear-cut case of just walking in and renegotiating for contracts. There are some basic differences as to what terms are to be in the contracts and what standards we will be striving for in the contracts.

Mr. SHUSTER. Would I be reasonably accurate in saying that one of the differences then between the operating subsidy proposed here and normal operating subsidies for mass transit is that the normal operating subsidies are a routine ongoing kind of operating subsidy, whereas this is a temporary interim operating subsidy made available only until the renegotiation can be consummated?

Mr. FLORIO. I think that there is a very clear, concise and distinguishing point that can be made, as I made reference to in my remarks, this is a limit. It is quite conceivable—I think improbable, but it is quite conceivable that this money may never be needed.

If as a result of the negotiations, the existing amounts of the contracts were renegotiated, there would be no need. It is anticipated that there will probably be an increase; the extent of which has not been determined. This is for the negotiating process.

But what I am saying is that these moneys will be available to carry this passenger subsidy contract—carry these contracts into operation while the contracts are being negotiated. This is an impact temporary aid program.

Mr. SHUSTER. Let's take it on the down side. Is it possible that all this money could be expended and the negotiations still not consummated?

Mr. FLORIO. Highly improbable; obviously it is possible, but I doubt very seriously that that would be the case.

Mr. SHUSTER. Thank you, Mr. Chairman.

Mr. HOWARD. The gentleman from California, Mr. Mineta.

Mr. MINETA. Just to clarify, Jim, how do we deal with the fear that you expressed—the fear of subsidization of the freight aspect of the Final System Plan; we are trying to help passenger service through subsidies, are we not?

Mr. FLORIO. Yes, that is so.

Mr. MINETA. How do we avoid the subsidization of the freight aspect of the Final Systems Plan?

Mr. FLORIO. Well, an awful lot is going to have to be done. To address ourselves to that problem, we are going to have to draw some standards. One of the proposals that has been made is to have the Rail Service Planning Office come up with equitable standards for renegotiation of the contracts.

As of now, there are no standards for these contracts, and I think what we have to do, is implement the concept of avoidable costs, to say that the amount that ConRail is entitled to, with regard to these contracts that we are going to be negotiating, is an amount that is designed to reimburse ConRail for the costs of the passenger service.

Put another way, they are entitled, in my opinion, to an amount of money so as not to lose an amount of money as a result of their continuing the passenger service. Over and above that, they are entitled to an administrative fee for the costs of conducting these passenger services.

There is another feeling on the part of some individuals that there should be a concept of allocated costs. That is to say that the passenger system should carry not only the costs of maintaining the passenger service, plus an administrative cost, but also a proportional share of the total operation of the railroad, fixed assets and so on. I don't agree with that; I think then when you get into that, you are requiring the passenger service to, in a sense, cross-subsidize the freight situation.

So what I am saying is that in the next few months, we are going to be dealing—and I think we addressed this problem, in part, in the bill we are taking about now, in setting the standard that is going to be used in renegotiating this. But, I think, RSPO is probably the most qualified entity to come up with standards for the renegotiations process. I think, the best legislative goal that we can have is that the passenger system should not be subsidizing the freight system.

Likewise, the freight system should not be subsidizing the passenger system. They should each be carrying their own weight.

Mr. MINETA. Mr. Chairman, I think I just heard the best explanation of why all transportation modes ought to be under the jurisdiction of one committee.

Mr. FLORIO. Might I say, if I could, that I agree 100 percent; we are having an awful lot of difficulties. We have had bills that we have had to cut up because we couldn't deal with the ICC. The ICC has jurisdiction over areas that are not within our jurisdiction. I have some definite thoughts as to which of the committees it should be, but nevertheless, I would agree with your thought that this jurisdictional division makes no sense whatsoever.

Mr. HOWARD. And I thank both gentlemen for their comments.

The gentleman from Pennsylvania.

Mr. MYERS. I have no question, Mr. Chairman.

Mr. HOWARD. Thank you very much, Mr. Florio; we certainly appreciate your very clear statement, which brings this problem into focus, and certainly hope that we can have some resolution of this problem in a short time.

Mr. FLORIO. Thank you very much, Mr. Chairman.

Mr. HOWARD. The next witness before the subcommittee this morning is the Administrator of the Urban Mass Transportation Administration; this gentleman is new to the office, but perhaps by now he feels he may have been having this responsibility all of his life.

Mr. Patricelli has certainly garnered for himself a very high reputation in handling this new and very difficult assignment. We look forward to working with him on our committee for a long time, and we welcome him to this subcommittee.

Mr. Patricelli, if you would please introduce those who have accompanied you, for the record. We do have a copy of your prepared statement, and without objection, it will be made a part of the record at this point.

[The full text of Mr. Patricelli's prepared remarks follows.]

STATEMENT OF ROBERT E. PATRICELLI, ADMINISTRATOR, URBAN MASS
TRANSPORTATION ADMINISTRATION

Mr. Chairman and members of the committee, I am pleased to have this opportunity to discuss with you the impact of the Final System Plan on commuter rail services in the Northeast and Midwest. You have also asked me to comment on two bills, H.R. 10631 and H.R. 10632, both introduced by Mr. Howard of New Jersey.

In order that we should all have a common understanding of the situation with which we are dealing, allow me to review briefly the status of commuter rail services under the Final System Plan. Inter-city passenger services, of course, are provided by Amtrak; and the Final System Plan suggests appropriate arrangements between ConRail and Amtrak for the continuation of these services. Commuter rail services, however, are now being operated by the railroads in reorganization, and will be affected differently in various cities. The fundamental premise of the Final System Plan with respect to rail passenger services generally is that they should pay their own way—that is, that freight services should not cross-subsidize passenger services.

The Final System Plan (FSP) requires the respective allocation of costs between freight and passenger service to be computed on an "avoidable cost" basis, under which the dominant user owns the line and the minority user pays the avoidable costs of its presence. Under the FSP, therefore, ConRail will require subsidies for passenger service that is presently unsubsidized, and some existing subsidy contracts must be re-examined for consistency with the avoidable cost concept. These various provisions will have the effect of creating additional commuter rail operating subsidy burdens for the States, and that is the issue addressed by the bills under discussion.

A great deal of commuter service is operated in the territory covered by the Final System Plan, most of which has received substantial support from State and local agencies and will remain relatively stable under the Final System Plan. For example, the New York-Connecticut commuter network emanating from New York's Grand Central Terminal, which carries 144,000 passengers daily, will be virtually unaffected by implementation of the FSP. Commuter service in Boston is now being operated over rights-of-way owned by the MBTA, and only modest amounts of additional subsidy are projected by USRA.

The major problems are concentrated in Philadelphia and New Jersey, in which USRA estimated a need for approximately \$45 million in additional subsidy for calendar year 1976—about equally split between the two States.

This is a significant added fiscal impact upon the affected States and metropolitan areas. We appreciate the time and thoughtful analysis that has contributed to the proposals before the Committee. Although we think that the funds requested in the two bills exceed the amounts necessary to accomplish the purpose, we agree that some modest infusion of new federal operating assistance, limited in time and amount, is needed to cushion the initial impact of the FSP. We believe, however, that such assistance must be coupled with actions to exempt local commuter service from ICC economic regulation and to make it possible for decisions about commuter rail to be made within the total context of metropolitan area transportation planning. Finally, although we agree that this problem should be handled through the UMTA budget, we believe that any increase in outlays for this purpose should be accompanied by an effort to forestall the use of capital funds for operating purposes which is now permitted under what we believe to be an unwise provision of the UMT Act. Hence, we urge a repeal of Section 3(h) of the UMT Act, the so-called "Beame shuffle." The Administration believes that these three issues must be approached as a package.

Specifically, we have reached the following positions:

1. Emergency Commuter Operating Assistance.—Federal operating assistance for commuter rail services affected by the Final System Plan is appropriate. Such assistance ought to begin on the conveyance date of rail properties under the Final System Plan (February 27, 1976), and continue for a maximum of two years. That subsidy ought to be limited to all or a portion of the incremental operating costs brought about as a result of the FSP, and should be provided through amendment to the Urban Mass Transportation Act, since UMTA is now the federal agency providing capital and operating assistance to commuter rail passenger service. This new funding can and should be absorbed within the overall contract authority limitation of \$11.8 billion through fiscal year 1980 established by the National Mass Transportation Assistance Act of 1974.

Generally speaking, any commuter rail operating assistance should be made available within the general context of Federal assistance to urban transit systems—namely, the Urban Mass Transportation Program. States and localities should consider their support to commuter rail based on an examination of what type of transit service—bus, rapid rail, commuter rail, or other—makes most sense in a particular situation. Federal operating assistance funds, over the long term, should not be tied in a categorical way to a particular transit mode, but should be available for flexible use by States and localities according to their determination of the proper mix. Hence, while an emergency commuter rail assistance program might be justified, it should have a time limited element and should merge into the general operating assistance program authorized under Section 5 of the UMT Act.

We believe that the time period for this special commuter rail assistance program should be two years. During this period of interim federal subsidy, the State must decide what lines it will continue to subsidize after the special federal program stops, based on a comprehensive review of its future rail needs. Two years is ample time for the State legislatures to consider what steps they wish to take and to adjust budgetary requirements accordingly. We would support, in this context, the element of H.R. 10632 which would require an applicant to provide assurances to the Secretary that the service will be continued after the expiration of the federal program, as a condition of funding for the second year of this special subsidy.

We think that a 100 percent federal share is appropriate during the time of greatest need, which is the first 180 days after conveyance, and we agree with

the concept of requiring ConRail to continue to operate service during that time. However, we also realize that very different levels of effort have been provided heretofore by the various States and localities with respect to commuter rail service. We therefore think that it would be inappropriate to reward areas that have made the most modest efforts in the past by allowing them to capture a 100 percent payment of incremental cost for a protracted period. We therefore propose reducing the federal share to 50 percent of eligible costs after the initial 180-day period, and requiring the plan for continued operation as a precondition for FY 1977 assistance and for the five months of FY 1978 which would be covered.

Based on these matching percentages and our calculations of the incremental costs resulting from the FSP, we therefore propose authorization ceilings of \$40 million for FY 1976 and the transition quarter that occurs between FY 1976 and FY 1977, \$30 million for FY 1977, and \$20 million for the first five months of FY 1978.

With regard to capital as opposed to operating assistance USRA further estimates that the acquisition cost of commuter lines omitted from the FSP approximates \$20 million at net liquidation value; approximately \$16 million of this is in the Philadelphia area, with most of the remainder in New Jersey. UMTA staff has been in touch with representatives of these areas and UMTA has promised to give priority consideration to requests for capital grant funding of these costs.

2. Repeal of Section 3(h).—While considering this addition to Federal operating assistance support for commuter rail service, the Administration urges the Congress to rationalize a companion element of the UMTA program which constitutes an invitation to budgetary gimmickry. Pursuant to Section 3(h) of the UMT Act, a grant recipient is allowed to divert up to 50 percent of a capital grant to meet current operating expenses, providing he provides satisfactory assurances that the capital amounts will be repaid from non-Federal sources within two years. This practice is fiscally irresponsible and should not be allowed under Federal law. It encourages the unwholesome practice of financing operating needs from capital budgets, and makes it impossible for UMTA to make capital grants with any sure expectation of grantee performance when a so-called "shuffle" is known to be contemplated.

Up to now, the "shuffle" has only been used by New York City, and indeed the provision was added to law in 1974 in response to a New York City initiative. It is an example of the type of practice which has created massive fiscal problems in that City. UMTA has already seen \$125 million transferred from capital grants to operating purposes in New York. What is most ominous is that we are now receiving serious inquiries from other cities which may be contemplating shuffles. An estimated \$150 to \$200 million in unanticipated outlays in fiscal year 1976 might be averted by repeal of this provision, thereby providing room within the outlay ceilings being set by the Administration and the Congressional budget process for the special emergency subsidy program now being considered by this Committee.

The Administration would have sought repeal of Section 3(h) even had this special commuter rail subsidy problem not arisen; we urge that it be accomplished now.

3. ICC Regulation.—Finally, it will be increasingly important for metropolitan areas to make their own decisions with respect to commuter rail services once a new pattern of cost allocation is initiated pursuant to the Final System Plan. Commuter rail services should be considered within the overall framework of metropolitan area transportation planning. Local responsible officials must be able to determine what levels of service should be provided, over what routes, at what fares, without the additional burden of federal economic regulation through the ICC. We therefore propose to exempt all urban public transportation services from ICC regulation. Without this necessary gift of self-determination for these urban areas, the crisis of commuter rail will only be exacerbated over time, fueled rather than slacked by the existence of a temporary federal operating resource.

We are pleased to have had the opportunity to testify on this timely legislative issue, and look forward to working with the Committee in developing a reasoned program to meet emergency commuter rail needs in a fiscally responsible manner.

STATEMENT OF ROBERT E. PATRICELLI, ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION, ACCOMPANIED BY SALLYANNE PAYTON, CHIEF COUNSEL; JEROME PREMIO, ASSOCIATE ADMINISTRATOR; AND PETER WARD, OFFICE OF GENERAL COUNSEL

Mr. PATRICELLI. Thank you very much, Mr. Chairman; I will introduce my colleagues.

Mr. Jerome Premio, UMTA's associate administrator for capital assistance, under whose jurisdiction our operating assistance programs also fall, and on my left, Miss Sallyanne Payton, chief counsel for UMTA, and with us also today is Mr. Peter Ward, of the Department's Office of General Counsel.

I am especially pleased to be with you today; it is my first appearance before the subcommittee. I hope it will be the first of many happy opportunities for collaboration, and I would hold myself open and available to meet with you formally or informally at any point, if you should desire, on any matters that we have in common. I look forward to the most intimate kind of working relationship with you and your colleagues.

I am pleased to have this opportunity to discuss with you today the impact of the Final System Plan on commuter rail services in the Northeast and in the Midwest, and I will comment in this regard on two bills, Mr. Chairman, that you have introduced—H.R. 10631 and 10632.

By way of introduction, so that we might have a common understanding of the situation before us, I would like briefly to review the status of commuter rail services under the Final System Plan.

We know, of course, that intercity passenger services are provided by Amtrak, and that the FSP suggests appropriate arrangements between ConRail and Amtrak for the continuation of that intercity service.

But the subject before us is commuter rail service, and that is a service now being operated by the railroads in the reorganization. This service will be affected differently in various cities. The fundamental premise of the Final System Plan with respect to rail passenger services generally is that they should pay their own way; that is, as the Congressman from Pennsylvania made clear, freight services should not cross-subsidize passenger services, nor vice-versa.

The Final System Plan requires the respective allocation of cost between freight and passenger services to be computed on an avoidable cost basis, under which the dominant user, as between freight and passenger, owns the line and the minority user pays the so-called avoidable costs of its presence.

Under the Final System Plan, therefore, ConRail will require subsidies for passenger service that may now currently be unsubsidized, and some existing subsidy contracts must be reexamined for consistency with the avoidable cost concept. These various provisions, to get to the bottom line, will have the effect of creating additional commuter rail operating subsidy burdens for the States, and that is the issue that is being addressed by the bills under discussion.

A great deal of commuter service is operated in the territory covered by the Final System Plan, and most of it has received financial support from State and local agencies, and most of it will remain relatively undisturbed under the Final System Plan.

For example, the New York-Connecticut commuter network, which emanates radially from New York's Grand Central Terminal and which carries 144,000 passengers daily, is virtually unaffected by implementation of the plan. Commuter service in Boston is now being operated over rights-of-way owned by that area's Metropolitan Transportation Authority, and only modest amounts of additional subsidy are projected by the USRA.

The major problem—the major impact on commuter rail operations as a result of the Final System Plan—are concentrated in Philadelphia and in New Jersey. In those areas the USRA estimates the need for approximately \$45 million in additional subsidies for calendar year 1976, most of that being about equally split between the two States.

This is a significant added fiscal impact upon the affected States and metropolitan areas. We appreciate the time, thoughtful analysis, and initiative that is reflected in the proposals before the committee. Although we think that the funds requested in the two bills exceed the amounts necessary, perhaps, to accomplish the purpose, we agree with the principle that some infusion of new Federal operating assistance, limited in time and amount, is needed to cushion the initial impact of the Final System Plan. We believe, however, that such a system must be coupled with actions to exempt local commuter service from ICC economic regulation, and to make it possible for decisions about commuter rail to be made within the context of metropolitan area transportation planning.

Finally, although we agree that this problem should be handled through the UMTA budget, we believe that any increase in outlays for this purpose should be accompanied by an effort to forestall the use of capital funds for operating purposes, which is now permitted under what we believe to be an unwise provision of the UMTA Act. Hence we urge a repeal of section 3(h) of the Urban Mass Transportation Act, the so-called "Beame shuffle." The administration believes that these three issues—that of interim operating assistance for commuter rail, that of ICC regulation, and that of the section 3(h) shuffle should be approached as a package.

Let me elaborate briefly, first on emergency commuter operating assistance.

Federal operating assistance for commuter rail services affected by the final system plan is, we believe, appropriate, and we support in principle your bills H.R. 10631 and H.R. 10632. Such assistance ought to begin on the conveyance date of rail properties under the Final System Plan—that is, February 27 of next year—and we believe should continue for a maximum of 2 years. That subsidy ought to be limited to all or a portion of the operating costs brought about as a result of the final system plan, as your bill would do, and should be provided through amendment to the Urban Mass Transportation Act, since UMTA is now the Federal agency providing capital and operating assistance to commuter rail passenger service.

Let me add parenthetically that the administration has reviewed the options in this regard, and takes the position that your proposal is preferable to making subsidy available through the directed service provisions of the ICC.

This new funding can and should be absorbed, we believe, within the overall contract authority limitation of the \$11.8 billion through fiscal year 1980 established by the National Mass Transportation Assistance Act of 1974.

Put another way, we believe that we can accommodate these additional outlays within our multiyear authority, and this is not the occasion to change the 6-year authorization limit in the National Mass Transportation Assistance Act.

Generally speaking, any commuter rail operating assistance, we believe, should be made available within the general context of Federal assistance to urban transit systems—namely: the UMTA program. States and localities should consider their support to commuter rail based on their examination of what type of transit service—be it bus, or rapid-rail or commuter rail or anything else—makes the most sense in a particular location. Federal operating assistance funds, over the long term, should not be tied in a categorical way to any particular transit mode. They should be available for the flexible use by States and localities according to their determination of the proper mix of modes. Hence, while an emergency commuter rail assistance program might be justified, on an interim basis, we believe it should have a time limit element, and it should merge into the general operating assistance program now authorized under section 5 of the UMTA Act.

I believe this relates to Congressman Shuster's point, in that we believe that all operating assistance ought to be subject to regulations and statutory authorities that require operators to be concerned with efficiency and with improvement of service, as section 5 now requires. And while we support an interim emergency appropriation and authorization for the purposes we are discussing today, we would like it all to come under the general umbrella of a carefully directed operating assistance program in the future.

We believe that the time period for this special commuter rail assistance program should be 2 years. During this period of interim Federal subsidy, the States must decide what lines they will continue to subsidize after the special Federal program stops, based on their comprehensive review of future rail needs—and I might add, future urban transportation needs generally. We believe that 2 years is ample time for State legislatures to consider what steps they want to take and to adjust their budgetary requirements accordingly. We would support in this context the element of H.R. 10632 which would require an applicant to provide assurances to the Secretary that the service will be continued after expiration of Federal programs, as a condition of funding for the second year of this special operating assistance grant.

With regard to the Federal matching shares, Mr. Chairman, we would propose a slightly different formula than you have suggested. We do believe that a 100-percent Federal share is appropriate during the time of greatest emergency need, which is to say the first 180 days after conveyance. We agree with the concept of requiring Con-Rail to continue to operate service during that time. However, we also

realize that very different levels of effort have been provided heretofore by various States and localities with respect to commuter service. We therefore think it would be inappropriate to in effect reward areas that have made the most modest efforts in percentage terms in the past, by allowing them to capture a 100-percent payment of incremental costs for an unnecessarily protracted period. We therefore propose reducing the Federal share to 50 percent of eligible costs immediately after the initial 180-day period, and requiring the plan for continued operation as a precondition for fiscal 1977 assistance and for the remainder of the 5 months in fiscal 1978 that would be covered in the 2-year total program.

Based on these matching percentages and our calculations of the incremental costs resulting from the Final System Plan, we would therefore propose authorization ceilings of \$40 million for fiscal year 1976 and the transition quarter, \$30 million for fiscal 1977, and \$20 million for the first 5 months of fiscal 1978, for a total of \$90 million.

With regard to capital as opposed to operating assistance—although that subject is not directly addressed in the pending bills—USRA has estimated that acquisition costs of commuter lines omitted from the final system plan approximates \$20 million at net liquidation value, approximately \$16 million of this in the Metropolitan Philadelphia area, and most of the remainder in New Jersey. We have been in touch with representatives of these areas, and UMTA has promised to give priority consideration to requests for capital grant funding of these costs.

That is to say, we believe we have sufficient authority and funding to deal with the special needs for capital acquisition of lines that will not be assumed by ConRail, and we need no legislative solution at this time for those problems.

The UMTA figures for capital acquisition needs cited at the hearing were based upon preliminary USRA estimates for the Philadelphia region. Upon review of the final USRA estimates, UMTA has revised its own estimate downward to approximately \$7.3 million for both Pennsylvania and New Jersey. The principal change is due to the fact that SEPTA no longer plans to acquire all of Suburban Station in Philadelphia, which accounts for a reduction of \$9 million in the estimate. The revised figure also takes into account some other, minor adjustments in the Final System Plan and in the valuation of some properties.

The second element, Mr. Chairman, of this three-part package is the repeal of section 3(h) of the UMTA Act. While you are considering this addition to Federal operating assistance support for commuter rail service, the administration urges on you an effort to rationalize a companion element of the UMTA program, which now constitutes an invitation to budgetary gimmickry. Pursuant to section 3(h) of our act, a grant recipient is allowed to divert up to 50 percent of a section 3 capital grant from UMTA to meet current operating expenses, provided that he provides a satisfactory assurance that capital amounts will be repaid from some non-Federal sources within 2 years.

Generally speaking, a practice which allows transfer of funds from capital accounts to meet operating purposes is fiscally irresponsible; it should not be allowed under Federal law. It encourages the unwholesome practice of balancing operating needs out of capital funding, and it makes it impossible for us in UMTA to make capital grants with any sure expectations of grantee performance when we know in ad-

vance that there will be a shuffle of those funds into operating assistance uses.

Up to now, that so-called shuffle has been used only by New York City, and indeed, the provision was added to law in 1974 in response to New York City initiatives. It is an example, unfortunately, of the kind of practice that has created massive fiscal problems for that city. UMTA has already seen \$125 million transferred from capital grants in the last fiscal year to operating purposes in New York, and what is most ominous—and I would stress this—is that we are now beginning to receive serious inquiries from other cities which seem to be contemplating shuffles.

An estimated \$150 to \$200 million in unanticipated outlays in fiscal year 1976 might be averted by timely repeal of this provision, and it would at the same time provide room within our outlay ceilings, as set by the administration and by the congressional budget process, for this special emergency subsidy program which will involve new outlays that we had not planned upon, that is now being considered by you.

I want to emphasize, because of the context in which we now find ourselves regarding New York City, that the administration would have sought repeal of section 3(h) even had this special commuter rail subsidy problem not arisen, and even if we did not now have before us questions of possible default by New York City. We think this is a timely opportunity to accomplish that repeal, but UMTA's initiative in seeking that repeal, frankly, is not directed only at New York City, nor is it in response to the special problems afflicting New York City right now nor any Federal attitude about them. It is an independently conceived effort to close a serious fiscal loophole in the UMTA Act which we would have sought in any case.

And then finally, Mr. Chairman, the third part of this package has to do with ICC regulation of interstate urban transportation. It will, in the context of the pending proposal, be increasingly important for metropolitan areas to make their own decisions with respect to commuter rail services, once a new pattern of cost allocation is initiated under the Final System Plan.

Commuter rail services should be considered within the overall framework of metropolitan area transportation planning. Local responsible officials must be able to determine what levels of service should be provided, over what routes and at what fares, without the additional burden of Federal economic regulation through the ICC. In other words, our view is that commuter rail is part of a balanced mix of urban transportation modes, none of which should be regulated by the ICC. Local authorities, even as they are being burdened with assuming additional costs and operating costs under the FSP, should be able to make their own judgments with regard to what routes and what fares they are proposing to implement.

We therefore propose to exempt all urban public transportation services from ICC regulation. Without this necessary gift of self-determination for urban transportation needs, the crisis of commuter rail will be exacerbated over time.

In conclusion, we are pleased to have had the opportunity to testify on this timely legislative issue, and we look forward to working with the committee in developing a reasoned program of specific legislative

language to meet this emergency need that has arisen. Thank you, Mr. Chairman.

Mr. HOWARD. Thank you very much, Mr. Patricelli; we certainly do appreciate your testimony this morning and your clear and concise statement.

When you spoke about \$20 million, you state that approximately \$16 million of this is in the Philadelphia area, with most of the remainder in the New Jersey area. We would presume you are talking about \$4 million in New Jersey, but are you considering this as a factor, that the Philadelphia metropolitan or urban area does include some portions of New Jersey, so as far as just State borders are concerned, it will not be a definite \$16 million to \$4 million split; or would it?

Mr. PATRICELLI. Let me ask Mr. Premo whether or not any of the \$16 million was in fact in New Jersey.

Mr. PREMO. None of the \$16 million is in New Jersey, but we have indicated to both States and to SEPTA that we would be pleased to and in fact are eager to work with them on applications, should they make the decision to seek purchase of these rights-of-way.

Mr. HOWARD. As to your second point, repeal of section 3(h), do you feel it might be proper that this request be made a part of the mass transit section of the so-called highway bill which will be marked up next week?

Mr. PATRICELLI. I could understand jurisdictionally how that might be preferable, and we would accommodate to that, Mr. Chairman, but we do feel it is important that an agreement in principle be established that these two matters, even though they might be handled as separate pieces of legislation, be approached together and that there be an agreement that they both go forward. In fact, in outlay terms I think we have a mutual need to hope that they go forward together.

Mr. HOWARD. Well, whether we like it or not, it looks as though perhaps these two things, if they do go forward, will be going forward together, with the time constraints that we have, so it may be considered there rather than in connection with these hearings we are having this morning.

Mr. Patricelli, are there any existing funds that would be available to State or local authorities for meeting the increased costs of operating contracts that will be incurred as a result of implementing the Final System Plan? If so, how much is available, and how much is available to particular States or local or regional authorities affected by the final system plan?

Mr. PATRICELLI. Under the section 5 program in the National Mass Transportation Assistance Act, as you know, Mr. Chairman, funds are available on a formula allocated basis to urbanized areas in the 50 States for capital or operating assistance at their choice, so we are now operating a program that would make operating assistance funds available to these communities affected by the Final System Plan for commuter rail subsidies.

The difficulty, however, is that those formula allocated funds which were enacted in late 1974 have, we believe, effectively been counted on over their 6-year availability; their uses have been generally programmed, and in none of the States involved was there a projection

of a need to accommodate these special additional costs brought about as a result of the ConRail proposition. And therefore, in summary, while States could use our existing section 5 funds to meet needs that are proposed to be met by this act, it is rather likely that in fact those funds are already committed to other purposes.

The National Mass Transportation Assistance Act of 1974—NMTA—authorized a total of \$11.8 billion for the UMTA program through fiscal year 1987. Of this amount, just under \$2 billion remains unprogramed and can be used to fund emergency commuter rail operating subsidies if such authority is enacted. Roughly \$4 billion of the NMTA funds are used to fund an on-going formula grant program which is distributed annually to States and urbanized areas to be used flexibly for either capital or operating expenses.

These formula grant funds are programed and committed well in advance. The discretionary funds, however, are effectively available.

Mr. HOWARD. Under the Final System Plan, certain rail lines are designated for transfer to the States. Are there funds available to assist the States or local regional authorities in purchasing those lines? If so, how much, and of that amount, how much is available to the particular States or local or regional authorities affected by the Final System Plan?

Mr. PATRICELLI. We can meet those capital acquisition needs out of our approximately \$1 billion annual discretionary capital grant funds. As I indicated in my testimony, we would estimate that about \$20 million or so might come in applications for capital grants to meet this need, and that can be accommodated within the unprogramed amounts we would have available in fiscal year 1976 without the need for any new programs. It is a matter of priorities.

Mr. HOWARD. Do you have any objection to the Rail Services Planning Office's issuing regulations for the computation of these subsidies, as authorized by these bills? And if you do, would you please say what and how we might have an alternative approach?

Mr. PATRICELLI. Frankly, Mr. Chairman, I have no other preference, speaking for UMTA. I would reserve the right to submit for the record any departmental position on that matter, but from our point of view, the RSPO would be an appropriate agency to make those determinations.

Mr. HOWARD. If you wish to give us further information on that, we would, without objection, make them a part of the record.

The gentleman from Pennsylvania, Mr. Shuster?

Mr. SHUSTER. Thank you. Mr. Patricelli, do you happen to have the statistics on how many riders we are talking about, and the average length of ride, and the average fare? How many people are involved here?

Mr. PATRICELLI. Let me ask Mr. Premo to respond with some totals on commuter rail service around the country, and in the Northeast and Midwest areas, and then we do also have a chart that specifies average weekday trips for each of the lines in question.

Mr. SHUSTER. Well, what I am interested in is who is going to benefit from this \$90 million or \$125 million—whatever the figure is? How many riders are there and how much of a ride are they getting?

Mr. PREMO. The affected States in particular are New Jersey and Pennsylvania. In the Greater Philadelphia area approximately 100,000 commuters a day would be affected. Their average trip length is something that we can more precisely submit for the record, but it is approximately 12 to 15 miles. There are some long distance riders.

Mr. SHUSTER. One way or round trip?

Mr. PREMO. One-way trips, Congressman. The current subsidy for commuter service in the Philadelphia area is approximately \$27 million, and this would be increased by another \$20 million or so as a result of the fact of the Final System Plan.

Mr. SHUSTER. Where does that current subsidy come from?

Mr. PREMO. The current subsidy is a shared subsidy among the State of Pennsylvania and the member jurisdictions of SEPTA, the five suburban counties and the city of Philadelphia itself.

In the case of the State of New Jersey, approximately \$55 million—

Mr. SHUSTER. Excuse me. What is the average fare, before we move to New Jersey, paid by the people in Philadelphia?

Mr. PREMO. The average fare—I would again prefer to give you this precise figure for the record—I think it is around 95 cents to \$1.25, again depending on the trip.

Mr. SHUSTER. And if you added \$20 million to the subsidy, we would come out with what we are talking about here today?

Mr. PREMO. Yes, sir. The subsidy would be 100 percent Federal for the first 6 months, and then it would be on a 50-50 basis in subsequent months.

Mr. SHUSTER. But of the \$125 million—that is the number we are talking about in the bill before us—30 or 50 percent goes to the Philadelphia area; is that correct? Of your \$90 million—40 or 50 percent?

Mr. PREMO. Yes, sir. Of course, that depends in part on some of the standards that the rail services planning office would determine, but that is a fair estimate at this point.

With respect to the State of New Jersey, service is provided on several lines: the Penn Central carries approximately 56,000 passengers now, coming from Princeton and north into New York City; approximately 22,000 riders use the Central Railroad of New Jersey; and in southern New Jersey the Seashore Line and a couple of others have very low daily ridership on those lines. So the primary ridership, around 80,000 or so, is in northern New Jersey, aimed toward Newark and downtown New York. The subsidy is currently, for all of northern New Jersey, approximately \$55 million and would be increased to about \$75 million as a result of the Final System Plan.

Mr. SHUSTER. Where does that come from, that \$55 million?

Mr. PREMO. The \$55 million comes from the State of New Jersey at this point.

Mr. SHUSTER. Backing up, what is the average trip? How many miles?

Mr. PREMO. Peter Stangl, an assistant commissioner from New Jersey who is here today, I think can give you the specific answers. There are some fairly long runs in New Jersey, as I indicated, going down as far as Princeton, for example, so the average run is approximately 20 to 25 miles in New Jersey.

Mr. SHUSTER. And that is one way?

Mr. PREMO. Yes, sir.

Mr. SHUSTER. And the average fare?

Mr. PREMO. I am not sure of the average fare. I would prefer to submit that for the record.

Mr. SHUSTER. Let me back up and ask, the \$1 you talk about in the Philadelphia area, is that one way?

Mr. PREMO. Yes, sir.

Mr. HOWARD. While we are waiting, can I ask, is it also possible that Boston, Cleveland, and Chicago might be affected by this situation and might need this legislation also?

Mr. PATRICELLI. We would project that Boston would otherwise, without this legislation, be required to provide almost \$3 million in additional subsidy, and then the numbers amount to substantially less in other States—Maryland, about \$800,000; Ohio, about \$300,000; Indiana, \$1.2 million; New York, \$100,000.

Mr. SHUSTER. So maybe \$5 million for the whole package of all those others that you mentioned?

Mr. PATRICELLI. At the most.

Mr. SHUSTER. You know, the point I want to get to then is a concern that I have; there are commuter railroads that don't require any subsidy—for example, the line from Connecticut to New York, I believe.

Mr. PATRICELLI. They don't require any additional subsidy as a result of the imposition of the Final System Plan, but that only means, in effect, that the fares, together with State and local authorities and in some cases assisted by the existing section 5 program, were already paying full avoidable costs.

Mr. SHUSTER. That is the point I am getting to, the essential equity, the question of fairness between the various areas.

Let's take one of them—you pick one; you know it better than I do. Connecticut, New York?

Mr. PATRICELLI. Either. Those are good examples.

Mr. SHUSTER. What is the average trip and the average fare, and who is paying it? Who is paying the subsidy?

Mr. PATRICELLI. Well, I could ask Mr. Premo to give you trip and fare data, but I think I do understand the issue involved here, Congressman, and it is, in some of the States, either fares, or State and local sources are paying close to full avoidable costs, and we have an equity issue in coming up with a Federal subsidy for those States which up to now have not been paying full avoidable costs. That, by our way of thinking, is what militates for an early introduction of a State matching share, even on this emergency program, and it militates for, I think, as short a duration for this emergency program as is possible, to permit State legislatures and others to come up with a substitute program.

Mr. SHUSTER. But that is not necessarily the case—maybe in areas where there is no loss involved for ConRail; there is no loss involved, not because of any great subsidy, but because of increased ridership, and therefore greater marginal utilities, so you end up not having a loss, and that is quite different from an area which has a loss, but the local people are paying through the nose for it today in order to subsidize the loss.

Mr. PATRICELLI. That would go to a question which we might furnish for the record, an analysis of the operating deficits in commuter rail operations around the Northeast, and that would permit us also to make some comparison of relative fares.

Mr. SHUSTER. I would appreciate it if you might be able to do that, and anything you could send up here by Monday—maybe not final, but any additional information by Monday, I would greatly appreciate it.

Mr. PATRICELLI. Let me ask Mr. Premo right now if he can elaborate at all on the fare and equity issue.

Mr. PREMO. I think it would be helpful to have some time to lay out what I really understand to be the question, and then to make some observations about the relative cost per passenger mile, for example, by metropolitan area, and the relative—that is, both by the farebox itself and by the subsidies; we can surely identify for you the sources of subsidy, whether they be section 5 funds from UMTA, State funds or local funds for each of the area affected on the corridor.

Mr. SHUSTER. Well, I would appreciate whatever you might be able to get up here if you could do it quickly, and send a copy to my office. Does the gentleman behind you have that average?

Mr. STANGL. It is about \$1.20 one way.

Mr. SHUSTER. Thank you very much.

Mr. HOWARD. Any information that might be sent to Mr. Shuster, if any of that information Mr. Shuster feels would be appropriate for inclusion in the record, without objection it will be included in the record.

[The following was received for the record:]

TRAVEL AND COST STATISTICS FOR COMMUTER RAIL OPERATIONS

	Massachusetts	New York/Connecticut	New Jersey	Pennsylvania	Rhode Island	Delaware	Maryland
Passenger trips per year (millions).....	2.4	39.7	40.6	29.6	0.09	0.5	0.2
Passenger miles per year (millions).....	28.8	1,080.7	929.5	379.2	NA	12.8	5.9
Average trip length (miles).....	12.0	27.2	22.5	12.8	NA	25.6	NA
Annual operating cost (USRA estimate) (millions of dollars).....	6.9	128.3	91.8	66.4	NA	NA	.8
Annual operating cost (State estimate) (millions of dollars).....	NA	128.2	75.3	50.3	1.1	1.6	NA
Cost per passenger trip ¹		3.23	1.85	1.70	12.22	3.20	
Cost per passenger mile ¹		.12	.08	.13		.06	
Annual subsidy (millions of dollars).....	4.0	44.2	42.0	22.6	.03	0	0
Subsidy per passenger trip.....	1.67	1.11	1.03	.76	.33	0	0
Subsidy per passenger mile.....	.14	.04	.04	.06		0	0
Annual revenue (millions of dollars).....	2.2	84.0	33.3	22.4	.2	.8	.2
Average fare per passenger trip.....	.92	2.12	.82	.76	2.22	1.60	1.00
Average fare per passenger mile.....	.08	.08	.04	.06		.03	.03

¹ Using State estimate.

Mr. HOWARD. The gentleman from Georgia?

Mr. LEVITAS. I have a question, Mr. Chairman, specifically about the language in H.R. 10631. I think there is similar language in—well, on page 2, line 17, the term “additional cost;” I wonder if you could tell me what is meant by “additional cost?” That would be in that phrase. What are the additional costs?

Mr. PATRICELLI. Let me ask our chief counsel, Miss Payton, to speak to costs.

Miss PAYTON. We have taken additional costs in the context of paragraph 2 there to mean those costs that would be added on to the subsidy burden of the State or local public body by virtue of the adoption of an avoidable cost basis of that subsidy. Some of the subsidies are not computed on avoidable cost basis.

Mr. LEVITAS. That is all I have.

Mr. HOWARD. The gentleman from California, Mr. Mineta?

Mr. MINETA. I have no questions, Mr. Chairman.

Mr. HOWARD. Mr. Patricelli, thank you very much for your appearance and our testimony, and we will also certainly consider all the evidence you wish to submit. And if this elimination of section 3(h) might be desired, perhaps in the Surface Transportation bill, we would appreciate it if your staff and our staff could discuss that between now and next Tuesday.

Mr. PATRICELLI. We are prepared to do that immediately. Thank you very much, Mr. Chairman.

Mr. HOWARD. The next witnesses this morning are representatives of the U.S. Railway Association, headed by Mr. Arthur D. Lewis, the chairman of that association.

Mr. Lewis, welcome to the subcommittee; we certainly appreciate your appearance here.

STATEMENT OF ARTHUR D. LEWIS, CHAIRMAN, U.S. RAILWAY ASSOCIATION, ACCOMPANIED BY PAUL CRUIKSHANK, VICE PRESIDENT, STRATEGIC PLANNING, USRA; RUSSELL MURPHY, DIRECTOR OF FINANCIAL ANALYSIS, USRA; AND HOWARD W. ROBISON, VICE PRESIDENT, CONGRESSIONAL AFFAIRS, USRA

Mr. LEWIS. Yes, sir, Mr. Chairman. On my left is Mr. Howard Robison, vice president for congressional affairs of the U.S. Railway Association. On my next left is Mr. Paul Cruikshank, vice president for strategic planning. On my right is Mr. Russell Murphy, who is director of financial analysis.

Mr. Chairman, I want to thank you very much for the opportunity to appear before you this morning to testify on H.R. 10631 and H.R. 10632. The association understands and appreciates the concerns that prompt the hearings today. It is more than willing to work with the committee to reach a reasonable solution. But we feel it must be one which does not continue to saddle ConRail with nonfreight losses which contributed to the demise of its predecessor carriers.

Since the legislation before the committee is occasioned by the impact on commuter service of the association's Final System Plan, it might be helpful to the committee to review briefly the principal policies set forth in that plan which affect commuter services outlined in that plan.

First, in order to enhance the viability of ConRail, it is essential that past practices of supporting losing operations by cross subsidies from profitable services must be eliminated. The current cross subsidies of passenger services by profitable freight services, both Amtrak and commuter, should cease.

ConRail should not be forced to continue operations of commuter or Amtrak services if revenues do not equal the long term avoidable cost of providing such services.

Second, the dominant user of a rail line should be its owner. In order to gain some perspective on the problem, we must look at the figures involved. Based on 1973 costs and revenues, the association calculates a loss of \$27.9 million resulting primarily from those commuter services not covered by pre-act contracts. Inflation drives that figure to \$50.9 million in 1976 and over a 10-year period, ending in 1985, the cumulative loss is \$739 million.

These figures have significant implications for ConRail and the success of the restructuring process for rail service in the region. In the foreword to the Final System Plan, I stated that ConRail can become a financially self-sustaining corporation provided certain preconditions are met. The first of those preconditions for ConRail is, to quote from the foreword:

It must be relieved of extensive losses from unprofitable passenger and light density line operations as well as from the carriage of certain commodities which do not pay their way.

There are few things more crucial to ConRail's success than being spared the losses from passenger and commuter services. The stakes are high. Under the act, the Association was obligated to present a final plan that provided for a "private" and "for-profit" corporation. As a result of the special court and Supreme Court decisions, holding constitutional the regional rail statute, the need for a "private" and a "for-profit" solution has been magnified. Both courts held that the conveyance of properties from the bankrupt estates to ConRail in exchange for securities was constitutional, because if the creditors of the bankrupt estates felt they could not be fairly compensated by such stock, they could sue the Government under the Tucker Act. The association strongly believes that there will be no basis for a Tucker Act suit if ConRail is allowed to become financially self-sustaining. If all of the preconditions are met, ConRail should be successful and its securities be worth more than the value of the properties conveyed.

On the other hand, if ConRail is not successful, the value of its securities are unlikely to be equal to the constitutional minimum, the value of the properties conveyed, and a deficiency judgment of some magnitude could result. Following the Board of Directors' policies, the Association sought to identify those areas where passenger service was being cross-subsidized by freight revenues. In so doing, contracts for providing passenger service that did not cover the costs of providing that service were uncovered and identified. Other commuter services were found to be wholly unsubsidized. In addition, the Association has identified those lines which are solely passenger related or which have nonviable freight service and, therefore, will not be acquired by ConRail.

To make certain it is clear, under the Regional Rail Reorganization Act, ConRail is obligated to provide commuter service on lines where a contract for that service was in effect on the date the act became law, on January 2, 1974, and continues to be binding. These services so protected are basically those provided by Penn Central, radiating from Grand Central terminal in New York and Connecticut, and those pro-

vided by the Erie Lackawanna radiating from Hoboken, N.J., in New York and New Jersey.

Under the act, commuter services presently provided on other lines, without any long-term fixed contracts, can be continued only if new contracts are successfully negotiated.

There are four basic categories in which commuter lines fall as a result of the Final System Plan, and they are:

One. The commuter services covered by preact contracts and on lines designated for conveyance to ConRail.

Two. Commuter services covered by preact contracts and not on lines designated for conveyance to ConRail, primarily because the freight service is not viable.

Three. Commuter services not covered by preact contracts and on lines designated for conveyance to ConRail.

Four. Commuter services not covered by preact contracts and on lines not designated for conveyance to ConRail.

Fortunately, the commuter services in the first category are self-sustaining, or nearly so, and as a result, we have not negotiated any change in the act concerning them. ConRail will operate the service and they are not affected by the Final System Plan.

The second category consists of those lines where commuter services are covered by preact contracts—also self-sustaining or nearly so—but because freight operations are nonviable, the lines themselves will not be acquired by ConRail. While ConRail will operate the service under the terms of the contracts, the bankrupt estates will be required to provide trackage rights on lines not included in the restructured system. Over a period of time the arrangement could become quite complicated, and we suggest that such lines be purchased by the States or commuter authorities involved.

The preferred solution is found in the final system plan, which does provide a mechanism for the States and/or commuter authorities to acquire the lines. Under the Final System Plan, a State or the responsible commuter authority has up to 60 days after the effective date of the plan to make a commitment to purchase or lease these lines. If such a commitment is made, ConRail will acquire an appropriate interest in the lines for conveyance to the State or commuter authority. There are three lines that fall in this category. The net liquidation value of these lines and associated facilities such as terminals is \$1,601,610, which is reasonably related to the price the commuter authorities would have to pay.

The third category of lines are those where the service is not covered by a preact contract, but where the line on which service is being provided is to be conveyed to ConRail. In these cases, and following USRA recommendations, contracts must be renegotiated to insure that ConRail will receive sufficient compensation to cover the cost of providing the service, and to prevent discontinuances of service pursuant to the procedures outlined in the act.

The last category of lines are those where service is not covered by preact contracts and the lines are not conveyed to ConRail. If service is to be continued on these lines, new contracts must be negotiated and arrangements pursuant to the Final System Plan must be made for a State or commuter authorities to acquire or lease the lines involved. The 15 lines involved are designated to ConRail on the conditions that the States or commuter authorities make a firm commitment within

60 days of the effective date of the Final System Plan to purchase the line from ConRail at net liquidation values—\$7,521,901.

I offer at this point, exhibit 1, which is a summary sheet for each State listing the lines in each category.

EXHIBIT ONE

CONNECTICUT

Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Norwalk to Bethel.....	CTA—CTA leases; ConRail trackage rights.
Bethel to Danbury.....	CTA—CTA leases; ConRail trackage rights.
Norwalk to South Norwalk.....	CTA—CTA leases; ConRail trackage rights.
Glenbrook to New Canaan.....	CTA—CTA leases; ConRail trackage rights.
Stamford to Glenbrook.....	CTA—CTA leases; ConRail trackage rights.
Waterbury to Devon.....	CTA—CTA leases; ConRail trackage rights.
New Haven to CT/NY Line.....	CTA—CTA leases; ConRail trackage rights.

DELAWARE

Non Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Marcus Hook to Newark.....	Del. DOT—Amtrak acquisition, ConRail trackage rights.

INDIANA/ILLINOIS

Non Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Valparaiso to Chicago.....	Ind. DOT—ConRail acquisition.

MARYLAND

Non Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Baltimore to Washington.....	MD DOT—Amtrak acquisition. ConRail trackage rights.

MASSACHUSETTS

Non Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Worcester to Framingham.....	Mass. DOT—ConRail acquisition.
South Sta. to MA/RI Line.....	MBTA—MBTA owns, ConRail trackage rights.
Framingham to Back Bay.....	MBTA—MBTA owns, ConRail trackage rights.
Readville to Franklin.....	MBTA—MBTA owns, ConRail trackage rights.
Forest Hills to Needham Jct.....	MBTA—MBTA owns, ConRail trackage rights.
Needham Jct. to Needham Hgts.....	MBTA—MBTA owns, ConRail trackage rights.
Canton Jct. to Stoughton.....	MBTA—MBTA owns, ConRail trackage rights.

NEW JERSEY

<i>Point to Point</i>	<i>Commuter Authority</i>
West End to Newark.....	NJDOT—ConRail acquisition.
Newark to Montclair.....	NJDOT—ConRail acquisition.
Newark to Orange.....	NJDOT—ConRail acquisition.
Summit to Morristown.....	NJDOT—ConRail acquisition.
Morristown to Denville Jct.....	NJDOT—ConRail acquisition.
Denville Jct. to Netcong.....	NJDOT—ConRail acquisition.
West End to Denville Jct.....	NJDOT—ConRail acquisition.
Summit to Millington.....	NJDOT—ConRail acquisition.
West End to Suffern.....	NJDOT—ConRail acquisition.
West End to N. Hackensack.....	NJDOT—ConRail acquisition.
N. Hackensack to NJ/NY Line.....	NJDOT—ConRail acquisition.
Ridgewood Jct. to NJ/NY Jct.....	NJDOT—ConRail acquisition.

Pre-Act contracts and on lines remaining with the estates and on which options have been offered to Commuter Authorities.

<i>Point to Point</i>	<i>Commuter Authority</i>
Orange to Summit.....	NJDOT.
Millington to Gladstone.....	NJDOT.
West End to Hoboken Sta.....	NJDOT.

Non Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Rahway to Asbury Park.....	NJDOT—ConRail acquisition.
Bayonne to Bayonne (BV).....	NJDOT—ConRail acquisition.
Elizabeth (FH) to High Bridge.....	NJDOT—ConRail acquisition.
High Bridge to Phillipsburg.....	NJDOT—ConRail acquisition.
Hunter to Aldene.....	NJDOT—ConRail acquisition.
West Trenton to Bound Brook.....	NJDOT—ConRail acquisition.
Lucaston to Atlantic City.....	NJDOT—ConRail acquisition.
Winslow Jct. to Cape May.....	NJDOT—ConRail acquisition.
Tuckahoe to Palermo.....	NJDOT—ConRail acquisition.
Trenton to Penn Station.....	NJDOT—Amtrak acquisition, ConRail trackage rights.

Non Pre-Act contracts and on lines remaining with the estates and on which options have been offered to Commuter Authorities.

<i>Point to Point</i>	<i>Commuter Authority</i>
Princeton to Princeton Jct.....	NJDOT.
Asbury Park to Bay Head Jct.....	NJDOT.
Bayonne (BV) to Elizabeth Pt. (FH).....	NJDOT.
Lindenwold to Lucaston.....	NJDOT.
Palermo to Ocean City.....	NJDOT.
Hunter to Newark Int.....	NJDOT.

Pre-Act contracts on lines remaining with the estates and on which options have been offered to Commuter Authorities.

Net liquidation value.....	\$1, 601, 610
----------------------------	---------------

Non Pre-Act contracts on lines remaining with the estates and on which options have been offered to Commuter Authorities.

Net liquidation value.....	1, 313, 321
----------------------------	-------------

New Jersey total.....	2, 914, 931
-----------------------	-------------

NEW YORK

Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Brewster to Dover Plains-----	MTA—MTA leases; ConRail trackage rights.
Mt. Kisco to Woodlawn-----	MTA—MTA leases; ConRail trackage rights.
Brewster to Mt. Kisco-----	MTA—MTA leases; ConRail trackage rights.
Woodlawn to NY/CT Line-----	MTA—MTA owns, ConRail trackage rights.
Woodlawn to Grand Central Term----	MTA—MTA leases; ConRail trackage rights.
Mott Haven to Poughkeepsie-----	MTA—MTA leases; ConRail trackage rights.
Nanuet Jct. to Spring Valley-----	MTA—ConRail acquisition.
Nanuet Jct. to NY/NJ Line-----	MTA—ConRail acquisition.
Port Jervis to Suffern-----	MTA—ConRail acquisition.

PENNSYLVANIA

Non Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
North Phila. to Queen Lane-----	SEPTA—ConRail acquisition.
Downington to Zoo-----	SEPTA—ConRail acquisition.
West Chester to Arsenal-----	SEPTA—ConRail acquisition.
Manayunk to Valley-----	SEPTA—ConRail acquisition.
Pottstown to Pottsville-----	PENN DOT—ConRail acquisition.
16th St. to Pottstown-----	SEPTA—ConRail acquisition.
Norristown (ELM) to Kalb-----	SEPTA—ConRail acquisition.
Bethlehem to Quakertown-----	PENN DOT—ConRail acquisition.
Quakertown to Tabor Jct-----	SEPTA—ConRail acquisition.
Fortuna to Lansdale-----	SEPTA—ConRail acquisition.
Carmel to Warminster-----	SEPTA—ConRail acquisition.
Cheltenham Jct. to Newtown Jct-----	SEPTA—ConRail acquisition.
Jenkintown to West Trenton-----	SEPTA—ConRail acquisition.
Tabor Jct. to Spring Garden-----	SEPTA—ConRail acquisition.
Arsenal to Marcus Hook-----	SEPTA—Amtrak acquisition, ConRail trackage rights.
Zoo to Trenton-----	SEPTA—Amtrak acquisition, ConRail trackage rights.

Non Pre-Act contracts and on lines remaining with the estates and on which options have been offered to Commuter Authorities.

<i>Point to Point</i>	<i>Commuter Authority</i>
Queen Lane to Chestnut Hill-----	SEPTA.
Arsenal to 30th St. Sta-----	SEPTA.
Suburban Sta. to Zoo-----	SEPTA.
Penn River Line to Zoo 38th St-----	SEPTA.
Zoo 34th St. to Arsenal-----	SEPTA.
Fortuna to Doylestown-----	SEPTA.
Wayne Jct. to Chestnut Hill-----	SEPTA.
Cheltenham Jct. to Newtown-----	SEPTA.
Spring Garden to Reading Term-----	SEPTA.

PENNSYLVANIA

Non Pre-Act contracts on lines remaining with the estates and on which options have been offered to Commuter Authorities.

Net liquidation value.....	\$6, 208, 580
Pennsylvania total.....	\$6, 208, 580

RHODE ISLAND

Non Pre-Act contracts and on lines or trackage rights designated to ConRail.

<i>Point to Point</i>	<i>Commuter Authority</i>
Providence to Westerly.....	RI DOT—Amtrak acquisition; ConRail trackage rights.
Providence to RI/MA Line.....	RI DOT—Amtrak acquisition; ConRail trackage rights.

Mr. LEWIS. The principal problem that has been raised as a result of the Final System Plan recommendations for commuter services seem to be: the State and commuter authorities allege that they do not have funds available to provide the subsidy needed to adequately compensate ConRail for continuing existing services or to allow them to purchase the lines, yards, shops, equipment, and other rail properties designated to them through ConRail within the Final System Plan deadline of 60 days after the effective date of the plan.

It would appear that the two bills—H.R. 10631 and H.R. 10632, seek to address these two basic problems.

The association takes no formal position with respect to the bills. However, in the event the committee chooses to act on this legislation, we have suggestions for changes that we believe would improve them.

Since the provisions of H.R. 10631 are wholly incorporated into H.R. 10632, I will comment on the latter bill, one jointly referred to this committee and the Committee on Interstate and Foreign Commerce. I will comment on H.R. 10632 so as to make clear the association's views on the legislation, should the committee choose to proceed. The association's primary concern in drafting its recommended changes was that of insuring that ConRail would not be forced to internalize or cross subsidize the losses resulting from the provision of commuter services. Exhibit Two, is the association's formal submission of the recommended changes.

EXHIBIT TWO

UNITED STATES RAILWAY ASSOCIATION

(Suggested Revisions to H.R. 10632)

On page 1, line 10: Strike the words "bodies and agencies thereof" and insert in lieu thereof the following "and regional transportation authorities".

On page 2, line 5: Insert after the word "providing" the word "commuter".

On page 2, lines 12 and 13: Strike the words "Rail Services Planning Office under section 205(d) (5) (A)" and insert in lieu thereof the following "Interstate Commerce Commission under Section 216".

On page 2, line 15: Between the word "properties" and before the (;) insert the following: "including carrying charges and administrative expenses".

On page 2, lines 17 and 18: Strike the words "bodies and agencies thereof" and insert in lieu thereof the following "and regional transportation authorities".

On page 2: Strike lines 22, 23, 24 and 25.

On page 3, line 8: Strike the (.) and insert the following after "13": "or the standards for the computation of commuter rail subsidies and emergency rail passenger operating assistance".

On page 4: Strike lines 15 through 20 and insert in lieu thereof: "Section 201. Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) is amended by adding the following:

"Section 216. The Commission shall within 180 days after the effective date of the".

On page 5, line 11: Between the words "for" and "rail" insert the word "commuter".

On page 5, line 2: Between "(A)" and "," insert the following: "assuring compensation to the Corporation at the level of long term available costs".

On page 5, line 4: Between the words "emergency" and "rail" insert the word "commuter".

On page 5, line 10: Between the words "All" and "properties" insert the word "rail".

On page 5, line 11: Strike the word "sold" and insert in lieu thereof the following: "purchased, leased or otherwise acquired".

On page 5: Strike lines 13 through 19 and insert in lieu thereof: "(B) acquired by the Corporation for purchase or lease to any state or local or regional transportation authority pursuant to subsection (c)(1)(D) of this section or within 365 days after the date of conveyance;".

On page 5, line 25: Strike the period at the end of the sentence and insert the following: "and shall include administrative expenses and carrying charges".

On page 6: Strike lines 1 through 4 and insert in lieu thereof "Section 203. Section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724) is amended by adding at the end the following new subsection.

"(d) Interstate Commerce Commission. There are authorized to be appropriated to the Commission for the purpose of carrying out its administrative duties under this Act such sums as are necessary, not to exceed \$2,000,000 to remain available until expended".

On page 7, line 17: Between the words "provide" and "rail" insert the word "commuter".

On page 7, lines 22, 23, and 24: Strike on line 22 the word "expect" and all that follows through the word "Corporation" on line 24.

On page 8, line 4: Strike the words "be bound by" and insert in lieu thereof: "provide the level of service provided in".

On page 9, line 19: Strike the word "such" and insert in lieu thereof "its".

On page 9, lines 12 and 13: Strike the words "Director of the Office" and insert in lieu thereof: "Chairman of the Commission".

On page 9, line 19: Strike the word "such" and insert in lieu thereof "its".

On page 9, line 23: Strike the word "and" and insert in lieu thereof: "except".

On page 9, line 24: Strike the word "of" and insert in lieu thereof "or".

On page 9, line 23: Strike the word "and" and insert in lieu thereof "but".

On page 10, lines 2 and 3: Strike the following "pursuant to subsection (c) of this section." and insert in lieu thereof: "which conforms with the standards as determined by the Commission, the Corporation may discontinue such service and, in the case of rail properties not designated for inclusion in the Corporation, abandon such properties, pursuant to subsection (a) and (b) of this section."

Mr. LEWIS. Since the changes to title I are necessitated by proposed changes to title II, I would like to begin by discussing title II.

The association believes that the Interstate Commerce Commission, rather than the rail services planning office, should set the standards under which any subsidy would be provided. The ICC has had considerable experience in dealing with the costing and accounting principles that should be applied to the provision of passenger services as well as the administrative support to conduct appropriate rule-making proceedings. It has set the level of compensation due rail carriers for Amtrak service. On the other hand, RSPO has no expertise in this area, having done no prior work in the passenger or commuter area. The association also believes that the Congress should specify that those standards shall compensate ConRail for the long-term avoidable costs of providing service under the standards. Clearly,

the legislation before you contemplates the continuation of subsidized commuter service more or less permanently. Therefore, ConRail must be reimbursed for the real cost of providing service. Long-term avoidable costs provide such reimbursement.

Section 202 of the bill would give the States the opportunity to acquire, via a passthrough conveyance from ConRail up to 900 days after conveyance those rail lines on which commuter service is being provided, but which ConRail does not require for its own operations.

We believe that a State should be limited to a period no longer than a year. In addition, we believe this opportunity should apply to all commuter-related rail properties including yards, shops, equipment and other assets. Furthermore, ConRail should have the opportunity to add—to the purchase price—any administrative expenses and carrying costs for the retention and maintenance of those properties during the interim period. Finally, ConRail must have the legal right to abandon automatically the properties if the States have not exercised their options within the designated period. In our view, these changes are essential to protect ConRail from internalizing potential losses.

The proposed legislation would give the States and commuter authorities protection against any deficiency judgment that may result from the acquisition of the properties. The association believes that if the committee elects to give this protection to States and commuter rail authorities for these properties, ConRail should be accorded the same protection.

Because the Final System Plan envisions Amtrak becoming the owner of the Northeast corridor, the association suggests that the legislation be amended to reflect this reality.

With respect to the arbitration provisions of the bill, the association in harmony with its recommendation that the ICC set the subsidy standards, suggests that the chairman of the ICC be the arbitrator. As stated earlier, the ICC has the necessary experience and expertise to perform this role.

The changes that the association recommends to H.R. 10631 and title I of H.R. 10632 are those occasioned by our suggestions for revisions to title II of H.R. 10632. They simply reflect that fact that the standards for the subsidy program are set by the ICC rather than RSPO.

In conclusion, Mr. Chairman, I would like to reemphasize the association's position that ConRail cannot be forced to internalize any losses resulting from provision of commuter services without jeopardizing its income-based reorganization. This is of paramount importance, and it should be the principle that undergirds whatever action that is taken by the committee.

Now, Mr. Chairman, based upon the line of questioning that existed this morning, I would like to submit some additional material for the record, and can discuss these materials with you at this point.

Mr. HOWARD. Without objection, they will be made a part of the record.

[The information referred to follows:]

Of total losses of \$62 million incurred by bankrupts in 1973 for operation of passenger service, \$34 million is attributable to Amtrak and \$28 million is attributable to commuter service.

A very rough split by state for the \$28 million attributable to commuter is:

	Approximate (millions)	Percent of total
Connecticut.....	0	0
New Jersey.....	\$13.6	49.0
New York.....	.1	0
Pennsylvania.....	11.5	41.0
Massachusetts.....	1.6	5.7
All others.....	1.2	4.3
Total.....	28.0	100.0

Mr. LEWIS. First I would like to summarize; in 1972, we estimate that the losses attributable to commuter operations were \$28 million, roughly. Of this, New Jersey contributed \$13.6 million, Pennsylvania contributed \$11.5 million, Massachusetts \$1.6 million, New York \$100,000. All other States in the Nation \$1.2 million, and Connecticut nothing.

Actually, the percentage of the total losses borne by the bankrupt railroads in 1973 were 49 percent attributable to New Jersey, 41 percent attributable to Pennsylvania, 5.7 percent attributable to Massachusetts, 4.3 to all others, and in effect, nothing to New York and Connecticut.

Now, I would like to comment on the statement of representatives of the State of New Jersey that we have proposed a costing formula that would transfer costs from freight operations to passenger operations. Our analysis indicates that the contracts for the Connecticut Transit Authority and the Metropolitan Transit Authority of New York are fully compensatory.

The contracts for the Erie Lackawanna in New Jersey are fully compensatory except for the fact that they do not provide an adequate return on investment involved. We used the same costing formula in analyzing contracts of all States.

It is not logical to say that what is equitable and fair for one given group of contracts is an unreasonable exercise of costing formula or costing procedures in another. So I would like to present that.

Mr. HOWARD. I presume it would also be unfair and inaccurate to assume that every State in the Union has the same kind of problems and situations, so that they might be compared to any one State such as Connecticut.

Mr. LEWIS. I think that is right, sir.

Now, I would like to show an extension of that deficit by State for the next 10 years, and you can have that for your study.

Now, we got into—this morning—a little bit of the discussion of the number of people involved, and I can summarize that briefly for you; in Connecticut and New York, the commuter revenues for the Penn Central were \$67,211,000 in 1973. Now, that is the direct receipts from passengers. And this constituted 71 percent of the revenues received by the Penn Central in that year. The commuter authority subsidized the commuter operations to the extent of \$27,375,000, or roughly 29 percent of the revenues received by the Penn Central for those services.

CONRAIL COMMUTER DEFICIT—ESTIMATED BY STATE (FOR THE YEARS ENDING DEC. 31)

[In millions of inflated dollars]

	Base year 1973	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	Total 1976- 85
Massachusetts (Rhode Island).....	1.6	2.9	3.1	3.4	3.6	3.9	4.1	4.4	4.6	5.0	5.3	40.3
Connecticut.....	0	0	0	0	0	0	0	0	0	0	0	0
New York.....	.1	.1	.1	.1	.1	.2	.2	.2	.2	.2	.2	1.7
New Jersey.....	13.3	24.2	26.1	29.0	30.8	33.2	35.1	37.0	39.3	42.2	44.6	341.6
Pennsylvania (Delaware).....	11.8	21.4	23.1	25.6	27.3	29.4	31.1	32.8	34.9	37.4	39.5	302.4
Maryland.....	.4	.8	.8	.9	1.0	1.1	1.1	1.2	1.2	1.3	1.4	10.8
Ohio.....	.1	.3	.3	.3	.4	.4	.4	.4	.5	.5	.5	4.0
Indiana.....	.6	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.2	16.6
Total.....	27.9	50.9	54.8	60.7	64.7	69.8	73.7	77.8	82.6	88.6	93.7	717.4
Working capital.....												+21.6
Grand total.....												739.0

1973 COMMUTER REVENUES

[Dollar amounts in thousands]

	Direct receipts	Percent of total revenue	Commuter authority subsidy	Percent of total revenue
PC:				
New York and Connecticut.....	\$67,211	71	\$27,375	29
New Jersey.....	14,286	66	7,456	34
Philadelphia.....	12,404	62	7,510	38
Boston.....	2,590	50	2,591	50
Baltimore/Washington.....	158	100		
Chicago/Valparaiso.....	433	100		
EL: New Jersey.....	13,063	59	9,253	41
RDG: Philadelphia.....	9,875	56	7,641	44
CNJ: New Jersey.....	4,844	36	8,508	64
PRSL: New Jersey.....	166	19	687	81

Mr. LEWIS. In New Jersey, for the Penn Central alone, \$14 million were derived from the passengers, constituting 66 percent of the total revenues received by the railroad. New Jersey paid to the Penn Central \$7,456,000 in subsidy, or 34 percent of the total revenues involved.

In New Jersey, the passengers paid \$13,063,000, which constituted 59 percent of the revenues received by the Erie Lackawanna, and the State's subsidy of \$9,253,000 was 41 percent.

In Philadelphia, the Penn Central received \$12,404,000 in direct receipts from the passengers, 62 percent of the revenue that it received, and its subsidy was 38 percent.

In Boston, roughly 50 percent was received from the passengers and 50 percent by the commuter authority.

On the other hand, you get into the Reading in Philadelphia, and the receipts from the passengers were 56 percent of the total, and 44 percent of the revenues to the Reading were from subsidies.

In Central of New Jersey, there \$4,844,000, or 36 percent of the revenues were received from the passengers and 64 percent was paid by the commuter authority.

We get down to the Pennsylvania Railroad Shore Line, \$166,000 were paid by the passengers, \$687,000 paid by the commuter authority for 81 percent of the total.

Now, the interesting thing about it is that except for New York and Connecticut, as you look at those figures, and the Erie Lackawanna,

even so, with the much higher percentage of subsidy being paid by the State agency, the deficits significantly occurred on those lines.

We can get the figures, and present to you the increases in rates and fares as existed on those lines since 1973. I know that in the case of Connecticut and New York they have gone up just recently.

Mr. HOWARD. Any figures that you think might be pertinent to the hearings that we are having this morning, if we could get them relatively soon.

Mr. LEWIS. Yes, sir.

Mr. HOWARD. Thank you, Mr. Lewis, for your statement.

I would like to say something about the problem that there is perhaps with the passengers and with success in being spared the losses from passengers and commuter services, and being able to relieve oneself of the non-freight-cargo losses that you have. With the situation nationally, and overall of energy, and the need for mass transportation because of our clogged highways, it is also true that it is the non-freight cargo you carry does all the voting, and also pays for all the cargo and other things.

On this dominant-user formula which applied to rail lines for commuter or freight in determining which service is dominant, is this done just on dollar receipts, or number of rails, or trains, or what? I notice you mentioned in one area that Penn Central was something like 60-some percent passenger.

Would you please give us an explanation of how you come to determine what is dominant?

Mr. LEWIS. Mr. Chairman, that really is a very difficult thing to do; there are no standards that we have developed so far that would be applicable to that. Actually, the biggest problem that that policy referred to had to do with the relationship between ConRail and Amtrak, where, in the Northeast corridor particularly, you had an extensive passenger operation that was significantly greater than any freight operation on the line, and we felt, by that policy, that the corridor should be owned by Amtrak rather than ConRail.

When you get away from the relationship between Amtrak and the corridor, it becomes a very difficult issue to generalize on and it really probably becomes something that reasonable people sitting around a table negotiating a contract can come to an agreement with. It would probably have to do with the very nature of the line itself; was it basically an integral part of a long-haul freight operation that terminated in New York and New Jersey, or what have you, or was it a line that was essentially local in nature, with relatively little freight and predominantly a large commuter service?

Mr. HOWARD. Excuse me. Is there a lot of judgment evaluation made in this—coming to this determination?

Mr. LEWIS. There would have to be in this. The people negotiating contracts would at the time determine what that is.

Mr. HOWARD. Well, then, do the people from USRA have any particular preference as to what they would like to see come out as being dominant, passenger or freight? If there is a lot of judgment, do you sort of come up with anything you want to come up with?

Mr. LEWIS. I would like to ask Mr. Cruikshank to address that on a more specific basis.

Mr. CRUIKSHANK. As Mr. Lewis has said, we have no formula; there is no magic formula. You see none in the plan and we would not propose any. We would hope that certain lines that are very obviously passenger dominant, just by looking at the types of activities going on on that line, that as Mr. Lewis indicated, reasonable men sitting down negotiating would move toward recognition of the dominance of one phase or the other.

And again, a primary reason for discussing it, the plan dealt with the corridor where the manner in which the corridor is being handled, it moves over to Amtrak with the freight operator being the lesser user, and the principles that are laid out there are built along those lines.

Mr. HOWARD. In computing avoidable costs, do you include profit?

Mr. LEWIS. Rate of return on invested capital is included in the additional capital required; that would be an element of costs.

Mr. HOWARD. Do you have a certain percentage that you consider a reasonable return?

Mr. MURPHY. We don't have a specific ROI that we are recommending in there, except for the fact that that condition should be a part of it.

Mr. LEWIS. In these figures, do you have—do you know what was in these particular compilations since 1973?

Mr. MURPHY. An ROI really is an incentive to operate the service, and those numbers are the long-term avoidable cost numbers. They do not really contain a 7-percent return on investment, or 6 percent.

Mr. LEWIS. These do not.

Mr. HOWARD. Thank you.

One last question. It would take a while to distinguish the information; can you estimate how much in additional subsidies would have to be paid by responsible transportation authorities over the next 3 years in order to maintain commuter service at existing levels, and could you furnish us with an estimate of what the increased subsidy costs would be for each State?

Mr. LEWIS. Mr. Murphy could address himself to that, Mr. Chairman.

Mr. MURPHY. We have numbers, which Mr. Lewis has submitted earlier, that really answer that question for 1973, because that is the time in which we have carriers' explicit analyses of service levels, estimated service costs, and have a hands-on understanding of what they are and how the costs move. We do not have, for example, how the service levels have changed in 1974 and 1975, and what that may do to the numbers. We could address ourselves to it on a 1973 basis and forecast, up to 1976, but they may move slightly differently. For example, service levels may be lower or higher on certain lines, and the actual loss may be higher or lower, contracts may have been signed in 1974 and 1975.

For example, Amtrak has absorbed certain costs since the 1973 numbers, so those numbers will probably lower the deficits.

Mr. HOWARD. Well, if you feel in looking over that that they might be way out of line, and could not be that accurate, we would, on the face of it, not want them. If you do think they are in any way ballpark figures, we would appreciate it if you would let us know, even by phone, early next week.

Mr. LEWIS. We would give you that, Mr. Chairman.

Mr. HOWARD. Thank you. Also, we may have some other questions. In the short time before notifying you of your appearance, we certainly did not request the 48-hour advance copy of your statement and so we have not been able to go through it that clearly: so we may be in touch with you for some additional information. We will certainly appreciate it.

Mr. LEWIS. We will be delighted to come back, if you like, or respond to any specific questions you might have at any time.

Mr. HOWARD. Thank you very much. The gentleman from Pennsylvania?

Mr. SHUSTER. Thank you, Mr. Chairman.

Mr. Lewis, before I get into my specific question, I want to compliment you, and USRA in particular, because I think while no bands played and no skyrockets went off last Sunday, some of us know that last Sunday was a most auspicious day for transportation in America, and you, in the final system plan, completed undoubtedly the most complicated reorganization which has ever been undertaken in this Nation, and I marvel at the extent and detail. I have studied carefully both the preliminary system plan and the Final System Plan, and while I am sure it is not perfect, and though you would not assert that it is, I marvel at the depth, the wisdom, thoughtfulness, analytical ability of USRA.

I think particularly the people in the Northeast and the Midwest, and indeed, all Americans, owe USRA, and owe you in particular, a great debt of gratitude, and we certainly look forward to ConRail becoming a profitable private enterprise and getting off the backs of the American people—the taxpayers' subsidies eventually.

Mr. LEWIS. I thank you very much, Mr. Congressman, for saying that. I want to say that we were extremely fortunate and extremely lucky to have had this quality of staff that we did, and second, that we did have an outstanding board that made a real effort, and I would not want to imply that I would not want to give them full credit for their very real contribution, but at the same time we had good support from the administration in the development and presentation of this work. It is not just ourselves.

Mr. SHUSTER. We all know that ConRail's success is not fore-ordained or guaranteed, and therefore I also commend you for continuing what I construe to be a wise, tough posture, to assure the long-term profitability of ConRail.

Now, you talk in your testimony here about the absolute fundamental, that the supporting of losing operations could not continue with ConRail. Well, that is not a part of the Final System Plan, and indeed, that policy is the law of the land.

Mr. LEWIS. Well, it is reflected in our financial figures; let me say that.

Mr. SHUSTER. But it is also clearly stated in the final system plan which this Congress blessed by not disapproving, and therefore it essentially is the law of the land.

So whether we always agree or disagree on specifics, that battle is behind you, I would think, because the Congress, through accepting the final system plan, has put it there.

I think that is a very significant point to remember, as we sometimes will disagree on specifics, but that battle has really already been fought and Congress has approved it, and so we really should not have to fight that battle again.

I am interested in the extent to which you have a legal obligation today, if any, to continue the service in question. My understanding, if I heard your testimony, and I understand the law, is that you do not have an obligation under present law to continue, let's say, the present lines in the Philadelphia area, in Pennsylvania, which we are talking about here.

Mr. LEWIS. Those that are not under contracts—that would carry through this period—have got to be renewed, or else ConRail does have the right to abandon service.

Mr. SHUSTER. Therefore, as we consider this point, we are, in one sense, perhaps, in the posture of having to satisfy ConRail, and therefore you have quite a bit of leverage in these discussions in negotiations, I would think. Is that how you construe it?

Mr. LEWIS. Yes, although I must admit that any time you get into a problem of this kind, there are requirements for meeting tough deadlines and revisions to long-established policies and the like, and we can understand the difficulties that are faced with the commuter authorities, and today I think that the main thing we feel is absolute in that they have got to be settled in a way that does not impair the long-term profitability of ConRail, and that may require action of this kind for an interim period to provide that.

Mr. SHUSTER. But action from the Congress? You are not under any legal requirement to provide this service.

Mr. LEWIS. That is correct. ConRail is not, as I understand the act. Yes, sir.

Mr. SHUSTER. I am very much interested in your point that the ICC rather than RSPO should set the standards under which the subsidy would be provided. I am very strongly inclined to agree with you, because RSPO of course never had this function. It was just newly formed; it is a fine organization, but really, it is a body to hold hearings, and indeed, we would have to probably create a new bureaucracy over there at RSPO if they were given this new duty. So I would think that that is a very cogent suggestion.

Mr. MINETA. Would the gentleman yield on that?

Mr. SHUSTER. Delighted.

Mr. MINETA. I am not really familiar enough with this to make a clear distinction, but isn't the RSPO under the ICC?

Mr. LEWIS. Yes.

Mr. MINETA. What then is the distinction, or the differentiation, between RSPO and ICC in the context of your testimony here?

Mr. LEWIS. It has been set up in this legislation in the Regional Rail Act for special activities having to do with the reorganization of the railroads. The main body of the ICC's activities continue within its normal jurisdiction.

Mr. SHUSTER. And there is another very significant difference, and that is that the RSPO, under the statute, while it is in the ICC, it is

an independent planning office, not under the direction of the Commissioners of the ICC.

Mr. MINETA. In effect, it is just there for housekeeping purposes.

Mr. SHUSTER. It has the expertise in pulling together the massive railroad data that they wanted to have available to analyze, and to provide, in a sense, an independent consultant's view, almost, of the preliminary system plan and the final system plan as it was put together.

Mr. LEWIS. I will say that the RSPO, for purposes of the rail service, for the restructuring in the Northeast of the light-density freight lines, was given the responsibility to set the subsidy standards for the freight lines, and in that respect, you might say; well, then, why shouldn't it set the subsidies for passenger lines, and it is just our feeling that the base and body of knowledge is in the ICC proper and it ought to stay there instead of in a newly constituted Federal agency that would duplicate the activities of the ICC.

Mr. MINETA. Thank you, Mr. Chairman. I appreciate your yielding, Mr. Shuster.

Mr. SHUSTER. There is another point. RSPO is not a continuing body. Thank you, Mr. Chairman.

Mr. HOWARD. The gentleman from Georgia.

Mr. LEVITAS. Thank you, Mr. Chairman.

You furnished us with some figures on a State-by-State breakdown of the \$28 million loss resulting from commuter service, and on another document which contains the commuter authority subsidies as a percentage of the total revenues received by specific lines on specific rail systems. Could you provide that \$28 million breakdown as it relates to those specific lines and systems?

Mr. MURPHY. Specific lines?

Mr. LEWIS. These lines here? Yes; we can.

Mr. LEVITAS. Do you have it available now, or would you have to furnish it?

Mr. LEWIS. I am sure we could get it in the next day or so. I believe we can get that for you, sir; we will do that. It shows actually the total revenues by railroad—or rather, the total costs which would be comprised of revenues from passengers, subsidies from State agencies and the like, and the losses that they took.

Mr. LEVITAS. Thank you—

Mr. HOWARD. Excuse me, gentlemen, just so we may know what we are talking about. We are talking about several tables that we have been presented with. One of them, "ConRail Commuter Deficit Estimate by State."

Mr. LEWIS. I think the one the gentleman was referring to was "1973 Commuter Revenues."

Mr. HOWARD. "1973 Commuter Revenues," and there is another that does not have a title that begins with the words, "Of total loss of \$62 million * * *"

Mr. LEVITAS. Those are the documents, Mr. Chairman. The point I am interested in is trying to make some determination whether the

percentage of the losses are somehow or other tied in or relate to the revenues received.

Mr. LEWIS. Yes. What you would like to do is to have this \$28 million—or the \$28 million less the \$1.2 million, distributed by these lines, which would then give you the total costs.

Mr. LEVITAS. That is right, because you made the statement in your testimony that the rail lines that had the highest percentage of commuter subsidies appear to be the ones that also have the highest operating losses as well.

Mr. LEWIS. It would be very interesting to get the average. Well, you could get it by trip distance and just get the actual fare, to commute from New Jersey into New York City, as compared to Westchester County or Long Island, or Connecticut, and you can get a 20-mile trip, a 30-mile trip, a 40-mile trip and determine really exactly what the parallel is.

Mr. LEVITAS. I think that also ties in to the question that the gentleman from Pennsylvania, Mr. Shuster, was inquiring about. I think all of those are part of the same consideration and would be very helpful to the committee.

Mr. HOWARD. The gentleman from California, Mr. Mineta.

Mr. MINETA. Thank you, Mr. Chairman, I am wondering, in the service areas that H.R. 10631 and H.R. 10632 impact, how many passenger related stops were eliminated under the FSP, or does the FSP just deal with point-to-point origin and not with stops?

Mr. LEWIS. We, of course, have lines that are recommended for either subsidy or abandonment, and we will be able to get for you the stops that are on those lines. I don't know how long it would take; it would take some time to get.

Mr. MURPHY. Are you asking if we have dropped a stop in between two points that ConRail is going to serve?

Mr. MINETA. That is right.

Mr. MURPHY. I don't know of any.

Mr. LEWIS. No. If the line is continued in service, we would continue to serve any city on the line.

Mr. MINETA. On the line?

Mr. LEWIS. Yes, sir. It would just be if it were terminated between two points, you might have one or two—are there any that you know of?

Mr. CRUIKSHANK. Not intermediate points, but you have some areas of extreme problems. Well, in Philadelphia, the Reading terminal; somebody has to deal with the Reading terminal or the Reading trains won't get into Philadelphia.

Mr. MINETA. Not where service is being discontinued?

Mr. LEWIS. Unless a whole lot is being discontinued.

Mr. MINETA. Then we go to that whole point about whole lines being eliminated. Is there any way of quantifying that?

Mr. LEWIS. Yes. We have an exact map and we have data that would show you exactly which lines are recommended for abandonment or subsidy, and we can provide that one to you.

Mr. MURPHY. Are you asking for the passenger deficit on those lines that we are abandoning because they are inadequately served freight? I am not so sure we can give you that express list.

No, we don't necessarily have the breakdown of passenger and freight losses on lines that we recommended for elimination simply because it has no freight operation.

Mr. MINETA. The reason I asked the question was because I was surprised that there wasn't a greater howl when the Final System Plan emerged. Was it because unless someone speaks up, the Plan goes into effect? That kind of thing?

Mr. LEWIS. Well, you have two basic problems; one is the freight operation on the branch lines that were eliminated, and we literally eliminated—we were able to find a way to accommodate all but 2.1 percent of the freight on the bankrupt carriers so that we really reduced it to a de minimus figure.

Then it was understood by the people in the 17 States that if a line is important to a local community or State agency, that the subsidy provisions of the act provide an ongoing freight service.

Now, when you get into the commuter operations, which is what we are talking about today, I think the submission of these bills does reflect serious concern on the part of the States, more than the commuters themselves, because I know they have got to continue the service in being, and I think it is really just the impact as to where the cost of supporting service has got to rest that is really an issue, and I don't think most commuters are thinking in terms of termination of service.

Mr. MINETA. Thank you, very much.

Mr. HOWARD. Thank you, Mr. Lewis and gentlemen; we certainly appreciate your testimony this morning, and we will be in touch with each other, based on some of the questions that have been asked by some of the members. We appreciate your cooperation.

Mr. LEWIS. Mr. Chairman, we will be glad to give you everything that you have requested.

Mr. HOWARD. The Chair would like to announce that we feel it is imperative that all of the witnesses—and we do have three more—from the State of New Jersey, the State of Pennsylvania, and the ICC—be heard today. We are going to go into general debate on the House floor on the debt limit bill; there will be a vote on that. And following that we will be in either a rule or general debate session, so that the subcommittee will proceed almost continuously, with the exception of quorum calls and votes.

Our next witness is a representative of the New Jersey Department of Transportation, Mr. Peter Stangl, who is the assistant commissioner for Public Transportation of the State of New Jersey.

Welcome to the subcommittee, Mr. Stangl; we certainly appreciate your appearance here.

The members have also been provided with reports from both the New Jersey Department of Transportation, one of them entitled "Report: USRA Projection of Subsidy Payments to ConRail for Passenger Operations," (see page 81) and the other entitled "Final System Plan: Its Impact on New Jersey Commuter Rail Services." (See page 129.) These two pieces of information, without objection, will be included as an appendix to their hearing record.

Mr. Stangl, if you will please introduce for the record the gentlemen who are with you, and then proceed as you wish.

**TESTIMONY OF PETER STANGL, ASSISTANT COMMISSIONER FOR
PUBLIC TRANSPORTATION, NEW JERSEY; ACCOMPANIED BY
LARRY SNOWHITE, WASHINGTON REPRESENTATIVE, AND
WILLIAM WHITEHURST, ECONOMIC CONSULTANT**

Mr. STANGL. Thank you, Mr. Chairman. On my left is Larry Snowwhite, who is our Washington representative, and on my right is Mr. William Whitehurst, of L. Peabody Associates, an economic consultant to our department.

Speaking of short notice, I would just like to say that I appreciate the efforts of you and Congressman Florio in bringing this issue to hearing so quickly. It is a very important one for our State, and we very much appreciate that.

I would also like to say, before beginning my testimony, that the State of New Jersey recognizes the importance of a viable freight system in our area, and we have no arguments with that objective of the Final System Plan. We also agree, quite frankly, that there should be no cross subsidization in either direction, and I just wanted to make that very clear, that we support the objectives of the Final System Plan.

I welcome this opportunity to appear here today on behalf of the State of New Jersey to discuss with you the final system plan issued pursuant to the Regional Rail Reorganization Act of 1973, its impact on commuter rail services, and our support of H.R. 10632.

This committee, with its jurisdiction over the programs of the Urban Mass Transportation Administration and the Federal Highway Administration, is fully aware of the desirability of maintaining and improving commuter rail systems in heavily populated areas such as northern and central New Jersey and suburban Philadelphia. Without these commuter rail systems, these areas would be choked with increased traffic congestion and air pollution, and confronted with demands for costly and environmentally questionable urban roads. The State of New Jersey has been a pioneer in providing financial assistance to railroads, for operations and capital improvements, to insure the survival of commuter rail services. These services have been provided by bankrupt railroads, which in different degrees, have evidenced disinterest in providing this service. Some have repeatedly argued with the State over the appropriate levels of compensation and have, on occasion, threatened discontinuances of service.

The Congress, consistent with its support of urban mass transportation, stated in the Regional Rail Reorganization Act of 1973, that one of the goals of the Final System Plan was that the requirements of efficient commuter rail service be respected, and that the environmental impact and community benefit costs of alternative courses of action be studied.

The State of New Jersey had hoped that the Final System Plan, in restructuring the railroad system of the Northeast and Midwest, would bring stability and procedural fairness to the purchase of commuter rail services instead of raising the specter of questionably high costs and threats of service discontinuance.

We conclude, as does the ICC in its formal evaluation of the plan, that USRA has done little to assure that the requirements of efficient

commuter rail service be met, and has not bothered to analyze the environmental and community benefit cost ramifications of its policy—a policy of inaction in this regard.

The passenger service chapter of the Final System Plan purports to recommend a model agreement and a set of cost-sharing principles. The model agreement would provide that a commuter rail carrier is to be compensated for its net avoidable loss in providing the service. The chief cost-sharing principles are that passenger service is not to be cross-subsidized by freight service and that on those properties where passenger service is the dominant user, that that service should bear the ownership costs; that is, be treated as the base rather than the avoidable service. Not stated is the interrelationship of these concepts or the measurement for the determination of passenger dominance.

In the New Jersey Department of Transportation's earlier report: "Final system: Its Impact on New Jersey Commuter Rail Services," the department estimated that a maximal application of the passenger dominant theory could result in an increase of \$11 million annually in commuter rail subsidies by July 1, 1977. This estimate was developed without access to USRA workpapers necessary for an analysis of the final system plan's passenger service projections. I request that a copy of that document be accepted into the record of this hearing, and you have already done that, Mr. Chairman.

In light of those preliminary assessments of the plan's fiscal impact, the New Jersey Department of Transportation became particularly concerned about statements by Arthur Lewis, chairman of the USRA board of directors, after the issuance of the Final System Plan. He stated before the House Subcommittee on Transportation and Commerce, on September 9, 1975, that the continuation of existing passenger service would prove to be "an enormous drain on ConRail" and that the shifting of substantial costs from ConRail to the rail passenger agencies must be implemented if the Final System Plan forecasts of financial viability for ConRail are to be fulfilled. The New Jersey Department of Transportation was singled out as one rail passenger agency that would be required to pay substantially more for the provision of commuter service. These statements were received with alarm and surprise in New Jersey. Just last April, the Federal Railroad Administration had reviewed in depth New Jersey's commuter rail service contract with the trustee of the Central Railroad Co. of New Jersey and found that the State is adequately compensating that carrier.

These developments led us to conduct a thorough investigation of the USRA financial projections concerning passenger operations. Our staff conducted interviews of USRA personnel and studied their workpapers to determine how the figures which appear in the table of the Final System Plan were developed.

The findings and conclusions of this report are as follows:

1. USRA projects for 1976 an increase of passenger subsidies from governmental agencies to ConRail of \$156 million, mainly composed of \$78.6 million of claimed "unreimbursed deficit" and \$33.5 million in ongoing maintenance of way charges to passenger service.

2. The USRA developed these projections in a manner which did not follow the Final System Plan's cost-sharing principles or any other

set of consistent costing principles, except to assign arbitrarily the highest cost to passenger service from the available data.

3. The USRA projections substantially overstated the costs created for ConRail by passenger service which ConRail would not incur if it did not operate passenger service. With respect to the passenger services of the Erie Lackawanna, CNJ, PRSL, Reading and the New Jersey service of the Penn Central, our staff determined that USRA overstated the 1976 cost by \$25 million, as compared to the avoidable costs of providing such service. This overstatement is of considerable significance to our Department and to SEPTA, which contracts with Reading for the provision of most of that railroad's passenger services.

4. A substantial portion of USRA's projected \$33.5 million increase in maintenance of way costs chargeable to passenger service in 1976 is overstated and is unlikely to occur.

5. These overstatements result in a \$20 million increase or a 35 percent increase over New Jersey's current level of \$55 million commuter rail subsidies.

The documentation of these conclusions and findings is contained in document entitled: "Report: USRA Projection of Subsidy Payments to ConRail for Passenger Operations," which I request be placed in the record of these hearings, and which you have already done.

As a result of this study, we have learned that New Jersey's earlier concerns about the fiscal impact of the Final System Plan on its commuter rail service were conservative. In fact, the plan's fiscal projections present ConRail with a grossly exaggerated estimate of anticipated passenger service subsidy increases. Against this fiscal backdrop, the composite of the techniques used in the plan's fiscal projections and its purported passenger service costing principles, create a confusing and contradictory picture.

Mr. HOWARD. Excuse me, Mr. Stangl. There is a quorum call on the floor now; we will be back as soon as it is over.

The subcommittee stands in recess for approximately 10 to 15 minutes.

[Short recess.]

Mr. HOWARD. The subcommittee will come to order. Thank you very much for your patience, Mr. Stangl, and please continue.

Mr. STANGL. In circumstances such as these, ConRail, with its unfettered bargaining power, might well seek compensation levels which would result in the cross-subsidization of freight service by the rail passenger agencies. This form of cross-subsidization would essentially be totally unacceptable to the rail passenger agencies and would jeopardize the agencies' ability to finance these services. This is hardly an outcome Congress could have intended when it enacted the Regional Rail Reorganization Act of 1973, or an outcome it now desires. The time is, therefore, ripe for the development of mechanisms to stabilize commuter rail operations by establishing fair and binding compensation standards.

For these reasons, the New Jersey Department of Transportation strongly supports H.R. 10632, which provides, in the main, that:

1. ConRail be required to accept for 180 days after conveyance those commuter rail service agreements in effect immediately prior to conveyance, which the Final System Plan does not consider binding upon ConRail. This applies to properties designated for transfer to

ConRail for itself or for conveyance to the National Railroad Passenger Corporation, as well as those properties not so designated.

2. The Rail Services Planning Office be required to develop standards for rail passenger service continuation subsidies in accordance with existing section 304(c) (2) (A) of the Regional Rail Reorganization Act of 1973; that is, a subsidy which covers the difference between the revenue attributable to such operations and the avoidable costs of providing such service plus a reasonable return on the value of the avoidable rail properties. The Rail Services Planning Office has been chosen because of its impartiality and expertise derived from the development of previous standards for rail service continuation subsidies under section 304(c) (2) (A) of the Regional Rail Reorganization Act of 1973.

3. That 180 days subsequent to conveyance, ConRail and the National Railroad Passenger Corporation would be required to maintain rail passenger service for which a State, or local, or regional transportation authority offered a rail passenger service continuation subsidy in conformance with the RSPO standards. During the 180-day period, the State, or local, or regional transportation authority would be required to maintain its existing level of financial support. If there is no timely subsidy offered in accordance with the RSPO standards, the rail property owner may move to discontinue the service, pursuant to section 304(a) of the Regional Rail Reorganization Act of 1973.

Disputes arising under this procedure shall be settled by binding arbitration. This mechanism for continuing rail passenger service is permanent. It allows ConRail to move to abandon any property it has acquired pursuant to the Final System Plan, only if it can demonstrate that no rail passenger service continuation subsidy will be offered. The bill would further permit States, or local, or regional transportation authorities to contract for the same rail passenger service on properties conveyed to ConRail or the railroads in reorganization, and requires ConRail and the railroads in reorganization to make the properties available for such purposes.

4. Special Federal operating assistance in the maximum amount of \$125 million to the commuter rail agencies, to

A. Hold ConRail and the railroads in reorganization harmless for losses incurred during the 180-day period of frozen contracts, and

B. Hold the commuter rail agencies harmless between February 27, 1976 to September 30, 1977, from the impact of cost components shifted to them as a result of the standards promulgated by the RSPO. This Federal assistance shall be reduced by 50 percent reimbursement in the fiscal year beginning October 1, 1977 and ending September 30, 1978. At the end of this period, this would then become a part of our regular section 5 UMTA application.

I would stress that this special assistance program is a temporary one, designed only to allow the agencies' budgeting processes time to respond to potential shifts in costs. We are confident that most of these funds will never be used; they represent an insurance policy against the acceptance by RSPO of USRA's financial projections as the appropriate level of compensation due ConRail.

I also must emphasize that this must be—this should be fresh money, not money subtracted from existing allocations of UMTA section 5 operating assistance to other deserving urban areas. This would only

exacerbate the problems of several highly urbanized areas which are already suffering from limited allocations under section 5 formula.

Finally, I would like to discuss sections 911, 915 and 916 of the October 29, 1975 draft of H.R. 9802, the omnibus rail bill being prepared by the Subcommittee on Transportation and Commerce.

We deplore as disruptive and unfair section 911(e), which would amend the existing avoidable costs formula for rail service continuation subsidies and substitute a fully allocated cost formula. I would mention that Mr. Lewis himself, this morning, indicated that they are perfectly happy, as I understand it, with the long term avoidable costs concept, and we would like to see that carried through.

We also deplore section 915. By requiring that ConRail could not provide any passenger and subsidized branch line service at less than fully allocated cost, the Congress would be unfairly shifting to the States and localities the burden of cross-subsidizing the viability of ConRail's freight operations. Because it would hit hardest those States that must renegotiate commuter rail contracts with ConRail, it works a grave injustice upon the States of New Jersey and Pennsylvania.

Section 916, the emergency service provision, is simply a buy-time provision with no promise of long term stability or fairness. For this reason, it is clearly inferior to H.R. 10632. Moreover, on its face, it appears to us to be quite ambiguous.

In conclusion, in our strong and unequivocal support of H.R. 10632, all we really seek in our strong support of this bill, is stability and fairness for commuter rail services. This is attainable if Congress delegates to an impartial body the power to make binding determinations of appropriate compensation principles between commuter, intercity and freight services.

I would like to add just two things to that. One of the interesting things we find is that the concept of avoidable costs has some very serious implications for us and for ConRail. If in fact the costs are as high for commuter services as Mr. Lewis has indicated, and if in fact it means that we discontinue commuter service because of these exorbitant costs and because of the fact that we will be subsidizing freight, when in fact that service is discontinued, they are going to find that the amount of money saved by discontinuance of commuter service is going to be much less than the revenues that they have projected.

The point here is that I would very much like to see a viable ConRail, and what we are suggesting, I think, if we are correct, and I think we are, the economic viability of ConRail is questionable based on the amount of funds that USRA expects to get from the commuter agencies.

I just have one more thing, if I might. The Urban Mass Transportation Administrator, Mr. Patricelli, talked briefly about deregulation of commuters services. We generally support that concept, particularly where a State is subsidizing an interstate service and has control over it. We will be working with UMTA on some specific items for that, because we do have a problem with some of our agencies. For example, I would not want the Delaware River Port Authority to be unfettered in their ability to raise fares, so although we generally support it, we want to look at it a little bit closer so that we could be a little bit more specific on that.

Thank you.

Mr. HOWARD. Thank you very much, Mr. Stangl.

Briefly, in consideration of passenger service, maybe you could bring me up to date on one notable thing. There is a railroad commuter line that goes down the Jersey Shore—Monmouth County, and into Ocean County—to a town called Bay Head, which is the end of the line. That now handles cargo and passengers, mostly commuters from that area.

I understand that in plans that have been announced but may have been changed since, south of Asbury Park for about 8 or 9 miles, to Bay Head at the end of the line, it would be anticipated that only cargo would go on that line and there would be no passenger service south of Asbury Park. Is that still true? And if it is true, then those passenger lines or stops would be eliminated, what can be done to keep—

Mr. STANGL. No, Mr. Chairman; ConRail has not designated that portion for freight services, the Asbury Park to Bay Head portion. It has been our policy to continue that service; we think it is a very important service.

I would say that if, in fact, we are hit with the costs that we see projected in this plan, then many of our services are threatened, because we are being asked to come up with a tremendous amount of money in a very short period of time, and so it wouldn't just be that service that would be threatened. Services throughout the State would even be threatened, in terms of our ability to finance them. But it is our policy to continue that service.

Mr. HOWARD. I thought I had seen the maps several months back that had areas for cargo only, and cargo and passenger, and that the cargo and passenger stopped at the Asbury Park level.

Mr. STANGL. That is ConRail. They do not want that property south of Asbury Park.

Mr. HOWARD. If there is any chance of it being lost to passengers, I would appreciate it if you would let me know.

Mr. STANGL. Absolutely.

Mr. HOWARD. How many commuter service contracts in New Jersey will have to be renegotiated?

Mr. STANGL. The only one they accepted is the Erie Lackawanna contract. The New York and Long Branch, Penn Central, and PSLR are unacceptable to ConRail.

I would add that in terms of—excuse me, and the CNJ, that would be four in addition. The Erie Lackawanna, Mr. Lewis indicates that that one they accepted.

What we found is that they do not quite accept the estimate that was provided to them for the total cost of operation which was \$26 million, as I recall, as provided by the Erie Lackawanna. The estimate that they have as the total amount of cost of that operation is \$29 million.

So they have added \$3 million in there some place, so apparently even that one is not acceptable in financial terms.

Mr. HOWARD. If no additional financial assistance is legislated in the Federal level, does New Jersey have sufficient funds to cover these contracts?

Mr. STANGL. Not at the current time.

Mr. HOWARD. How much money is New Jersey spending on rail commuter service?

Mr. STANGL. Approximately \$55 million a year, which does not include the capital funds we have invested to upgrade track and other equipment.

Mr. HOWARD. How much of that money is now provided by the Federal Government?

Mr. STANGL. Approximately \$10 million—\$10 to \$12 million.

Mr. HOWARD. The rest is State?

Mr. STANGL. Yes.

Mr. HOWARD. If no additional Federal funds are available, what, if any, commuter service could or would be continued or curtailed?

Mr. STANGL. Well, we would have to make some decisions on which service, if we discontinue, would impact the fewest people and have the least impact on the environment, and we have not come to a conclusion of what specific service would be eliminated. Clearly some would have to go.

Mr. HOWARD. You have probably considered in your deliberations the southern part of the seashore.

Mr. STANGL. Quite frankly, I would have to say we considered all of them.

Mr. HOWARD. Is there any feasible means available for New Jersey to continue this? I guess not, unless there is some remedy in legislation.

Mr. STANGL. I think that is correct.

Mr. HOWARD. What about alternative transportation services?

Mr. STANGL. Well, if you discontinue rail, you could presumably, if you can find some money again—you still need money to substitute some bus service, but there are corridors in our State where bus service is just inappropriate, and in some cases rail is the most economic means of transporting people.

Mr. HOWARD. Although buses, I think, are perhaps the best mass transit means, all things being equal, this is an area where we do have tremendous congestion and buses on the amount of land available would not be a good means of mass transit as it normally would be around the country; would you agree with that?

Mr. STANGL. I think that is true. You have got the most highly—the most dense State in the Union, that you come from and I come from, and I mean that in terms of population, and I would like to make that clear for the record, and clearly that is a problem.

Also, you have a problem of people shifting into automobiles as a result of discontinuances.

Mr. HOWARD. Most of that is in city areas, because even though we do have great areas of rural farmland, as you state, New Jersey not only is the most densely populated State in the Union, but there are more people per square mile in New Jersey than there are in Japan—quite a healthy amount, 700 and 940 persons per square mile in New Jersey.

Thank you very much. The gentleman from Pennsylvania.

Mr. SHUSTER. I thank the chairman.

I certainly appreciate your testimony. I have mixed feelings, some of which are sympathetic to the points you are making as to the overstatement of cost by USRA and the problem, of course, comes when you get—any time you get management attempting to define costs when they know they are going to get reimbursement to the extent that they can justify cost, be it a Defense Department contract or what-

ever, the end result is management of USRA or ConRail coming in and suggesting that this cost is every bit as high as they possibly can seem justifiable.

The other side of that same coin is the group paying the price, such as people you represent here, and naturally it is in your interest to see that these cost figures are as low as possible—and to whom does one listen?

This becomes the essence of the problem, it seems to me, and suggests there is, indeed, a need for a third party, if there is such a thing as an unbiased, independent third party, and as I understand this legislation—proposal here, is that there be such a third party, that that third party be RSPO, and we have had the other suggestion which also is quite appealing to me, that it be the ICC, and do you see either one of these organizations as indeed being the so-called unbiased, independent third party who can adjudicate these very human differences between what are allocated costs?

Mr. STANGL. I do. I see the RSPO, quite frankly, as doing that—doing a very good job at that. They have the responsibility under the Regional Rail Reorganization Act for determining subsidy standards for both freight and passenger, I might add.

There have been allegations that their obligation was only for freight on light-density lines.

Mr. SHUSTER. We had that testimony earlier this morning.

Mr. STANGL. We take the position that that is not in fact the case. All the legislation says is that they are to develop standards, and we think that approximately they can carry out that obligation for both passenger and freight.

They have had experience in this, they have demonstrated an ability to be objective, and an ability to learn—learn the process very well, and have an experienced group of people, I think, set up especially for this act.

The act itself saw the need apparently to establish an independent body precisely for this purpose, and we support that.

Mr. SHUSTER. Has it not been the ICC which has had years of experience in evaluating costs and setting of rates, rather than RSPO—

Mr. STANGL. I think they have, but I would point out the Regional Rail Reorganization Act set up the RSPO, and I assume that—

Mr. SHUSTER. There is this self-destruct with RSPO, which will not exist based on the present act after 1978.

Mr. STANGL. Let me finish and I will respond to that also. They saw the need apparently to set up a new body to do this, and the RSPO, although it is a part of ICC, is very independent from the ICC, and we agree that there was a need to do that, and we would like to see them do it.

As far as the self-destruct, my understanding is that their existence is to be continued for 5 years—and someone can correct me here—in the overall omnibus bill that is being considered.

Mr. SHUSTER. Which might be proposed, but the law now stands and says they will self-destruct in 1978, is that correct?

Mr. STANGL. Yes, sir, and even if they did they would be—they would have finished, I think, the bulk of this work by then.

Mr. SHUSTER. I sense a certain hesitancy here to have the ICC do this, but rather RSPO, and I would wonder why. I may be incorrect.

Mr. STANGL. Well, I just am happier—I have been very happy with the performance of RSPO, and I think they have done a good job, and I think that I am just basically in agreement that the act itself saw the need to create a special body to do this, and I think that was a good objective, and I think that they ought to be carried through, and I would ask Mr. Whitehurst to comment further.

Mr. WHITEHURST. I would like to add another footnote then, if I may.

Two thoughts. One is that one of the references made in the footnotes identifying the final projection for ConRail for passenger service refers to a determination by the ICC in September of 1973, relating to Amtrak compensation.

I would like to point out the Congress saw fit to reverse that ruling in the Amtrak Improvement Act of 1973, and said that rather than assign a cost to passenger service on the basis determined by the ICC, that it should be on a longrun, avoidable basis plus any payment above longrun, avoidable costs, which should be tied to the quality of performance of the service.

Mr. SHUSTER. Does not this legislation provide for avoidable costs?

Mr. WHITEHURST. Yes, but somebody has to define the specifics of how you provide the guidelines. How are you going to identify avoidable costs? You can define avoidable costs in one or two sentences, conceptually, when you go to actually work out the contract and say what costs are going to be paid, you have a significantly more complex situation.

Another attribute of this thing is the ICC requires that the carriers make an annual report of their operating expenses and revenues, and so forth, and they require that they separate these between passenger service and freight service.

The ICC conducted an investigation of intercity passenger service in 1968, at the order of the Congress, and they made a report, and in that report they stated that the costs assigned to passenger service in the annual report to the ICC by the individual carriers under rules set out by the ICC substantially overstated the avoidable cost or the cost that could be saved by the carrier if they did not run the passenger service.

There are a couple of situations there which lead us to have some concern as to the ICC, and some preference for what we have seen are in the RSPO.

I think you are probably right in saying maybe there is hesitancy there. We do not know that there is a problem, but we do have some concern.

Mr. SHUSTER. Thank you. Thank you very much, Mr. Chairman.

Mr. HOWARD. Thank you, and thank you very much for your testimony. We certainly appreciate your presence here, and as with the other witnesses that we have had since this is a rather quick hearing, and we hope to be moving quickly on this one way or the other.

As our next witness before the subcommittee this afternoon, the subcommittee is very happy and pleased and honored to have a colleague from the State of Pennsylvania, Congressman Larry Coughlin. We

welcome you to the subcommittee, and thank you for your patience, Mr. Coughlin, and so if you will please proceed as you wish.

Mr. COUGHLIN. Thank you very much. It is my great pleasure to have the opportunity to introduce Mr. James C. McConnon, who is chairman of the Southeastern Pennsylvania Transportation Authority, and who is also a vice president for rail of the American Public Transportation Association.

Mr. McConnon is one of the most distinguished men in the field of transportation, and pioneered legislation that created SEPTA, and has been chairman of that authority for many years.

Unfortunately, I will not be able to stay with you, because I do have a bill coming up on the floor, but I did want to take this opportunity to introduce Mr. McConnon.

Mr. HOWARD. Thank you very much, Mr. Coughlin. We certainly appreciate that.

The Chair recognizes the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. I certainly want to welcome my distinguished colleague here today, and particularly, Mr. McConnon as well.

While I have not had the opportunity to meet you personally, you certainly come very highly regarded from several of our mutual friends in Pennsylvania, and I am just delighted to have the opportunity to have you testify before our subcommittee.

Thank you.

Mr. HOWARD. Welcome to the subcommittee, Mr. McConnon, please proceed.

TESTIMONY OF JAMES C. MCCONNON, CHAIRMAN, SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY

Mr. MCCONNON. Good afternoon.

I am James C. McConnon, chairman of the Southeastern Pennsylvania Transportation Authority, or SEPTA, and vice president for rail of the American Transport Association. SEPTA has responsibility for all public passenger transportation in the five-county region of southeastern Pennsylvania, including Bucks, Chester, Delaware, and Montgomery Counties and the city/county of Philadelphia.

I would like to ask just one of my associates to show to the subcommittee here a diagrammatic scheme of the commuter rail system that is operated under our purchase-of-service contracts in the Philadelphia area, and I will refer to that more specifically a little later, but this gives you some idea of the nature of the impact of the commuter rail system in the city itself.

Mr. HOWARD. Could you let us know the boundaries at the end there to where you are talking?

Mr. MCCONNON. This is not to scale, at all. We have another showing the scale of this. This shows diagrammatically the different number of lines that serves the inner city, principally.

The large-scale map will show you two scales, the nature of the region, and in fact, in one lower corner, to the left of our service it runs a distance of 40 miles.

Some of our service runs through Amtrak, from Philadelphia to Harrisburg. We run service to Wilmington, and service throughout this entire five-county region, as you can see. I hope these lines that indicate the nature of the service through the region are clear, and they do provide a backbone of any possible future system in the region.

Now, what we have done is shown these diagrammatically and schematically on this chart that will give you an idea of the dimension we are dealing with.

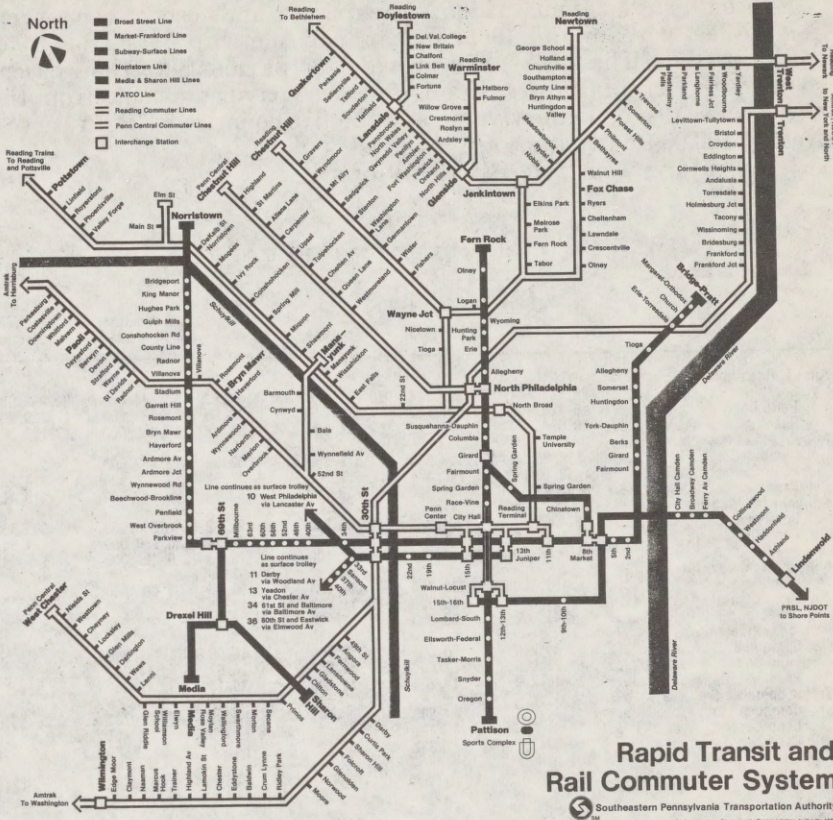
Mr. HOWARD. Do you have any prints of that that could be reproduced for the record? We would appreciate that, and they will be made a part of the record.

Mr. McCONNON. We will provide suitable copies of both of these maps, Mr. Chairman.

Mr. HOWARD. Thank you.

[The following was received for the record:]





Mr. McCONNOR. SEPTA currently provides commuter service on an extensive network of railroad lines owned by the Penn Central and Reading Co. Most of these facilities are also used to provide railroad freight services as well as intercity railroad passenger services by Amtrak.

SEPTA does not operate these services, but rather manages them through purchase-of-service arrangements with the identified carriers.

Exhibit I shows annual ridership, expenses, and costs of the service for the last 2 years and 1965, and annual ridership data from 1955 to the present. These contracts provide for payments to the carriers to offset incremental losses. Funds for these payments come from the Commonwealth of Pennsylvania and the five counties SEPTA serves. Nearly 120,000 daily trips are involved.

[The information referred to follows:]

EXHIBIT I
SEPTA RAIL FACT SHEET, FISCAL YEAR BASIS

	1965	1973	1974	Percent change, 1965-74	Estimated 1975	1976 projection
Annual ridership:						
Combined	26,394,744	29,802,914	30,241,026	14.57	30,424,000	30,869,000
Penn Central ¹	15,420,605	17,531,662	17,679,240	14.65	17,368,000	17,709,000
Reading	10,974,139	12,271,252	12,551,786	14.38	13,056,000	13,160,000
Annual ticket revenue:						
Combined	\$14,063.9	\$21,509,874	\$21,572,700	53.39	\$23,482,000	\$24,778
Penn Central	\$8,504.4	\$12,742,474	\$12,613,000	48.31	\$13,802,000	\$14,355
Reading	\$5,479.5	\$8,767,400	\$8,959,700	63.51	\$9,680,000	\$10,423
Annual avoidable cost:						
Combined	\$24,650.3	\$40,482.4	\$44,768,800	81.62	\$46,680,000	\$60,532
Penn Central	\$14,150.3	\$23,439.0	\$25,896,700	83.01	\$26,189,000	\$34,883
Reading	\$10,500.0	\$17,043.4	\$18,872,100	79.73	\$20,491,000	\$25,649
Average weekday ridership:						
Combined	102,000	110,000	118,600	16.27	116,000	-----
Penn Central ¹	61,000	65,000	71,600	17.38	67,000	-----
Reading	41,000	45,000	47,000	14.63	49,000	-----
A.m. peak ridership:						
Combined	34,200	35,200	39,700	16.08	39,800	-----
Penn Central ¹	21,000	21,000	24,500	16.67	24,000	-----
Reading	13,200	14,200	15,200	15.15	15,800	-----
Trains operated (weekdays):						
Combined	711	803	801	+12.7	781	-----
Penn Central ¹	374	421	421	+12.6	401	-----
Reading	337	382	380	+12.8	380	-----
	1965	1973	1974			
Parking:						
Combined				10,357	12,050	12,900
Penn Central				6,103	7,060	7,124
Reading				4,254	4,990	5,776
Equipment:						
Combined				388	433	441
Penn Central ¹				217	263	263
Reading				171	170	178
Stations:						
Combined				199	196	197
Penn Central				97	96	96
Reading				102	100	101
					Route	Electrified
Track miles:						
Combined					273.0	-----
Penn Central					124.7	124.7
Reading					148.3	83.2
					Operational	1976 projection
Penn Central						243
Reading					286	-----
Electric					183	243
Nonelectric					103	-----

¹ Includes Harrisburg service.

PASSENGER RIDERSHIP CALENDAR YEARS, SEPTA AREA

	Penn Central	Reading	Combined
1955.....	15,325,166	12,120,630	27,445,796
1956.....	15,614,021	12,023,273	27,637,294
1957.....	15,277,335	11,774,757	27,052,092
1958.....	14,699,149	11,102,635	25,801,784
1959.....	14,226,938	10,699,626	24,926,564
1960.....	13,658,127	9,978,611	23,636,738
1961.....	14,040,446	10,094,689	24,135,135
1962.....	13,637,589	9,731,182	23,368,771
1963.....	15,263,292	11,052,569	26,315,861
1964.....	15,153,053	11,151,985	26,305,038
1965.....	16,002,648	11,427,202	27,429,850
1966.....	17,225,715	11,718,307	28,944,022
1967.....	18,217,135	12,537,540	30,754,675
1968.....	19,492,833	13,039,238	32,532,071
1969.....	20,136,520	13,170,480	33,307,000
1970.....	18,679,569	13,294,458	31,974,027
1971.....	18,694,763	13,143,659	31,838,422
1972.....	18,108,813	12,429,793	30,538,611
1973.....	17,221,956	12,204,394	29,426,350
1974 ¹	17,452,960	12,799,731	30,252,691

¹ Actual passenger figures used for January to June, projected figures used July to December.

Mr. McCONNOR, SETA's first concern regarding the final system plan is that it will require higher subsidy payments without any improvements in service. The present subsidy is approximately a dollar for every dollar paid by the passengers, and will increase by an additional 88 cents under the final system plan. This increase will neither add additional seats to our capacity, nor improve the speed of the service, nor does it improve the quality of the service. The present annual subsidy of \$28.3 million will be increased to \$49.4 million.

The city of Philadelphia pioneered the subsidy program in 1958—the first in the Nation. The public payments have gradually progressed to ever-increasing dollar levels covering growing percentages of the passenger deficit. The total public investment over the years is shown in exhibit II. But these earlier subsidies provided regional riders with more trains, new air-conditioned cars, and more reliable service. They brought us something.

[The information referred to follows:]

EXHIBIT II
READING-PENN CENTRAL, COMMUTER RAILROAD DEFICITS
[In millions]

Fiscal year	Reading	Contract payment	Penn Central	Contract payment	Total contract allocation
1961.....	\$6.1	-----	\$5.0	-----	-----
1962.....	5.8	-----	6.8	-----	-----
1963.....	5.8	\$1.7	6.3	\$1.6	\$3.3
1964.....	4.8	1.8	6.9	1.7	3.5
1965.....	4.7	2.6	5.5	1.5	3.0
1966.....	4.0	3.0	5.7	3.1	6.1
1967.....	4.4	3.3	4.9	3.2	5.9
1968.....	4.7	4.6	4.8	3.5	8.1
1969.....	4.9	4.7	4.4	3.9	8.6
1970.....	5.5	4.7	5.8	3.9	8.6
1971.....	5.9	4.6	7.7	4.6	9.2
1972.....	6.4	4.9	8.5	5.9	10.8
1973.....	7.9	6.5	10.0	8.0	14.5
1974.....	9.6	8.7	12.6	10.7	19.4
1975 estimate.....	10.8	10.4	15.5	12.2	22.6
1976 ¹	15.2	-----	20.5	-----	-----

¹ This figure contemplates public takeover of entire financial responsibility of commuter operations.

Note: 1961-66: Taken from ICC accounts on an allocated basis. 1967-74: On basis of actual reporting to SEPTA. 1975-76: Based on projection of revenue and costs.

PUBLIC PAYMENTS TO PHILADELPHIA RAIL COMMUTER SYSTEM

	Penn Central Co.		Reading Co.	
	Purchase of service	Capital	Purchase of service	Capital
1958.....	42, 273	-----	16, 927	-----
1959.....	227, 400	-----	137, 824	-----
1960.....	268, 949	-----	224, 512	¹ 87, 500
1961.....	963, 250	-----	531, 500	-----
1962.....	1, 094, 807	-----	827, 000	⁽²⁾
1963.....	1, 567, 556	² 9, 407, 500	1, 714, 626	7, 260, 500
1964.....	1, 685, 833	-----	1, 852, 000	¹ 1, 385, 000
1965.....	1, 542, 800	-----	2, 561, 448	-----
1966.....	3, 133, 460	-----	3, 046, 810	⁴ 2, 000, 000
1967.....	3, 166, 740	² 5, 020, 000	3, 293, 300	-----
Fiscal year:				
1968.....	3, 500, 000	-----	4, 600, 000	⁵ 1, 800, 000
1969.....	3, 900, 000	-----	4, 700, 000	-----
1970.....	3, 900, 000	-----	4, 700, 000	⁶ 1, 800, 000
1971.....	4, 650, 000	² 37, 900, 000	4, 600, 000	² 4, 100, 000
1972.....	5, 984, 300	-----	4, 865, 700	-----
1973.....	8, 024, 900	-----	6, 500, 000	-----
1974.....	10, 734, 000	⁷ 880, 000	8, 700, 000	⁶ 600, 000
1975.....	12, 200, 000	-----	10, 400, 000	-----
Total.....	66, 586, 268	53, 207, 500	63, 291, 647	19, 033, 000

¹ Refurbish old rolling stock.² Purchase of new MU electric cars.³ Purchase of new rail diesel cars.⁴ Fox chase electrification.⁵ Reconstruction of Reading viaduct.⁶ Warminster electrification.⁷ Urban corridor.

Mr. McCONNOR. In effect, what it did was enable us to stabilize the fares, and at the same time bring in new equipment which attracted riders.

SEPTA intends to continue this progressive program. The final system plan requires SEPTA, which has no taxing power, and limited sources of State and local funds, to provide a much higher level of subsidy or reduce service.

The final system plan means the abandonment of SEPTA's two center city terminals—Suburban Station and Reading Terminal—as well as four of SEPTA's commuter routes, unless SEPTA steps in to acquire these properties.

I would indicate on the diagrammatic map the routes that are not included in the final system plan. That was the Newtown branch going north from the city into Montgomery and Bucks counties, toward New Jersey, the Doylestown Branch, which operates generally in the same area, and the same direction, and to Chestnut Hill and, of course, the Penn Central Suburban Station, and Reading Terminal.

The total number of patrons affected by termination of these four lines can be counted as 21,500 weekday riders—18½ percent of our railroad commuter system total—with lesser trips on Saturday and Sunday. The center city terminals serve over 100,000 a day.

SEPTA also is investigating a network of transportation lines. These would extend our railroad commuter services and suburban light railways. Future facilities would include both suburban-to-city services as well as the urgently needed cross-county suburban network.

What I refer to is the inherent nature of our commuter system, both in Philadelphia and elsewhere. The service is radial from the center of the city out to the suburban areas. It is part of our program to de-

velop, as part of our future mass transit service in the suburban areas, the use of light rails that cut across these radial lines, thus providing real mass transit of that type in the suburban areas. Fortunately, we have in southeastern Pennsylvania, as in other metropolitan areas, an extensive network of freight lines, many of which are not now used, and many would be abandoned under the final system plan.

In the case of many of those, we have indicated a desire to acquire those from ConRail. These would provide circumferential type services in this region. Any development of such facilities on a cost-effective basis requires avoiding acquisition of new rights-of-way. Such acquisition can be eliminated by using existing freight rights-of-way throughout this region.

A major element in the final system plan is that if a particular branch line can no longer support itself through freight traffic, it is abandoned, and forever lost for future use. Some provision should be made to insure that such rights-of-way are not lost irrevocably.

Summarizing the acquisition problem, an urgent need is recognized for approximately \$25 million in funds to acquire the properties for immediate service and the most promising for near-term future development. This funding would provide for purchase at the USRA-established "net liquidation value" of lines designated for SEPTA in the final system plan, lines on which SEPTA does not now provide service but wishes to initiate service in the future, as well as lines now designated for ConRail or Amtrak where SEPTA might be considered to be the dominant user, depending upon the application of that concept. In addition, what SEPTA would be required to pay in deficiency judgments is a totally unknown risk.

Referring to the bill before the subcommittee, H.R. 10632, SEPTA and the American Public Transport Association enthusiastically support this legislation.

It provides a moratorium on expedited discontinuance of commuter services, and for temporary subsidization by the Federal Government of the differences between present public agency subsidy and the cost demanded by ConRail for continuing the commuter services.

In this period, a determination of the true cost of providing this service will be determined through experience, and an opportunity will be available to attempt to secure legislative authority from the States and local communities for the commitment of the additional necessary funds.

One of our concerns has been that ConRail, as operator of the system, would not have sufficient incentive to control costs. This bill provides protection through the promulgation of standards by the Rail Services Planning Office governing subsidies payable to ConRail, and provides a mechanism for arbitration by that office in the event of disagreement.

The rail properties which SEPTA must purchase have been valued at \$6 million by U.S. Railway Association. SEPTA estimates that the real price of all properties it will require in order to continue its commuter system will be between two and four times that number.

SEPTA has a vital need for Federal assistance in the acquisition of the properties. House bill 10632 provides very helpful subsidies for operations, but does not address the problem of acquisition of rail properties.

We believe that ConRail should acquire title to all rail properties either for operation by it, or transfer to another operator—such as SEPTA—or eventual abandonment.

One protection which SEPTA would need in order to purchase the properties is the protection which the Chessie System required; namely, protection from a deficiency judgment in the event the courts determine the values assigned by USRA to the rail properties are constitutionally inadequate.

The ConRail Final System Plan presents the most serious threat to the southeastern Pennsylvania commuter system that it has faced in more than 20 years.

Without the temporary relief provided in this bill, the immediate impact of the Final System Plan on the funding agencies that support SEPTA's commuter rail program will be extremely serious. SEPTA's rail budget is increased by \$21.1 million—74 percent. Because of the dependence of Philadelphia and its entire metropolitan region on the commuter system, there is no real alternative.

We believe that the southeastern Pennsylvania region, despite its designation as headquarters for ConRail, would suffer a more serious economic impact from the rail reorganization than any other metropolitan region in the Northeastern United States.

Thank you very much.

Mr. HOWARD. Thank you very much for your testimony.

The Chair recognizes the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you.

I certainly appreciate your testimony, Mr. McConnon.

Mr. McCONNON. Thank you.

Mr. SHUSTER. I said in my opening statement this morning, and perhaps you were not here then, that I am having great difficulty with this legislation, because from my first day in the Congress, while I have supported mass transit in terms of capital support, I have opposed operating subsidies, and this legislation provides for very substantial operating subsidies, and I have also said that I approach these hearings with the view of trying to find a way to persuade myself to support this legislation—not with a view to opposing it, but it does present a problem for me, so I might ask you why should—what is different about this request for an operating subsidy from any other operating subsidy for mass transit?

Mr. McCONNON. I think, first of all, as I understand it, this is really a temporary emergency relief bill, and it is designed to deal with the immediate impact, so that I do not think it necessarily represents a commitment so far as the long run is concerned. I would think further attention is going to be needed, however, even if this legislation is passed.

I think, though, that a more basic point that I would suggest to you, Congressman, is that unlike the view that might be taken for a need for operating subsidies generally, and part of that view is that the problems were allowed to arise and should have been dealt with at some earlier time, and that certainly is a debatable point, but this is a case where the problem has arisen through the desire of Congress to solve somewhat related but actually different national problems of

major proportion; namely, the survival and maintenance of the vitally necessary freight service throughout the United States.

Mr. SHUSTER. And through the bankruptcy of the Penn Central.

Mr. McCONNON. Yes; through that situation.

Mr. SHUSTER. But for the Congress stepping in, Penn Central could be in liquidation today, and commuter service terminated.

Mr. McCONNON. Of course, as you know, both of the railroads work with SEPTA, the Reading Co. and the Penn Central, which are now in court in reorganization, and that is a matter which provides a certain degree of instability in our efforts to produce a long-range program.

So it is certainly true by stepping in and providing some basis on which we can look to the future, that is a necessity and a helpful part of the legislation, but in dealing with that national problem, which really is a national problem, not just an urban problem or a mass transit problem, it has, as often is the case, produced a very serious spinoff, and I think that is what this bill deals with. So I think it is different, really, in nature from the problem that has been addressed generally as to operating subsidies. And I would seriously recommend to your consideration that it might be viewed in that way.

Mr. SHUSTER. Thank you. One other question.

Do you have any strong feelings as to whether RSPO or the ICC should be the body determining the standards for subsidy?

Mr. McCONNON. I do not know how strongly I would say my feelings are. There are other aspects that are more vitally important and critical that I do not think that determination should stand in the way of this bill, but I think that I would be inclined to endorse the statement of the previous witness in this regard that, by and large, the efforts and the results that have been obtained from RSPO have been satisfactory and that we would certainly not have any objections to continuing that way. And I would say the preference would be, by and large, to do so.

Mr. SHUSTER. Thank you very much, Mr. McConnnon.

Mr. McCONNON. Thank you, Mr. Shuster.

Mr. HOWARD. Thank you. I wish to thank you for your testimony.

I must say that SEPTA has been watching its pennies and, obviously, has not been throwing your money away on new Xerox machines.

We may come back to you during the week and put this in the record to clarify some of the information on that.

Just a few brief questions.

How many commuter service contracts in Pennsylvania will have to be renegotiated by SEPTA?

Mr. McCONNON. Well, SEPTA itself has contracts with the two railroads, Penn Central and Reading, and those are the ones that are involved.

Mr. HOWARD. If no additional financial assistance is legislated at the Federal level, does SEPTA have the necessary funds to cover these contracts?

Mr. McCONNON. SEPTA has no base of its own for providing funds. We are funded by the city and the counties and the State, as I have indicated.

I must say that the impact of this in the immediate future on the city and counties in their budgeting process will be extremely serious. It is very difficult, I think, for anybody to put this kind of an increase on a local county budget on the basis on which they are set up without having serious repercussions.

I really cannot answer that question fully.

Mr. SHUSTER. How much money from the sources that are providing money for you is SEPTA now spending on rail commuter service?

Mr. McCONNON. I think the figure in this year is about \$20 million.

Mr. HOWARD. Do you know how much of this money is now provided by the Federal Government?

Mr. McCONNON. Actually, I do not think I can, out of my head, prorate the amount we receive in section 5 funds, but some portion of that, I would say, was a relatively small proportion of our total deficit, the total deficit being in the area of about \$70 million—\$60 to \$70 million.

Mr. HOWARD. If no additional funds are available, what, if any, commuter service could or would be discontinued or curtailed?

Mr. McCONNON. Well, it is possible to determine how we could respond in the event that funds are not there to enable us to obtain the services from ConRail.

You have to think in terms of disaster and the kind of thing you would be looking at would be reducing service, say, during off peak hours.

That kind of thing is a way of simply reducing the bill that you would receive from ConRail.

Mr. HOWARD. Thank you.

Could you tell us, well, first, how about alternative means of transportation? Should there be curtailment?

Mr. McCONNON. We, of course—SEPTA—operate virtually every available type or known type of public transportation in the southeastern Pennsylvania region. We use buses, feeders for the rail system, and the rail system intersects with our subway system, but where the corridor through which the service passes is densely populated, as most of our areas are, there is really no feasible substitute for rail service.

It simply is the only real efficient way of moving large numbers of people, particularly at peak hours, and in terms of the benefit, the impact on the community, there is no real alternative.

Mr. HOWARD. Thank you.

Mr. FRYER. How are payments made under existing contracts with the railroads now providing service?

Mr. McCONNON. Under our contracts, the funds are obtained periodically from the State and matched at the city and county level, and from those payments the amount is made available and paid to each of the railroads.

Mr. FRYER. Are those payments current?

Mr. McCONNON. I frankly do not know at this moment whether they are. As I mentioned before, the reorganization situation has had an impact on the basis on which we have operated. It is not the same as it was when we simply operated on contract with the railroads, and there may be some matters that are still under negotiation, in fact.

Mr. HOWARD. Would you provide us with the current status of the payments to the underlying carriers?

Mr. McCONNOR. Certainly.

Mr. HOWARD. Without objection, that will be made part of the record.

[The following was received for the record.]

SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY—PURCHASE OF SERVICE PAYMENTS TO
RAILROADS

Fiscal year ended June 30	Penn Central Transportation Co.	Reading Co.
1972.....	\$5,984,000	\$4,866,000
1973.....	8,025,000	6,500,000
1974.....	10,605,000	8,599,000
1975.....	11,834,000	10,090,000
1976.....	12,739,000	13,340,000

¹ No payments have been made for fiscal year 1976. SEPTA has offered this sum for the year, but it has not been agreed to by Penn Central.

² The SEPTA board has authorized this amount for the year, and payments to date have been at a rate of about 75 percent of the authorized amount because SEPTA has not as yet received complete funding from Federal and local sources.

Mr. HOWARD. Thank you very much.

We certainly appreciate your presence here on such short notice, and we may be in touch with you within the next few days for any additional information we may need which, without objection, will be made part of the record also.

Thank you very much.

[The following was received for the record:]

NOVEMBER 25, 1975.

SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
TECHNICAL SUGGESTIONS FOR H.R. 10632

Since Title I of the Bill is an amendment of the Urban Mass Transportation Act of 1964, SEPTA believes that it would be desirable to include in the Bill language providing for a "designated recipient" of financial assistance, similar to the language contained in Section 5(b)(2) of the present Act. It seems appropriate to provide that where a transportation authority is providing financial support for the continuation of rail passenger service, as described on page 8 of the Bill, federal financial assistance be paid to that authority. We therefore suggest the addition of the following subsection (d) to the proposed Section 17 of the Urban Mass Transportation Act of 1964. The present subsection (d) would become subsection (e). Thus, the following new language would be added to page 4 of the Bill:

"(d) During such periods of time in which a State or local or regional transportation authority provides financial support for the continuation of rail passenger service in the 180-day period following the date of conveyance of rail properties pursuant to Section 303(b)(1) of the Regional Rail Reorganization Act of 1973, or from the end of the 180-day period to the end of the fiscal year ending September 30, 1978, such State or local or regional transportation authority shall be the recipient to receive and dispense financial assistance provided under this section."

The Bill provides for financial assistance to "States and local bodies and agencies thereof" on line 10 of page 1 and lines 17-18 of pages 2. Elsewhere in the Bill, the phrase "State or local or regional transportation authority" is used (e.g., p. 2, lines 9-10; page 5, lines 13-14 and 16-17; page 7, lines 24-25; and several times on page 8). Although SEPTA would qualify for assistance under

either phrase, because it is a "transportation authority" as well as "an agency and instrumentality" of the Commonwealth of Pennsylvania, SEPTA recommends that the same phrase be used throughout the Bill for consistency. SEPTA believes that the phrase "State or local or regional transportation authority" is preferable, and should be used on page 1, line 10, and page 2, lines 17-18.

Mr. HOWARD. Our final witness today here, and we are honored, is the Chairman of the Interstate Commerce Commission, Mr. George M. Stafford.

We welcome you to the subcommittee, Mr. Chairman, and off the record.

[Discussion off the record.]

Mr. HOWARD. Now, back on the record.

Thank you for appearing here today on such short notice concerning these two bills before the subcommittee.

If you would please identify for the record those who are accompanying you and please proceed as you wish.

TESTIMONY OF GEORGE M. STAFFORD, CHAIRMAN, INTERSTATE COMMERCE COMMISSION; ACCOMPANIED BY ALLEN FITZWATER, DIRECTOR, RAIL SERVICES PLANNING OFFICE, AND FRITZ KAHN, GENERAL COUNSEL

Mr. STAFFORD. I have with me my General Counsel, Mr. Fritz Kahn, on my right, and I have our Director of RSPO, Mr. Fitzwater, here on my left. And we are pleased, of course, on behalf of the Interstate Commerce Commission, to be here to testify on H.R. 10631 and 10632, bills designed to provide Federal subsidy assistance for the maintenance of rail passenger service affected by the financial system plan which recently became effective under the terms of the Regional Rail Reorganization Act.

The Commission recognizes the need for legislation to guard against the possibility that essential rail commuter services may be discontinued following the conveyance, next February, of properties now operated by the Penn Central and other railroads in reorganization to the Consolidated Rail Corporation.

In our evaluation of the United States Railway Association's Final System Plan, we commented on the possibility that some of these services might be terminated.

At that time, we urged the Congress to take action to eliminate the existing confusion concerning the proper interpretation of the RRRRA insofar as it affects commuter service and, if necessary, to take steps to assure that such services would be continued.

We believe that the bills under consideration today will accomplish the end required, and assure that essential rail commuter services are continued upon terms which are equitable, both for the users and for the Federal Government.

I should point out, however, that we have had only a very brief opportunity to review these bills, and that we would like to reserve the opportunity to provide additional comments on them if further analysis convinces us that this would be advisable or should you desire further elaboration.

As an interim measure, title II of H.R. 10632 would amend the Regional Rail Reorganization Act to require that all rail passenger

services being provided by railroads in reorganization immediately prior to the date upon which they convey their properties to ConRail or to profitable railroads would be operated by ConRail for 180 days following that date, provided that any support payments being made by States or local or regional transportation authorities are continued at their present level.

During the 180-day period, the Commission's Rail Services Planning Office would issue standards for determining the appropriate subsidy level.

Under H.R. 10631, and title I of H.R. 10632, amending the Urban Mass Transportation Act, UMTA, the Secretary of Transportation would reimburse ConRail in an amount equal to the difference between the appropriate subsidy level, as determined under RSPO standards, and the amount of support payments made by a State or local or regional transportation authority.

To provide for service following the expiration of the initial 180-day period, H.R. 10632 would amend the RRRRA to provide that rail passenger service would be continued so long as a subsidy was being provided; and H.R. 10631 would amend the UMTA to provide for Federal reimbursement to a State or local or regional transportation authority in an amount equal to the difference between the subsidy amount, as computed under the RSPO standards, and the amount of local subsidy payments for the period extending from the end of the 180-day period to September 30, 1977.

For the following fiscal year, ending September 30, 1978, the Federal payment would be reduced 50 percent, and after that date the Federal support would be terminated.

In discussing these bills in more detail, I would like to turn first to title II of H.R. 10632, which amends the Regional Rail Reorganization Act. Section 201 would change section 205(d) of the RRRRA to require the Commission's Rail Services Planning Office to issue standards, first for computing rail passenger service subsidies and, second, for determining the level of the Federal share of that subsidy.

As we understand this section, RSPO would be required under the first of these provisions to issue standards for determining rail passenger service costs and revenue from which could then be determined the amount of the loss occasioned by the operation of such services. This, in turn, would be the amount of subsidy payment which would have to be made in order to continue these services.

Under the second part of the new paragraph, RSPO would have the responsibility for determining precisely how much of the subsidy payment would be paid by the State or local commuter authority, and how much would remain to be paid by the Federal Government. The bill would require RSPO to issue these standards within 180 days following the effective date of the final system plan and, as you know, the plan became effective on November 9. This should provide sufficient time for RSPO to develop the required standards if the bill is enacted within a short period of time.

Section 202 of the bill would change section 206(d) (5) of the RRRRA to provide that if ConRail were to dispose of properties over which rail passenger service was performed under subsidy, it would be able to charge the purchaser an amount equal to that which it had paid for the properties, plus an amount representing any increase in their value

attributable to maintenance and improvement performed by ConRail. This provision is intended to encourage ConRail to maintain and improve these properties, and we support its inclusion in the bill.

Section 203 of the bill would increase the level of funding for the Rail Services Planning Office from \$5 million to \$7 million. We believe this is a reasonable estimate of the amount needed if RSPO is to carry out the new responsibilities given to it under this bill and to continue the performance of its present responsibilities under the RRRRA.

Section 204 of the bill makes a number of changes in section 304 of the RRRRA. Paragraph (a) would amend section 304(a)(2)(B) to provide that services which may be discontinued prior to the date that other properties are conveyed by the trustees of the railroads in reorganization to ConRail or some other railroad. As the Act now reads, services over lines not transferred under the plan could be terminated approximately 20 days prior to the date of conveyance. We support this provision.

Paragraph 204(b) provides that if any rail service continuation subsidy is offered for both freight and passenger service on the same line, the owner of the property shall receive only one payment representing the return on the value of his property. We support this provision. This paragraph also adds the requirement that rail passenger service cannot be terminated so long as a subsidy is provided.

New section 304(e) requires ConRail to continue to provide rail passenger service for a period of 180 days following the date of conveyance of rail properties on which that service was being provided by the railroads in reorganization, even if those properties were not designated for inclusion in the final system plan.

An exception is made for rail lines on which service is being provided by Amtrak. This paragraph provides that ConRail shall be bound by any passenger service agreement under which subsidy was being provided by a local or regional transportation authority. If no financial support was being provided, or if there was no agreement in effect, ConRail is still required to continue to provide the same level of service that had been provided prior to the date of conveyance. If financial support was being provided, the State or local or regional transportation authority is required to continue to provide the same level of support that it was providing prior to conveyance. We consider this to be eminently fair.

The remaining changes which section 204 of the bill makes in section 304 of the RRRRA provide for the termination of rail passenger services in the event that subsidy payments are discontinued.

The possibility that title II of H.R. 10632 amending the RRRRA, could be enacted separately, raises a problem that we believe deserves attention. It is conceivable that ConRail could be required to provide continuing rail passenger service under new section 304(e) without the subsidies contemplated in H.R. 10631. We do not think this additional burden should be imposed on ConRail without the availability of subsidies and, accordingly, we believe it essential that the proposed amendments to the RRRRA be tied to the proposed amendments of the UMTA.

The companion bill, H.R. 10631—and title I of H.R. 10632—would add a new section 17 to the Urban Mass Transportation Act of 1964

to provide Federal support for the continuation of rail passenger services. Like H.R. 10632, this bill deals separately with the service performed during the 180-day interim period immediately following the conveyances to ConRail, and with those services provided during the 2 years following the termination of the 180-day period.

To make provision for the continuation of service during the 180-day interim period, the Secretary of Transportation would be required to reimburse ConRail for any losses which it suffers in operating commuter services.

These losses would be computed by taking the difference between the losses ascertained by applying the RSPO standards and the amount of subsidy paid by a State or local or regional transportation authority. For the period beginning after the termination of the 180-day interim period and extending to the end of the fiscal year ending on September 30, 1977, the Federal Government would pay an amount equal to the difference between the total loss as computed under the RSPO standards and the amount paid by a State or local or regional transportation authority.

During the fiscal year ending September 30, 1978, the Federal share would be limited to one-half of that amount.

The new section 17 also provides that the Secretary may make the granting of assistance subject to such terms and conditions as he may find necessary; that intercity services provided by Amtrak are not eligible for subsidy; and that the Secretary is bound by certain labor protective provisions included in section 13(c) of the UMTA.

Finally, it provides funding for Federal assistance, in the form of grants or otherwise, in an amount not to exceed \$125 million. In our view, that sum should be adequate to meet the needs of the passenger services subsidy program.

The commission believes that these two bills provide a fair and reasonable means of assuring the continuation of essential commuter services which might otherwise be endangered due to the provisions of the Regional Rail Reorganization Act. We urge the committee to report them favorably.

Thank you for the opportunity to testify today. I will be happy to answer any questions which you may have.

Mr. HOWARD. Thank you very much. We certainly appreciate your statement and your appearance.

You did indicate that you believe the RSPO can develop a standard within 180 days?

Mr. STAFFORD. Yes, sir, I did indicate some concern in case the bill was not passed soon. They can do it in 120 to 130 days, something like that, some time period in there. But if the bill takes too long, there should be given some consideration for some added time.

Mr. HOWARD. Yes. You have indicated they ought to be allowed the minimum of 120 days.

Mr. STAFFORD. Yes.

Mr. HOWARD. The present standards are applicable to passenger service?

Mr. STAFFORD. Yes; we believe they are applicable. But we believe that they need a little added work on them to be sure that they are worked out properly, and we believe RSPO can do that very well.

Mr. HOWARD. The bill would require subsidies paid to the continued passenger service which would be determined under the same standards that apply to freight service, standards which RSPO has already issued.

Could you provide us with a brief summary of their major points and, in particular, expand on the concept of avoidable costs as used in the RRRRA and RSPO standards?

Mr. STAFFORD. Sir, I might ask our director of RSPO, Mr. Fitzwater, to speak to that.

Mr. FITZWATER. Mr. Chairman, first of all, in drafting the standards, we made sure that there was complete flexibility in negotiating the subsidy agreements so that the standards that were adopted by RSPO would in no way impinge on the right of either party at arm's length negotiations.

However, they did provide a basis upon which mandatory agreements could be reached in case of an impasse, so the way we approached the problem was to allow considerable flexibility among the contracting parties. However, if it should happen that they could not agree on certain points, then they could fall back on the standards.

So, in my opinion, the present standards allow for any arm's length agreement negotiations between the parties. At that point, the standards will come into play if some type of deal can be struck. Basically, the standards are made up of revenues attributable to the branch and the determination has been made that all freight revenues originating and terminating on the branch that accrue to the entire carriers would be counted as revenue in consideration of freight subsidy.

In consideration of passenger subsidies, it involves passenger miles on the branch-to-branch miles on the system.

Now, when we drafted the standards, we anticipated they would relate primarily to freight revenues. I think there are only something like 7 or 8 out of the 350 branches that will not be included in the final system plan for passenger service, so our original standards were not drafted with passenger subsidy in mind. And this is the reason I think they would have to be reviewed entirely to make sure that they provide an equal basis.

The primary problem is to try to divide passenger service from freight service, and the avoidable cost area, we have selected a method whereby all costs on a branch that are directly related to the system would be deemed avoidable costs.

In the passenger service area, only branch costs would be charged. However, in freight business, it was impossible to identify revenues at the branch level. Therefore, we also identified off-branch cost, since it was system revenue that we believed should be involved, and for the off-branch portion of the avoidable cost, we used a variable costing method which means that the cost increase varied with the amount of traffic. And in order to determine the variable rate, we employed a formula—the Interstate Commerce Commission developed a commonly known rail formula, a rail formula which is broken into two segments, fixed costs and variable costs. and for the off-branch we used the variable costs only, et cetera, which related to

the transportation. In other words, overhead, such as the president's salary would not be included in avoidable costs that we are attributing.

Mr. HOWARD. Thank you.

I would like to first, if I may, break in, in order to recognize the gentleman from Pennsylvania at this time for any questions that he may have because we have a time limit.

Mr. SHUSTER. Thank you.

We welcome the distinguished gentleman who has spent many years on the Hill and he, therefore, should understand why we run around like chickens with our heads cut off sometimes.

I am interested in the issue of whether the RSPO or ICC should determine the standards for subsidy.

Mr. STAFFORD. I might comment on that. I really think there is little difference in it, and it appears we are about to be merged shortly, and so I do not see at least that this is the last word.

Mr. SHUSTER. It well may not be.

Mr. STAFFORD. That is what the Office of Management and Budget appears to be saying to us.

Mr. SHUSTER. RSPO would be a difficult problem.

Mr. STAFFORD. Yes, keeping in mind that RSPO is attached to us for rations and quarters.

Mr. SHUSTER. But they self-destruct them if there is no legislation by 1978.

Mr. STAFFORD. That is right. So I see no real problem. I think RSPO has been doing a fine job, and we look forward to them doing a fine job in the future.

Mr. SHUSTER. One last question. Mr. Chairman, we have had testimony from UMTA that they believe mass transit should be exempt from ICC regulations. What is your response?

Mr. STAFFORD. Mass transit is exempt from us now.

Mr. SHUSTER. All right. I am referring to rail mass transit, this type of regulation and this type of rail transit for commuter.

Mr. STAFFORD. Commuter service, that is correct, and it is under us, and I believe it should stay under us. I believe we represent the public, the public views, the public interests, and I believe we have done well by them. And as we think they have been looking to us as well, as far as the rate increases that they have asked for, and I think we have taken into consideration the views of the commuters themselves in that process.

Mr. SHUSTER. Thank you very much.

Mr. HOWARD. Thank you very much, Mr. Stafford.

Since this was a short-notice hearing and all of the Members are not here, and we do have a markup on a major bill in another subcommittee of Public Works and Transportation Committee, if we have any more questions of you within the next few days, we would certainly appreciate your replying to them. Also, if you should find, after this short presentation, any further information, that you think we should have, please feel free to forward it to us. Thank you very much for your appearance.

The Chair will state that it has received a statement from the National Association of Railroad Passengers, and this statement, without objection, will be made a part of the record at this point.

[Statement referred to follows:]

STATEMENT OF NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

The National Association of Railroad Passengers appreciates this opportunity to comment on H.R. 10631 and 10632. NARP has worked for eight years to preserve and improve railroad passenger service in this country. We maintain offices at 417 New Jersey Ave., S.E., Washington, D.C. NARP is an Illinois non-profit corporation which operates as a consumer-oriented organization, financed entirely by membership dues and contributions. NARP gets no financial support from the government, the railroad companies, Amtrak, or the railway labor unions. It is, and will remain, an association free to speak its mind clearly on matters affecting railroad passenger service without fear of offending its supporters.

NARP has about 4,500 members nationwide, and, while individual members may have greater concern about one regional project or another, overall our specific objective is the same: to obtain modern train service wherever it is needed and useful, whether for commuters, intercity travelers in the "corridors", or for cross-country vacationers. Actually, our primary concern today, and our primary reason for supporting the two bills you are considering, has to do with services which have fallen between the "cracks" resulting from our categorizations of commuter and intercity.

We strongly support H.R. 10631 and 10632. They would help to ensure that no commuter service provided by the bankrupt Northeast railroads would be lost as the result of inadequate advance warning to interested citizens and public officials regarding the needs for new subsidies which stem from the reorganization under provisions of the Regional Rail Reorganization Act (P.L. 93-236) and the Final System Plan of the United States Railway Association.

Of particular importance to us is the requirement that ConRail shall continue, for the first 180 days after conveyance (of properties of the bankrupt railroads to ConRail), to provide "the level of service which was being provided by the railroads . . . immediately prior to the date of conveyance." (H.R. 10632, pp. 7-9)

There are several services which are currently unsubsidized, and for which local subsidies will have to be developed if service is to continue in the long run. These are:

	<i>Miles</i>
Boston-Stoughton, Mass.-----	PC, 19
Boston-Providence, R.I.-----	PC, 44
Chicago-Valparaiso, Ind.-----	PC, 44
Cleveland-Youngstown, Ohio-----	EL, 66
Philadelphia-Bethlehem, Pa-----	RDG, 57
Philadelphia-Reading-Pottsville, Pa-----	RDG, 94
Philadelphia-Hopewell-Newark, N.J.-----	RDG/CNJ, 84
Philadelphia-Wilmington-Newark, Del-----	PC, 39
Washington-Odenton-Baltimore, Md-----	PC, 40

Many citizens who would be affected by the loss of these services and, in some cases, even the local agencies whose actions would be necessary to retain service, are unaware or have only recently become aware of the threat posed to the services by the reorganization, and of the need for local action. This is probably because the main focus of the rail reorganization planning has been on freight branch lines. As a result, for practical purposes, the passenger planning process is only just beginning.

We recognize and agree that, ultimately, the unsubsidized services should be discontinued unless a reasonable portion of the operating losses are paid by an appropriate state or local agency. But we believe that it would be extremely unfortunate if services were lost simply because people were caught "off guard"

without enough time to act. Therefore, we favor a "grace period". For reasons explained below, we would prefer a one- or two-year period rather than the 180 days set forth in H.R. 10632, but the basic principle is sound.

Our response to the argument that there is still time before conveyance for local subsidies to be developed is that, because we are dealing here with some localities which have never before subsidized rail passenger service, the situation is more complex and time-consuming. The unsubsidized lines reach into (sometimes beyond) the "far suburbs" of major cities, beyond the boundaries of those cities' regional transit authorities, and into semi-rural and small urban areas. However important individual rail lines may be to such outlying areas, in most cases, only one line is involved and thus the rail mode plays a much smaller role in the total transportation system of the area than is the case in major urban areas. Furthermore, the continuation of the service absent local action has usually been assumed, with other plans having been made for whatever transit funds the areas might have.

In some cases, interested citizens, after becoming informed themselves, will have to work hard to make their local officials aware of the support which exists for saving the rail services, and state officials are likewise urging appropriate local officials to provide the necessary local funds.

To illustrate the time it takes to overcome reluctance and inertia and get action on rail subsidies, one need only look at a similar process which took place in Eastern Massachusetts recently, over a period of more than a year.

Since 1964, the Massachusetts Bay Transportation Authority (MBTA) has had contracts with several cities and towns beyond its boundaries to which it provides commuter rail service. Until last year, state aid policies limited the amounts payable by these cities and towns to 10 percent of the incremental cost of operating trains beyond MBTA stations. Last year, however, state transit aid policies were revamped to provide for local contributions of 50 percent, a substantial increase.

Illustrative of the tendency for "long haul commuter" routes to fall through the bureaucratic cracks was the fact that, but for the lobbying of a local NARP affiliate (Citizens for Rail Transportation), the "outside" communities would have received no state aid under the new law. But, even after the 50 percent state aid was assured, and despite the fact that the issue was simply the increase in magnitude of previously existing subsidies, local subsidies have been continued only because of strong efforts made on behalf of the service by interested citizens and MBTA staff members in endless meetings—including city councils and town meetings—and publicity efforts among the commuters.

Some local bus companies tried to exploit what they viewed as opportunities to divert rail riders, although logistical problems as well as the inferior comfort level of the bus services would have made diversion of a substantial percentage of the affected riders unlikely. (The more likely result would have been that users would have driven to the nearest station where service remained—or driven all the way to work—in either case increasing congestion within the MBTA district.) In one town, service continuation was opposed by some influential people who hoped to turn real estate associated with the local railroad station into another, more lucrative, use. In the most dramatic and widely reported example, the Andover town meeting turned down the rail service agreement by a narrow margin, but the service was continued after a group of commuters pooled enough of their own money to convince the MBTA that the results of the next town meeting would be different. It was. The MBTA contract was approved, and the town repaid those who had put up their own money.

The point is that, given enough time and a reasonably active and flexible role by the MBTA, almost all of the threatened service was saved. Even more time may be necessary to establish public support contracts where none has previously existed, hence our suggestion of a total allowable period of two years, perhaps with the second year contingent upon evidence that real progress is being made.

Our belief that additional time is important is supported not only by the general example of what happened in Massachusetts, but also by specific contacts

we have made regarding the services listed on page 2. The Northwestern Indiana Regional Planning Commission has written to both Indiana Senators supporting the "concept that the extension of time will provide a needed period to analyze the Penn Central's blight in more detail", and the Commission has just released a detailed survey of the riders on the Valparaiso line.

In Cleveland, the Greater Cleveland Regional Transit Authority has only recently been created and may be interested in subsidizing the portion of the Youngstown run within its district; in addition, the Public Utilities Commission of Ohio has pointed out to the U.S. Railway Association that funding at the state level may be possible under a statewide master plan for mass transportation currently being developed by Ohio Department of Transportation.

The two bills also have considerable importance for the much larger numbers of commuters who ride trains which are currently subsidized but for which the reorganization may require significantly larger subsidies. This statement has not dealt with these services because we know that the affected transportation authorities are working on the issues with your committee.

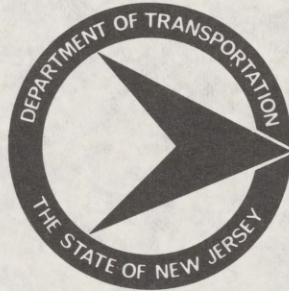
We would like to express our appreciation to Chairman Howard for introducing the bills, H.R. 10631 and 10632. We hope that the subcommittee will act favorably on them. Thank you.

Mr. HOWARD. The subcommittee stands adjourned pending the call of the Chair.

[Whereupon, at 2 p.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIX

**REPORT: USRA PROJECTION OF
SUBSIDY PAYMENTS TO CONRAIL
FOR
PASSENGER OPERATIONS**



**NEW JERSEY DEPARTMENT
OF TRANSPORTATION**

ALAN SAGNER
Commissioner

PETER E. STANGL
Assistant Commissioner
Public Transportation

FOREWORD

This report was prepared for the New Jersey Department of Transportation by L. E. Peabody & Associates, Inc., Lanham, Maryland, under the supervision of Martin E. Robins, Executive Assistant to the Assistant Commissioner for Public Transportation.

USRA PROJECTION OF SUBSIDY PAYMENTS
TO CONRAIL FOR PASSENGER OPERATIONS

This report discusses the various cost components considered by the USRA financial staff in developing passenger subsidy estimates and then identifies the total subsidy payment which would be required by ConRail from commuter authorities and AMTRAK. These topics and the methodology used by USRA's financial staff to develop financial projections for passenger operations are described in the body of this report under the following titles:

- ¶ Summary of Findings
- ¶ Context for Evaluation
- ¶ USRA Estimate of Passenger Service Costs by Individual Railroads
- ¶ USRA Adjustments to Reflect Ongoing Maintenance of Way Costs
- ¶ Capital Cost Considerations
- ¶ Analysis of USRA Estimated Operating Revenues and Government Payments

As will be seen from the text which follows, the USRA approach results in a significant increase in costs charged to passenger service.

SUMMARY OF CONCLUSIONS AND FINDINGS

The conclusions of this report can be succinctly stated. First, the methodology used by USRA to develop passenger costs and subsidies does not follow either the principles set out in the Final System Plan for passenger service cost sharing or any other set of consistent principles. Second, the costs, and therefore the subsidies estimated by USRA, substantially overstate the actual costs created by passenger service which ConRail would not incur if it did not operate the passenger service. Hence, the financial projections in the Final System Plan assume that the passenger authorities and AMTRAK will cross-subsidize freight operations to support the overall viability of ConRail.

This capsule conclusion above is supported by the following findings:

1. USRA projects \$465 million in subsidy payments from commuter authorities and AMTRAK for 1976. This would be two and one-half times larger than the \$185 million in subsidy payments made to the railroads in 1973 by the commuter authorities and AMTRAK.

2. The increase in subsidies from 1973 to 1976 projected by USRA amounts to \$280 million of which \$156 million constitutes increased charges for provision of passenger service and \$124 million reflects cost inflation. Therefore, even after eliminating the effects of inflation, USRA would require that 1973 level of subsidies be approximately doubled.

3. The projected \$156 million in increased charges for provision of passenger service includes an item of \$114 million in unreimbursed passenger service operating losses. The primary components of this figure are USRA's claimed unreimbursed deficit of \$78.6 million and USRA's estimated increase in ongoing maintenance of way charges to passenger service of \$33.5 million.

4. An analysis of USRA's unreimbursed deficit claim of \$78.6 million shows that data supplied to USRA by some of the railroads significantly overstated their actual passenger loss as measured by the net savings they could achieve in the absence of passenger service. USRA adjustments to data supplied by the railroads further overstated costs associated with passenger service and represent an amalgam of differing cost approaches with the uniform theme that the highest cost be assigned to passenger service out of the various alternatives available in each instance.

5. Passenger cost data developed by the commuter agencies on an avoidable basis were available for four of the five railroads operating passenger service in the northeast. They were EL, CNJ, PRSL, and Reading. In the case of the PC, comparative data were available only for New Jersey. For these operations alone, the USRA methodology resulted in a \$25 million overstatement of costs chargeable to passenger service at 1976 cost levels as compared to the avoidable costs of providing such service.

6. USRA's projection of ongoing maintenance requirements charges to passenger service ignores the present difference in maintenance levels in passenger territory versus freight territory. Consequently, a substantial portion of USRA's projected

\$33.5 million increase in maintenance of way costs chargeable to passenger service for 1976 is overstated and is in fact not likely to occur.

CONTEXT FOR EVALUATION

Chapter Three of the USRA Final System Plan (FSP) presents financial projections for ConRail. Note 4 and Note 5 to the pro forma statements in Chapter Three (at pages 59 and 60) discuss passenger operations and passenger corridor expenditures. A copy of the text and tables of Notes 4 and 5 is reproduced as Appendix A to this report. The financial figures in the table at page 60* are hereinafter sometimes referred to as the "USRA Passenger Pro Forma".

The USRA financial staff's analysis was based on information for calendar year 1973. Costs and revenues were analyzed at the 1973 level and then indexed up to future years in order to project each of the 10 calendar years from 1976 through 1985 inclusive. The method USRA used to index cost, revenue, and deficit figures is described in Appendix B to this report.

The discussion in this report deals with 1973 level costs and indexing to the 1976 level. Projection beyond 1976 to 1977, 1978, etc., is primarily a matter of further indexing and does not introduce any substantive new cost or revenue components.

COST SHARING PRINCIPLES PROCLAIMED BY USRA FOR PASSENGER SERVICE

In considering the methodology used by the USRA financial staff, it may be useful to keep in mind the cost sharing principles for treatment of passenger service as propounded in the Passenger

* The table at page 60 is entitled "ConRail passenger operations pro forma statements of results of operations and government payments," and shows revenues, expenses, and government payments for passenger operations.

Service chapter (Chapter Two) of the FSP. For purposes of reference, a synopsis of these principles is set out below:

1. ConRail should negotiate, where possible, with the various commuter authorities for new operating agreements with payments by each appropriate authority essentially on a "net avoidable cost" basis, with a provision penalizing the authorities for "freight train delay" and in accordance with the cost sharing "principles" set forth below.
2. ConRail has the responsibility to provide satisfactory passenger service on all lines in its system in accordance with the various principles for sharing ownership and operating costs recommended by USRA.
3. Passenger service should not be subsidized by freight service and ConRail should not be burdened with any passenger deficit.
4. Passenger operations should have priority over freight operations.
5. The exclusive user of a facility should be its owner and should bear the full ownership, maintenance, and operating costs of the facility.
6. Where freight and passenger operators both use a facility, the dominant user should own the facility and bear all the costs of that facility except those which could be avoided if the minority user were not present.
7. To determine the dominant user, all passenger services, both intercity and commuter, should be considered as one entity and all freight services, regardless of carrier, should be considered as one entity.
8. In instances where two or more passenger entities jointly use an exclusive passenger facility, the responsibility for allocating costs on an equitable basis should be with the users.
9. Where passenger and freight operators both use a facility on an equal basis, the costs of owning and using the facility should be shared equitably.
10. Passenger entities should make their own arrangements for financing.

As is shown in this report, there are significant contrasts between the methodology used by the USRA financial staff and that called for in the Passenger Service chapter of the FSP.

Furthermore, although the Passenger Service chapter of USRA's FSP proposes that costs be assigned on a dominant user basis, two important ingredients for applying this principle are missing. First, the FSP does not establish criteria for determining dominance. Some measure of usage (e.g., gross ton miles) or a combination of measures of usage must be established to determine dominance. Second, the FSP does not identify which specific line segments USRA considers to be freight dominant and which passenger dominant.

COSTS NOT INCLUDED IN FINANCIAL PROJECTIONS

Another consideration one must keep in mind in interpreting the dollar impact of projections for passenger service is those components of costs which the USRA Passenger Pro Forma excludes. Note 4 to the Final System Plan specifically points out that the passenger forecasts reflected in the table on page 60 do not include provisions for major road improvements and equipment acquisition programs. Furthermore, the projections do not include provision for facility acquisition costs or return on investment on these facilities. There is also no provision in the USRA Passenger Pro Forma for charges for freight train delay attributable to passenger service. Such charges are, however, referred to in the Passenger Chapter of the FSP.

USRA ESTIMATE OF PASSENGER SERVICE
COSTS BY INDIVIDUAL RAILROADS

As a point of departure for its projection of passenger costs, USRA's financial staff obtained passenger operating revenues, passenger operating expenses, and passenger deficit figures from each of the individual railroads in reorganization. USRA made substantial adjustments to the cost data supplied by the railroads to reflect the USRA financial staff's interpretation of appropriate costs assignable to passenger service. The result of these adjustments was to significantly increase the costs charged to passenger service.

This section of our report discusses:

- . The "principles" used by the USRA financial staff to develop passenger costs
- . Comparison of USRA financial staff passenger costing "principles" with cost approaches used by other parties.
- . The bases on which the various railroads supplied passenger cost data to USRA
- . USRA adjustments to the passenger cost data they received
- . Impact of USRA adjustments on passenger costs of each individual railroad
- . Overstatement of charges to passenger service.

USRA FINANCIAL STAFF
PASSENGER SERVICE
COSTING PRINCIPLES

The FSP describes the general approach used by the USRA financial staff for determining passenger costs as follows:

"Costs were developed using 1973 data as reported by the railroads in reorganization in filings with the ICC and avoidable costs estimated by the railroads in reorganization. This costing approach is consistent with the ICC's Determination of Compensation ruling of September 19, 1973 covering AMTRAK operation over Penn Central Transportation Co. (PC) properties.¹ Using this approach, each regional commuter and AMTRAK passenger contract was analyzed separately and the results were aggregated to ascertain the total amount of operating deficit recovery ConRail should receive for passenger service at 1973 operating levels. The deficit recovery was then inflated by the composite annual expense inflation index to determine the annual deficit recoveries reflected in the forecasts."

¹This arbitration ruling arose from a dispute between AMTRAK and PC concerning the appropriate cost reimbursement method used in the contract."
(FSP pg. 59)

The Interstate Commerce Commission (ICC) ruling referred to was issued in Finance Docket (FD) No. 27353. It concluded that AMTRAK should reimburse PC for AMTRAK passenger operations at the full cost level in the Boston-Washington corridor and at the long-run avoidable cost level for AMTRAK passenger operations over the remainder of the PC system.*

* Subsequently the AMTRAK Improvement Act of 1973 reversed this ruling in part. In that Act, Congress established incremental (i.e., avoidable) costs as the basis of AMTRAK reimbursement to the railroads for provision of services. The Act also states that any compensation in excess of incremental costs shall be based primarily on quality of service.

USRA FINANCIAL STAFF
COSTING PRINCIPLES VS
OTHER COST APPROACHES

The costing "principles" enunciated by the USRA at page 59 of the FSP do not match the methodology the USRA financial staff actually used to develop passenger costs. Nor does this methodology match any one specific costing approach or philosophy. Hence it is important at this point to identify the various cost concepts employed, both within USRA and by the railroads. It is also important to distinguish between form and substance - between what the words say and what was actually done with the numbers. The array of positions taken is listed below.

1. The USRA FSP Financial Analysis Chapter (Chapter 3, page 59) claims that the costing approach used to develop the USRA Passenger Pro Forma is consistent with the ICC's guidelines as set out in Finance Docket No. 27353.
2. The United States Congress, in the AMTRAK Improvement Act of 1973, established avoidable costs as the basis of reimbursement to the railroads for intercity passenger operations. This Act reverses the ICC ruling that AMTRAK passenger service in the corridor should be based on full costs and instead mandates avoidable costs.
3. In the Regional Rail Reorganization Act of 1973, the United States Congress established "the avoidable costs of providing service" as the basis for subsidy payments to continue rail service not designated for inclusion in the Final System Plan. (Sec. 304(c)(1)(A))

4. The USRA FSP Passenger Service Chapter (Chapter 2, pages 40-41) sets out "cost sharing principles" for assignment of costs between passenger service and freight service. Under these principles, the dominant user of any facility would bear all the costs of that facility except those which could be avoided if the minority user were not present. No guidelines are provided in the text for determination of "dominant user".
5. The USRA FSP Passenger Service Chapter (Chapter 2, pg. 45, footnote 3) provides a "model agreement" for use by ConRail and the suburban authorities. This agreement provides that "The suburban authorities pay the "net avoidable cost" of providing service . . ." USRA does not clarify the relationship of this costing basis to the "dominant user" theory.
6. Passenger cost data supplied to USRA by the individual railroads reflected a variety of approaches to passenger costing. Among the approaches included were: (a) avoidable costs of passenger service; (b) fully allocated passenger costs (solely related plus allocation of common) as shown in the ICC Annual Report Form R-1; (c) "fully shared" costs of passenger service; and (d) costs of passenger service with passenger considered as the base and "freight rides free".

On the surface, there appears to be some commonality between the costing "principles" espoused by the USRA financial staff in Chapter 3 of the FSP, the ICC guidelines set out in FD 27353, and the dominant user principles stated in Chapter 2 of the FSP. Based on detailed examination of underlying USRA financial staff workpapers, however, it is clear that the actual methodology utilized to develop the USRA Passenger Pro Forma is an amalgamation of differing approaches to cost analysis. The results do not conform to avoidable costs of passenger service as mandated by the United States Congress in two separate Acts. Neither do the results conform to any one of the various versions of passenger costing principles set out in the FSP. In fact, the methodology used by the USRA financial staff assigns the highest cost to passenger service out of the various alternatives available in each instance.

DATA SUPPLIED
BY RAILROADS

USRA requested passenger revenues and expenses for 1973 from the following carriers:

Erie Lackawanna Railway Company (EL)
Central Railroad Company of New Jersey (CNJ)
Pennsylvania-Reading Seashore Lines (PRSL)
Reading Company (Reading)
Penn Central Transportation Company (PC)

From the text accompanying the USRA Passenger Pro Forma (FSP page 59 quoted hereinabove), it should follow that USRA developed passenger cost estimates based on: (a) each individual railroad's Annual Report to the Interstate Commerce Commission (ICC), Form R-1, for calendar year 1973, and (b) avoidable costs of passenger service as estimated by each of the individual railroads. Presumably then, each railroad was asked to furnish passenger service expenses on an avoidable cost basis. In fact however, review of the cost figures provided to USRA by the individual carriers indicates that the USRA financial staff accepted whatever cost figures the railroads provided on whatever basis they were provided. The actual basis of cost data provided by each of the individual railroads was:

- EL - Avoidable costs of passenger service, with freight considered as the dominant, or base service
- CNJ - Passenger service treated as the base service, freight rides free
- PRSL - ICC Annual Report Form R-1 total passenger expenses (solely related plus allocation of common)
- Reading - Avoidable costs of passenger service, with freight considered as the dominant or base service.
- PC - "fully shared" costs

The adjustments USRA made to each of these sets of figures are described next in this report.

USRA COST
ADJUSTMENTS

The USRA financial staff used each railroad's Annual Report to the ICC, Form R-1, as a benchmark for evaluating data submitted by the railroad.*

ICC Form R-1
Passenger and Freight Costs

Schedule 320 of the ICC Annual Report Form R-1 is entitled "Railway Operating Expenses". It shows total expenses by ICC account with a further identification of the amount assigned to passenger service and to freight service. Expenses in each ICC account are allocated between passenger and freight using the ICC's "Rules for Separation of Operating Expenses Between Freight and Passenger Services" (ICC separation rules). Under the ICC separation rules, carriers are instructed to first assign to freight service or passenger service the expenses, taxes, equipment rents, and joint facility rents incurred solely for the benefit of freight or passenger service respectively. Expenses, taxes, equipment rents, and joint facility rents common to passenger and freight are then apportioned between passenger and freight service using various measures of utilization specified by the ICC. (For example, expenses for maintenance of common running tracks are apportioned on the basis of gross ton miles.)

* For PC, the R-1 data were not used by USRA as they included costs for mail operations.

Limitations of
ICC Form R-1 Data
For Cost Determination

If solely related passenger costs and solely related freight costs are properly identified, these costs would be treated in essentially the same manner in the ICC Annual Report Form R-1 as they are treated in an avoidable cost analysis. However, an avoidable cost analysis differs from the ICC separation rules with regard to assignment of common expenses.

In its order setting forth the ICC separation rules, the Commission states:

"The total distribution to freight service or passenger service derived under the foregoing rules for separation consists of the solely related or directly assignable amounts plus an apportionment of the common on a service or use basis. Inasmuch as the amounts assigned and/or apportioned to the freight and passenger services, respectively, are based on the performance of both services, the operating expenses, taxes, equipment, and joint facility rents assigned and/or apportioned to either service may not represent the amounts that could be eliminated if either service were discontinued."

Moreover, the fully allocated costs of passenger service as shown in the ICC Annual Report Form R-1 substantially overstate the avoidable expenses of passenger service. This fact has been recognized by the ICC in its report entitled Investigation of Costs of Inter-City Rail Passenger Service. That investigation analyzed

eight inter-city rail passenger systems to determine how much these eight systems would have eventually saved if they had not operated passenger service in 1968. Comparing avoidable expenses to the ICC full deficit (as would be shown in ICC Form R-1), the Commission stated:

"Many of the common expenses which are incurred for both freight and passenger services and then allocated in part to passenger service cannot be saved." *

Further:

"Use of the ICC full expense procedures to calculate potential savings or the burden of passenger service is inappropriate."*

As a consequence:

"The total net avoidable expenses, for all the study carriers, of \$118.1 million is only 55.1 percent of their total ICC full deficit. For these inter-city carriers, the use of the full deficit results in a major overstatement of the savings which the carriers could have made by the complete cessation of their inter-city service as operated in 1968." * (emphasis added)

* Source: Investigation of Costs of Inter-City Rail Passenger Service, Report of the Interstate Commerce Commission July 16, 1969, pages 47 and 48.

In other words, the ICC has determined that its Annual Report Form R-1 separation rules make an artificial allocation of costs between passenger and freight and are not intended to provide an adequate tool for measuring costs which would not be incurred if a particular service were not operated. Use of the Annual Report Form R-1 charges to passenger service results in a passenger deficit figure which is nearly twice the loss which the railroads could eliminate if they did not operate passenger service.

USRA Cost
Analysis

To develop its estimate of passenger operating expenses, the USRA financial staff compared data provided by each of the individual railroads with expenses as shown in Schedule 320 of the ICC Annual Report Form R-1. Data were compared for each functional area (maintenance of way, maintenance of equipment, traffic, transportation, miscellaneous, general, taxes, and rents). The USRA financial staff then selected the larger number in each case. Thus, operating expenses in each functional area as constructed by the USRA financial staff reflect the greater of: (1) costs as provided by the railroad; or (2) costs as provided in the railroad's ICC Annual Report Form R-1. Consequently, for any carrier where costs were not uniformly higher in one showing than in another, the method used by USRA developed higher operating expenses than those shown in either set of source data referred to.

Shortcomings of USRA
Cost Methodology

The USRA methodology has several obvious shortcomings. First, the ICC Annual Report Form R-1 was used as a basis for comparison, or cost measuring stick, without consideration of the costing principles the results were intended to reflect. Second, no evaluation was made of data supplied by the railroads to determine whether they conformed to the costing principles the results were intended to reflect. Third, no analysis of the cost components of

the data supplied by the railroads was made to determine congruence with components in the ICC major functional categories.

In actuality then, construction of operating expenses using the USRA financial staff methodology produces cost estimates that are an amalgamation of differing approaches to cost analysis and do not conform to either the costing principles at pages 40-41 of the FSP or to the provisions of USRA's proposed Model Agreement at page 45 of the FSP.

IMPACT OF USRA ADJUSTMENTS
ON DATA SUPPLIED BY THE RAILROADS

The impact of the methodology USRA actually used on the passenger expenses reported by each of the individual railroads is discussed below.

Erie Lackawanna
Railway Company (EL)

Essentially all of the EL's passenger operations are in the State of New Jersey and the vast majority of all passenger operating expenses are assigned to New Jersey*.

EL furnished passenger operating expense data to USRA in accordance with its existing contract with the New Jersey Department of Transportation (NJDOT) on an avoidable cost basis with passenger service treated as the avoidable service and freight service treated as the dominant or base service. The avoidable costs for 1973 as furnished by EL total \$26,204,000 excluding return on investment.

* In addition to its New Jersey operations, EL operates 3 passenger trains daily in each direction on weekdays in New York State beyond Suffern to Port Jervis. The deficit incrementally attributable to this operation in 1973 was on the order of \$50,000. EL also operates one train per day in each direction between Cleveland and Youngstown, Ohio.

Total passenger expenses (solely related plus common) shown in the EL's Annual Report Form R-1 amount to \$24,575,000.

By comparing individual functional areas and choosing the larger expense figure in each area, the USRA constructed passenger operating expenses of \$29,640,000. This amount exceeds the EL's passenger avoidable costs by approximately \$3.4 million and exceeds passenger costs as shown in EL's Annual Report Form R-1 by approximately \$5.1 million.

The method used by USRA's financial staff assumes (among other things) that costs are recorded by EL in the same categories in its avoidable computation as they are in its Annual Report Form R-1. This is not correct. For example, the costs of servicing passenger rolling stock are included in the ICC Annual Report as transportation costs while the avoidable costs include this activity as part of maintenance of equipment. As a consequence, this element would serve to reduce avoidable costs as compared with ICC Annual Report costs in the transportation area and increase avoidable costs as compared with ICC Annual Report costs in the maintenance of equipment area.

We should mention that the adjustments to EL cost data made by the USRA financial staff ignore the fact that the USRA FSP Passenger Chapter identifies the EL commuter passenger service as being covered by a pre-act contract and therefore legally binding (FSP, pg. 45). The FSP text states that, pursuant to the Regional Rail Reorganization Act of 1973, ConRail will assume the EL-NJDOT

contract and operate the service upon the present contractual basis of payment. Hence ConRail cannot legally charge more than the passenger cost figures which EL reported to USRA.

Central Railroad Company
of New Jersey (CNJ)

All passenger service provided by the CNJ operates within the State of New Jersey. Passenger cost data provided by the CNJ appear to reflect the CNJ trustee's passenger service costing philosophy. This philosophy treats passenger service as the base service and freight service as the avoidable service. Freight service is considered to "ride free" throughout the territory where passenger service operates. All common costs are assigned entirely to passenger.

Depending on the measure of volume used, passenger service accounted for approximately one-fourth to one-third of total CNJ operations in 1973, with freight accounting for the other two-thirds to three-fourths. Hence, freight service rather than passenger service should be treated as the dominant service on the CNJ.

To resolve long standing differences as to the appropriate basis for determining costs assignable to passenger service, the CNJ and NJDOT submitted their existing passenger subsidy contract to binding arbitration by the Federal Railroad Administration of the United States Department of Transportation (FRA). After conducting an independent review, FRA concluded that CNJ passenger service costs should be developed on an avoidable basis with

passenger service treated as the avoidable service and freight service treated as the dominant or base service*. The FRA also determined that subsidy payments being made to CNJ by NJDOT exceeded the net loss CNJ was actually incurring in operating passenger service.

Passenger costs as furnished to USRA by the CNJ trustee total \$17,476,000 excluding return on investment (ROI). This amount substantially overstates the passenger costs as determined by FRA. Total passenger expenses (solely related plus common) shown in CNJ's Annual Report Form R-1 amount to \$13,008,000. The total differential of CNJ passenger costs as provided to USRA by the CNJ trustee over CNJ passenger costs as shown in the Annual Report Form R-1 is approximately \$4.5 million. Furthermore, neither the CNJ trustee's figures nor the Annual Report Form R-1 figures reflect avoidable costs of passenger service as determined by FRA.

The FRA determination showed CNJ passenger costs of \$7,996,000 for the last six months of 1974. Converting this 1974 amount to 1973 cost levels** and annualizing yields \$14,057,000. Hence, data submitted by CNJ and used by USRA overstates CNJ passenger costs as determined by FRA by \$3.4 million.

*FRA made two specific exceptions to this general approach. These were the Newark Bay Bridge and the New York and Long Branch Railroad Company south of Red Bank. For these two specific geographic segments of the CNJ, freight service was considered by FRA to be the avoidable service.

**Using Association of American Railroads (AAR) Indexes of Railroad Material Prices and Wage Rates for the Eastern District of the United States.

Pennsylvania-Reading
Seashore Lines (PRSL)

All passenger service provided by the PRSL operates within the State of New Jersey. Passenger cost data provided by the PRSL apparently consisted strictly of their ICC Annual Report Form R-1. Hence, the passenger service costs of \$1,339,000 for PRSL reflect ICC allocated costs. A passenger avoidable cost study of PRSL for the calendar year 1973 showed costs (before ROI) of \$833,000. Hence, allocated costs in the Annual Report Form R-1 exceed costs which would be avoidable with PRSL passenger service by some \$500,000.

Because freight service accounted for 90 percent or more of total PRSL 1973 operations, freight service should be treated as the dominant service on PRSL. Passenger costs on the PRSL should be developed on an avoidable basis.

Reading
Company (RDG)

Essentially all of Reading's passenger operations are in the State of Pennsylvania and the vast majority of all passenger operating expenditures are in the State of Pennsylvania.*

Reading furnished passenger operating expense data to USRA on an avoidable cost basis with passenger service treated as the avoidable service and freight service treated as the dominant or base service. The avoidable costs as furnished by Reading totalled \$18,976,000 before consideration of return on investment.

* In addition to its Pennsylvania operations, Reading operates two passenger trains daily in each direction on weekdays between Philadelphia, Pa., and Newark, N. J. The avoidable loss incrementally attributable to this operation in 1973 was on the order of \$100,000.

Total passenger expenses (solely related plus common) shown in the Reading Annual Report Form R-1 amount to \$20,857,000.

USRA compared individual functional areas and chose the larger expense figure in each area, thereby constructing passenger operating expenses of \$22,216,000. This amount exceeds the Reading passenger avoidable costs by approximately \$3.2 million and exceeds the passenger costs shown in the Reading's Annual Report Form R-1 by approximately \$1.4 million.

As with the EL, application of the USRA methodology to data submitted by Reading distorts and overstates the costs assignable to passenger service.

Penn Central
Company (PC)

Penn Central Company operates commuter service as well as inter-city passenger service for AMTRAK. The PC commuter operations are conducted in the following areas:

- Boston
- New York
- New Jersey
- Philadelphia
- Baltimore - Washington
- Chicago - Valpariso
- Detroit - Ann Arbor
- Buffalo - Wellington.

The passenger operating expense data provided by PC show costs on a "fully shared" basis. USRA used the PC figures without adjustment. The methodology used by Penn Central discriminates against passenger service in favor of freight service in some areas.

Additionally, the Penn Central methodology allocates substantial general system overhead costs to passenger service without consideration of how these costs would change if passenger service were not operated.

The overstatement of passenger costs inherent in the PC "fully shared" methodology is well illustrated by reference to passenger costs in the State of New Jersey. For calendar year 1974 Penn Central submitted data to the State of New Jersey which claimed costs of New Jersey commuter passenger operations amounting to some \$31.3 million. In contrast, an analysis of this data on behalf of the State of New Jersey indicated that avoidable costs of PC New Jersey passenger service are \$22.5 million or \$8.8 million less than the PC claim. Both sets of figures are before consideration of return on investment. Adjusting these results from 1974 cost levels to 1973 cost levels* shows that Penn Central's "fully shared" costs for this operation in 1973 dollars would overstate the actual avoidable costs of the service by \$7.7 million.

*Using Association of American Railroads (AAR) Indexes of Railroad Material Prices and Wage Rates for the Eastern District of the United States.

OVERSTATEMENT OF CHARGES
TO PASSENGER SERVICE

As described above, some of the railroads reported passenger expense data to the USRA on a basis which reflected costs they would expect to save if their passenger service were not operated. USRA made substantial adjustments to this data. Other railroads reported passenger expenses on various bases, all of which overstated their expected reduction in costs in the absence of passenger service. The overstatement of costs by individual railroad, after taking into account both the data supplied by the railroads and the adjustments made by the USRA financial staff, is shown below:

<u>Railroad</u>	<u>Overstatement of Passenger Costs in 1973 Dollars After USRA Adjustments</u>
EL	\$3.4 million
CNJ	3.4 million
PRSL	0.5 million
Reading Company	3.2 million
Penn Central	
New Jersey operations	7.7 million
All other PC commuter operations	Not Available
AMTRAK operations	Not Available

In the case of the Penn Central, analytical data to determine the overstatement were available only for New Jersey commuter operations. PC's New Jersey operations represent approximately 7 percent of the total costs of Penn Central's combined commuter and AMTRAK operations as reported by the Penn Central. Hence, using New

Jersey data as a base for projection, one might expect that the overstatement for other commuter services and for AMTRAK would be quite substantial.

For the EL, CNJ, PRSL, and Reading, where an estimate of overstatement could be developed, and for the New Jersey operations of Penn Central, the combined overstatement of passenger costs in 1973 dollars is \$18.2 million. Indexing this to 1976 cost levels yields an overstatement in excess of \$25 million. As pointed out immediately above, this figure includes only a small portion of the Penn Central's passenger services. Were the overstatement for all Penn Central passenger services available, the total would be expected to be substantially greater.

MAINTENANCE OF WAY COSTS

After constructing passenger operating expenses for each of the railroads as described in the previous sections of this report, the USRA financial staff next made further adjustments to those figures to reflect anticipated ongoing maintenance of way (M of W) requirements and costs.

Estimated ongoing maintenance of way costs for ConRail were developed separately by the USRA maintenance of way staff. The analysis did not maintain a separation of maintenance requirements by individual railroad, but rather considered costs for ConRail as an overall entity. However, the USRA did recognize three different ConRail ownership and usage situations. These are:

1. ConRail will own the property and perform all freight service. This situation applies to all of the PC (except the MTA/CTA territory) and all of the CNJ and PRSL.
2. ConRail will not own the property and will operate freight service via trackage rights. This situation applies to the MTA/CTA territory over which ConRail will utilize existing PC trackage rights.
3. ConRail will own the property and Chessie will operate freight service on a trackage rights basis. This situation applies to the EL and Reading passenger service areas.

The USRA financial staff adjusted passenger costs by deleting maintenance of way expenses as derived from the railroads' information and substituting maintenance of way expenses as computed by the USRA maintenance of way staff. Methodology in each of the three situations is described below.

M OF W COSTING METHODOLOGY
WHERE CONRAIL OWNS THE PROPERTY
AND OPERATES THE FREIGHT SERVICE

For all of the PC (except the MTA/CTA territory) and all of the CNJ and PRSL, passenger service ongoing maintenance of way costs were developed based on historical relationships of passenger costs to total costs. The historical relationship of passenger to total was defined as the ratio of: (a) passenger maintenance of way costs submitted to USRA by the individual carriers to: (b) the total maintenance of way costs for passenger and freight service as shown in the railroads' Annual Report Form R-1*. This ratio was then applied to total ongoing maintenance of way costs as projected by the USRA M of W staff to derive ongoing maintenance of way charges for passenger service. In building the ratio of passenger costs to total costs, maintenance of way costs for the MTA/CTA area were deducted from both the numerator and the denominator of the ratio to remove this territory for separate treatment.

The USRA computational process for projecting the portion of total maintenance of way costs assignable to passenger service implicitly assumes that the actual level of current undermaintenance is uniform throughout the ConRail system.

* The total costs include the Ann Arbor RR, the Lehigh Valley RR, and the Lehigh & Hudson River RR as well as the PC, CNJ, and PRSL.

M OF W COSTING METHODOLOGY
WHERE CONRAIL OPERATES FREIGHT
SERVICE VIA TRACKAGE RIGHTS

MTA/CTA territory is not included in ConRail. ConRail will acquire only the PC's trackage rights to operate freight service over this territory. Apparently because of this, the USRA M of W staff made no estimate of ongoing maintenance costs for the MTA/CTA area. Therefore, the USRA financial staff assumed that MTA/CTA would pay for whatever actual maintenance of way costs were incurred. To adjust for non-available data, 1973 MTA/CTA area maintenance of way costs were deleted from both costs and MTA/CTA subsidy payments.

M OF W COSTING METHODOLOGY
WHERE CHESSIE OPERATES OVER
CONRAIL VIA TRACKAGE RIGHTS

The USRA M of W staff developed total ongoing maintenance of way requirements for the EL and Reading passenger service areas. The USRA financial staff assumed that the M of W expenses reported by EL and Reading in their passenger cost estimates reflected appropriate charges to passenger service. Hence the USRA financial staff made no net change in M of W passenger charges for EL and Reading.

To adjust for the difference between the cost figures developed by the USRA M of W staff and the passenger costs supplied by EL and Reading, the USRA financial staff included a credit to passenger operations for freight usage of facilities. This credit reflects anticipated payments by Chessie for trackage rights to operate freight service in the EL and Reading passenger territories.

COMPOSITE IMPACT OF M OF W
COSTING METHODOLOGY
ON PASSENGER COSTS

The USRA financial staff estimate of maintenance of way expenses for passenger service, excluding depreciation, is \$58,553,000. This compares to maintenance of way expenses for passenger service of \$42,157,000 as reported by the railroads. However, the \$16,396,000 difference between these two figures does not represent the actual anticipated increase in maintenance of way charges to passenger service as the USRA financial staff's \$58 million figure does not reflect either: (a) maintenance in the MTA/CTA area; or (b) credits to passenger service maintenance costs for freight operations in the EL and Reading passenger areas. The actual increase in ongoing maintenance charges to passenger service is over \$24 million, as shown in the table below.

Line No.	Item	1973 Amount (000)
	USRA projected passenger ongoing maintenance of way costs:	
1.	Excluding MTA/CTA	\$58,553
2.	MTA/CTA as reported by PC	14,310
3.	Total (L.1 + L.2)	\$72,863
4.	Less: Estimated freight trackage rights payments for operations in EL and Reading passenger service areas	(6,600)
5.	Net USRA passenger costs (L.3 - L.4)	\$66,263
6.	Passenger maintenance of way expenses as claimed by the railroads (including MTA/CTA)	<u>42,157</u>
7.	Increase in ongoing maintenance of way costs to be paid by passenger service (L.5 - L.6)	\$24,106

In addition, there is a commensurate percentage increase in payroll taxes reflecting the labor component of the maintenance of way increase.

The \$24,106,000 increase in M of W cost payments relates entirely to PC, CNJ, and PRSL as net ongoing maintenance of way charges to passenger service for EL and Reading were unchanged by the USRA adjustments. Hence the net impact of the computations outlined above relative to property owned and operated by ConRail is a significant increase in maintenance of way costs for passenger service.

SHORTCOMINGS OF USRA
MAINTENANCE OF WAY
COST METHODOLOGY

The USRA methodology for projecting the portion of total maintenance of way costs assignable to passenger service assumes that the actual level of undermaintenance is uniform throughout the ConRail system. More particularly, it assumes that the shortfall of present maintenance levels versus ongoing maintenance requirements is proportionately the same in passenger territory as in freight territory. This assumption is incorrect. As a consequence, the increase in ongoing maintenance of way costs to be paid by passenger service must necessarily be overstated.

The reasoning to support this assertion is as follows. In order to operate regular passenger service (especially in the corridor and in the commuter regions) track must be maintained at a level to permit reasonable passenger speeds and safety levels.

This requires maintenance in accordance with higher FRA track safety standard levels. Such standards must be maintained on an ongoing basis. The current timetables and service maintained in the commuter regions and in the corridor indicate that this in fact is the case.

In contrast, operations in freight only territory tend to operate at decreased speeds, reflecting significantly greater under-maintenance and a failure of the railroads to meet FRA track safety standards for any but the lowest classes of track. Restoration of freight train speeds in freight only territory to levels previously existing will require not only significant rehabilitation efforts but also ongoing maintenance at a level substantially higher than that in effect today.

As the PC, CNJ, and PRSL have been practicing a higher level of ongoing maintenance in passenger territory than throughout the balance of their systems, the USRA computation overstates the difference between present maintenance of way costs for passenger service as reported by the carriers and projected ongoing maintenance of way costs assignable to passenger service.*

As a further consideration, the Penn Central's "fully shared" costing methodology overstates the portion of total maintenance of way costs which should be assigned to passenger service.**

* As discussed above, the USRA methodology did not result in any change in the net figures applicable to EL and Reading. Hence, this overstatement does not apply to EL and Reading.

** The PC "fully shared" methodology allocates all track and road-bed maintenance costs between passenger and freight service based on speed factored gross tons. This unit of measure ignores important characteristics of various categories of traffic which must be considered in evaluating variability of costs with passenger or freight service. Furthermore, the computational process used by PC in applying this unit of measure has the effect of charging some of the wear caused by freight trains to passenger service.

The Penn Central's maintenance of way costs for passenger service (excluding the MTA/CTA region), as reported to USRA, comprise over 90 percent of the total maintenance of way expenses for passenger service for the PC, CNJ, and PRSL combined. Therefore, the effect of the PC's overstatement of passenger maintenance of way costs is to substantially increase the total.

In summary, there are at least two major errors in the USRA M of W costing methodology. First, the USRA assumption of uniform undermaintenance ignores the fact that passenger service trackage must necessarily have been maintained at a higher level than freight only trackage for passenger service to have been allowed to operate in 1973. Second, by using PC "fully shared" charges to passenger service in their allocation of M of W costs, USRA picked up the overcharges to passenger service built into these PC numbers. The effect of both factors is an inevitable overstatement of charges to passenger service.

CAPITAL COST CONSIDERATIONS

The USRA Passenger Pro Forma deals with operations and does not include various costs of a capital nature which might have to be borne by the commuter authorities and/or AMTRAK.

The text of Note 4 to the ConRail pro forma statements points out that the passenger forecasts do not include provisions for major road improvements and equipment acquisition programs. If a portion of the rehabilitation costs of trackage is assigned to AMTRAK and the commuter authorities, this will represent additional financing demands over those reflected in ongoing maintenance of way requirements.

Acquisition costs for rolling stock also are not shown in the operating results.

A third category of expenses which the Final System Plan refers to but does not assign is passenger corridor expenditures. As stated in Note 5 to the ConRail pro formas,

"To improve passenger service on the Northeast Corridor, ConRail freight operations (except local service) should be transferred to other rail trackage such as the Baltimore & Ohio Railroad's (B&O) tracks between Washington, D.C. and Philadelphia. Because the transfer from the corridor is for the convenience of the passenger operations, the Association has decided that the freight operations should not be expected to bear the costs of the purchase of the B&O tracks and other direct capital costs associated with eliminating freight interference with the passenger operation."

These costs include:

1. Purchase price for B&O tracks
2. Other related capital items
 - a. Purchase of diesel locomotives to replace electric locomotives which cannot be used on the B&O tracks
 - b. Double tracking the B&O line
 - c. Providing interconnections between the present northeast corridor line and other lines
 - d. Installing centralized traffic control
 - e. Other improvements.

A final category of capital costs which is not reflected in the USRA table at page 60 is acquisition costs or return on investment (ROI) costs for facilities. For facilities which will not be owned by the commuter authorities, some ROI payment will need to be made on avoidable facilities if the costing methodology is to follow that indicated in the Passenger Service chapter of the FSP (foot-note 3 at page 45). For facilities designated to a commuter authority, the commuter authority will have to pay acquisition costs or a lease payment to the estate of the railroad which presently owns the facilities.

ANALYSIS OF USRA ESTIMATED
OPERATING REVENUES AND GOVERNMENT PAYMENTS

The USRA Passenger Pro Forma (Table at page 60 of the FSP, as shown in Appendix A) shows \$434 million in ConRail "Operating revenues" from passenger service for calendar year 1976. The Passenger Pro Forma also indicates "Total government payments to passenger operations" of \$156 million for calendar year 1976. Hence, the total income to be received by ConRail for operating passenger service is projected as \$590 million for 1976.

This section of our report discusses:

- . The components of passenger "Operating revenues"
- . The components of "Total government payments to passenger operations"
- . Total subsidy payments expected by USRA from commuter authorities and AMTRAK

"OPERATING REVENUE"
COMPONENTS

The 1976 pro forma passenger "Operating revenues" for ConRail are made up of four components. These are: (a) passenger fares (as well as other passenger-related revenues); (b) subsidy payments from commuter authorities; (c) subsidy payments from AMTRAK; and (d) increase in revenues to cover cost level inflation from 1973 to 1976.

"Operating revenues" (passenger fares and subsidy payments) for 1973 were \$310.3 million, as shown in underlying USRA work-papers. Components of this amount are as follows.

Item (1)	1973 Amount (000)		
	Total (2)	Less MTA/CTA M/W Cost Reimbursement ^{a/} (3)	Net (4)
Direct receipts (passenger fares, etc.)	\$125,069	\$ -	\$125,069
Commuter subsidies	71,021	17,274	53,747
AMTRAK payments	<u>131,510</u>	<u>-</u>	<u>131,510</u>
Total	<u>\$327,600</u>	<u>\$17,274</u>	<u>\$310,326</u>

a/ The USRA projection of ongoing maintenance of way costs did not include maintenance of way for the MTA/CTA territory. To adjust for the absence of this figure in the ongoing maintenance of way projection, USRA deleted present level MTA/CTA maintenance of way costs from both operating expenses and operating revenues. The stated USRA intent was to keep revenues and expenses comparable and to reflect the assumption that subsidy payments by MTA/CTA would cover whatever level of maintenance of way costs was actually incurred.

The difference between 1976 level "Operating revenues" of \$434 million as shown in the USRA Passenger Pro Forma and 1973 level revenues of \$310 million reflects coverage of cost inflation. If it is assumed that there will be no fare or ridership increases, then the total \$124 million inflation impact must be covered by increased subsidies. Hence, \$309 million* of the total \$434 million in "Operating revenues" would come from the commuter authorities and AMTRAK.

* \$434 million less \$125 million in direct receipts

"TOTAL GOVERNMENT PAYMENTS
TO PASSENGER OPERATIONS"

The USRA Passenger Pro Forma shows two components of "Total government payments to passenger operations". These components and the amounts applicable to 1976 are:

- a. Net operating loss under ICC betterment accounting - \$114 million
- b. Working capital deficit (excess) - \$42 million.

It is important to note that the title "Total government payments to passenger operations" is a misnomer. The amounts USRA shows under this caption are not the total payments expected from commuter authorities and AMTRAK. Present subsidy payments and inflation are included in what USRA chooses to call "Operating revenues", and not in "Total government payments to passenger operations". To derive the true total expected subsidy payments one must add together "Total government payments to passenger operations" and all but \$125 million of "Operating revenues".

Net Operating
Loss

The \$114 million claimed as a net operating loss results from USRA computations, adjustments, and projections described earlier in this report. By reference to underlying USRA workpapers, the principal components of the operating loss may be identified as shown below.

<u>Item</u>	<u>1973 Amount (000)</u>	<u>1973 Amount Indexed to 1976^{a/} (000)</u>
Unreimbursed passenger service loss - combined result of railroad data submissions and USRA adjustments	\$56,562	\$ 76,621
Increase in costs to reflect ongoing maintenance of way requirements	24,106	33,507
Net Impact of miscellaneous adjustments ^{b/}	<u>1,088</u>	<u>1,512</u>
Total	\$81,756	\$113,640

^{a/} Using composite passenger cost inflation index from 1973 to 1976 of 1.39.

^{b/} In addition to the costing adjustments described above, the USRA's financial staff also made several other minor adjustments. These included:

1. Elimination of depreciation to convert costs to a cash basis.
2. Addition of interest expense for prior pension liabilities.
3. Inclusion of a return on investment component for use of fixed facilities in the freight operations trackage rights payment for the EL and Reading passenger service areas.

Working Capital
Requirements

To other passenger service payment requirements, USRA's financial staff added a prorata share of ConRail's working capital deficit. Working capital requirements represent the net cash required to cover the difference between assets and liabilities. USRA developed working capital figures by constructing a balance sheet for the passenger operations. The amount computed by USRA for 1976 was \$42 million.

Overstatements in
USRA Projection

As has been demonstrated in this report, both the unreimbursed loss and the anticipated ongoing maintenance of way charges to passenger service are overstated.

Quantitative data to estimate the magnitude of overstatement in USRA unreimbursed loss figures were available for EL, CNJ, PRSL, and Reading, as well as for the PC's New Jersey commuter passenger operations. As stated at pages 25 and 26 of this report, charges to passenger service for commuter operations of the four carriers and the New Jersey operations of PC exceed costs which would not be incurred if the services did not operate by \$18.2 million at 1973 cost levels. Indexing this up to 1976 cost levels results in an overpayment of passenger losses on the order of \$25 million.

No quantitative data were available to estimate the degree of overstatement in USRA's projection of ongoing maintenance of way requirements. However, it appears likely that a substantial portion of the \$33.5 million increase in costs at 1976 levels for ongoing maintenance of way requirements reflects an overcharge to passenger service.

Depending on how losses which USRA claims are attributable to passenger service were treated in developing the passenger balance sheet, working capital requirements assigned to passenger service may also be overstated.

TRUE TOTAL
SUBSIDY PAYMENTS

The true total "government payments" for 1976, as computed by the USRA financial staff, including present subsidies, absorption of cost inflation, and increased subsidy requirements, are \$465 million as shown below.

<u>Item</u>	<u>1976 Amount</u>
Present subsidy payments	
Commuter	\$ 54 million*
AMTRAK remuneration	131 million
Inflation	124 million
Government payments to pass. operations	
Net operating loss under ICC betterment accounting (USRA method)	114 million**
Working capital deficit	<u>42 million</u>
Total subsidy requirements	\$465 million

* Net of MTA/CTA M of W costs

** Excludes depreciation and is essentially the same as loss on a cash basis.

Assignment of True Total Subsidy
Requirement By Service Area

From a review of the USRA financial staff's workpapers we have assigned the total subsidy payments to the various passenger service territories. Components of the projected subsidy requirements have been treated as follows:

1. Inflation in subsidy requirements was assigned in proportion to 1973 subsidy payments.
2. Projected ongoing maintenance of way costs were assigned based on 1973 maintenance of way expenses in each of the individual service territories.
3. Other unreimbursed deficit components were assigned based on the 1973 estimate of the unreimbursed deficit in each service territory.

4. Working capital requirements were assigned based on total operating expenses in each of the service territories.

Using this approach, the total subsidy payment required for each service territory is shown below.

<u>Service Territory</u>	<u>1976 Subsidy Requirements (millions)</u>
State of New Jersey	
PC	\$ 21.3
CNJ	24.0
PRSL	2.1
EL	28.1
Subtotal New Jersey	<u>75.5</u>
State of Pennsylvania	
PC	27.5
Reading	<u>20.7</u>
Subtotal Pennsylvania	48.2
MTA/CTA (excluding M of W cost reimbursement)	28.0
All Other Penn Central Commuter Territories	11.0
AMTRAK	<u>302.2</u>
Total	<u>\$464.9</u>

It should be emphasized that USRA itself made no distribution of the subsidy by service area. The figures shown above represent our assignment using the procedure for distribution of cost components described immediately above.

Note 4—Passenger Operations

A summary of the *pro forma* financial forecasts and expected government payments for the passenger operations during the forecast period appears below. As stated in Note 1, ConRail will manage passenger operations on a custodial basis whereby Amtrak or local commuter authorities will finance capital projects and working capital needs and will fully subsidize operating deficits. No provision has been made in the forecasts for major road improvements and equipment acquisition programs. For development of forecasted costs the Association has assumed that Amtrak would not purchase or lease the corridor.

Revenues were based on the amount of conductor and agent receipts and commuter authority subsidy payments actually received by the railroads in reorganization in 1973. Costs were developed using 1973 data as reported by the railroads in reorganization in filings

with the ICC and avoidable costs estimated by the railroads in reorganization. This costing approach is consistent with the ICC's Determination of Compensation ruling of September 19, 1973 covering Amtrak operations over Penn Central Transportation Co. (PC) properties.¹ Using this approach, each regional commuter and Amtrak passenger contract was analyzed separately and the results were aggregated to ascertain the total amount of operating deficit recovery ConRail should receive for passenger service at 1973 operating levels. The deficit recovery was then inflated by the composite annual expense inflation index to determine the annual deficit recoveries reflected in the forecasts.

To implement the assumption of appropriate cost remuneration, ConRail will have to negotiate revisions to most existing contracts with passenger authorities. Negotiations are presently under way with Amtrak and local commuter authorities which will affect passenger subsidies and are discussed in detail in Chapter 2. If none of the contracts are renegotiated, and if no additional subsidies are received over the level prevailing in 1973, the passenger operations will generate an estimated cash deficit of \$1.65 billion (inflated) over the forecast period. Since the precise terms and conditions under which passenger-deficit reimbursements will be paid are still to be negotiated, these forecasts, which assume that these cash deficits will be reimbursed, are subject to modification.

¹ This arbitration ruling arose from a dispute between Amtrak and PC concerning the appropriate cost reimbursement method used in the contract.

ConRail passenger operations *pro forma* balance sheets
(Millions of inflated dollars)

	Initial	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
December 31,											
ASSETS											
Current assets.....	\$7	\$153	\$198	\$215	\$231	\$248	\$265	\$281	\$298	\$316	\$338
Property and equipment.....	114	137	163	197	234	274	317	363	412	465	521
Less accumulated depreciation.....	—	2	6	10	16	23	32	42	54	69	85
Net property and equipment ¹	114	135	157	187	218	251	285	321	358	396	436
Other assets.....	—	13	14	15	16	17	18	19	20	22	23
Total assets.....	121	331	369	417	465	516	568	621	676	734	797
LIABILITIES AND EXCESS OF ASSETS OVER LIABILITIES AND FREIGHT EQUITY											
Current liabilities.....	—	127	136	148	160	171	183	194	206	218	233
Noncurrent liabilities.....	1	20	36	55	57	61	65	67	69	73	76
Pension liability (Note 16).....	12	11	10	9	8	7	5	4	3	1	—
Excess of assets over liabilities and freight equity.....	\$ 86	151	165	183	218	255	288	334	376	430	466
	99	309	347	395	443	494	548	599	654	712	775
Freight equity in passenger net assets (Notes 1, 2 and 3).....	\$ 22	22	22	22	22	22	22	22	22	22	22

¹ The increase in net property and equipment capitalized stems from the use of the depreciation accounting method. Under ICC betterment accounting, there would not be an increase in this account.

² Represents an amount equal to the net liquidation value of the Northeast Corridor at the date of asset conveyance.

³ Represents an amount equal to the net liquidation value of other assets used in passenger operations at the date of asset conveyance.

⁴ These amounts plus the assumed liabilities have been allocated to the assets on the basis of their estimated fair values.

60

ConRail passenger operations pro forma statements of results of operations and government payments
(Millions of inflated dollars)

	For the years ending December 31,										
	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1976-85 Total
Results of operations:											
Operating revenues.....	\$434	\$468	\$503	\$545	\$586	\$625	\$665	\$703	\$747	\$799	\$8,074
Operating expenses.....	525	567	611	638	707	756	801	851	904	964	7,344
Operating loss.....	91	99	108	113	121	131	136	148	157	168	1,270
Payments from government entities.....	154	113	124	148	158	169	177	190	201	214	1,650
Excess of payments from government entities over operating loss.....	\$65	\$14	\$18	\$35	\$37	\$38	\$41	\$42	\$44	\$46	\$380
Government payments to passenger operations:											
Net operating loss.....	91	99	108	113	121	131	136	148	157	168	1,270
Net track expenditures capitalized under depreciation accounting.....	23	24	29	32	34	34	38	37	40	41	332
Net operating loss under ICC betterment accounting.....	114	123	135	145	155	165	174	185	197	209	1,602
Working capital deficit (excess).....	42	(10)	(11)	3	3	4	8	5	4	5	48
Total government payments to passenger operations.....	\$158	\$113	\$124	\$148	\$158	\$169	\$177	\$190	\$201	\$214	\$1,650
Total outside funding:											
Government payments to passenger operations.....	158	113	124	148	158	169	177	190	201	214	1,650
Payments to ConRail for certain costs of diverting freight traffic from the electrified Northeast Corridor (Note 5) ¹	9	53	82	38	59	—	—	—	—	—	211
Total funding.....	\$165	\$166	\$176	\$186	\$217	\$169	\$177	\$190	\$201	\$214	\$1,861

¹ A Government entity must provide funds for the purchase of the Baltimore & Ohio Railroad (B & O) tracks between Washington and Philadelphia for ConRail freight operations so that the electrified Northeast Corridor can be devoted to passenger

service. Because a purchase price has not yet been determined, the purchase of the B & O tracks has not been reflected in the schedule of outside funding required.

Note 5—Passenger Corridor Expenditures

To improve passenger service on the Northeast Corridor, ConRail freight operations (except local service) should be transferred to other rail trackage such as the Baltimore & Ohio Railroad's (B&O) tracks between Washington, D.C. and Philadelphia. Because the transfer from the corridor is for the convenience of the passenger operations, the Association has decided that the freight operations should not be expected to bear the costs of the purchase of the B&O tracks and other direct capital costs associated with eliminating freight interference with the passenger operation.

Since a purchase price for the B&O tracks has not been determined, and since the precise terms and conditions under which reimbursement will be paid are still to be negotiated, the acquisition of these tracks and the subsequent reimbursement to ConRail have not been reflected in the forecasts. Consequently, the results of freight operations for the forecast period do not include depreciation charges for the Northeast Corridor or the B&O tracks. Upon determination of the purchase price, operating expenses will be increased and income before taxes and extraordinary items will be reduced to the extent of the depreciation charges.

The other direct capital costs consist principally of the purchase of 81 diesel locomotives to replace electric locomotives which cannot be used on the B&O tracks, "double tracking" the B&O line, providing interconnections, installing central traffic control (CTC) and making certain other improvements that are required to enable the B&O tracks to carry significantly greater traffic volume. A summary of these costs follows:

(Millions of inflated dollars)

	Equipment additions	Road additions	Total
Year:			
1976.....	—	\$ 9	\$ 9
1977.....	\$21	32	53
1978.....	23	29	52
1979.....	—	38	38
1980.....	—	59	59
	\$44	\$167	\$211

These costs and the related reimbursements are reflected in the freight balance sheets as property and equipment with offsetting amounts included in the equity section.

USRA INFLATION ADJUSTMENT

After developing adjusted operating expenses as described in the body of this report, the USRA financial staff then indexed these figures from 1973 to each of the years from 1976 to 1985 inclusive. The basis for inflation adjustments was projected changes in cost levels. USRA developed a separate index for passenger service as distinct from freight service.

To develop projected operating expenses, labor and material components of each major functional area were determined and separate indices were applied to the labor component and the material component. The operating expense figure for any particular year was the result of summing the individual components for that year.

USRA developed the projected passenger deficit figure ("government payments to passenger operations") for each year by inflating the 1973 deficit by the composite operating expense index. The overall passenger index is somewhat higher than the overall freight index, reflecting a more labor intensive situation in passenger service than in freight service.

The composite index USRA used is shown below:

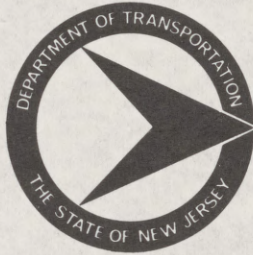
<u>Year</u>	<u>Inflation Index</u> <u>(1973 = 1.00)</u>
1976	1.39
1977	1.50
1978	1.63
1979	1.76
1980	1.88
1981	2.01
1982	2.13
1983	2.26
1984	2.40
1985	2.56

Operating revenues for each of the years 1976 through 1985 were computed by increasing 1973 revenues by the amount necessary to cover the increase in operating expenses. Hence the increase in revenues was a residual number.

The definition of operating revenues used by USRA includes both direct receipts for passenger fares (and other passenger related revenues) and financial support for passenger service in the form of subsidy payments from commuter authorities and remuneration received from AMTRAK. In projecting growth of operating revenues at the same rate as operating expenses, USRA has implicitly assumed that:

- (a) Fares will be increased to match increases in expenses, or
- (b) Ridership will increase at a rate which matches increases in expenses, or
- (c) Subsidy payments will be increased to match increases in expenses, or
- (d) A combination of fare increases, ridership increases, and subsidy increases will take place which will defray the impact of inflation on operating expenses.

FINAL SYSTEM PLAN: ITS IMPACT ON NEW JERSEY COMMUTER RAIL SERVICES



**NEW JERSEY DEPARTMENT
OF TRANSPORTATION**

ALAN SAGNER
Commissioner

PETER E. STANGL
Assistant Commissioner
Public Transportation

WALSH 121212

YAPAL 0700 20 120000 201

23014822 1000 10000000



WALSH 121212
WALSH 121212

WALSH 121212
WALSH 121212
WALSH 121212
WALSH 121212

PREFACE

This paper analyzes the impact of the Final System Plan (FSP) issued by the United States Railway Association (USRA), pursuant to the Regional Rail Reorganization Act of 1973 (the Act), upon New Jersey's extensive commuter rail services. The Act had specified that one of the goals of the FSP should be that the requirements of efficient commuter rail service be met. The FSP has not met them. Unfortunately, with regard to commuter rail service the Act did not provide enough explicit guidance. USRA has taken advantage of that lack of guidance to adopt a policy whereby the new "for-profit" rail carrier created by the FSP, would, in part, pin its predictions for financial viability upon shifting substantial costs to the passenger authorities. The alternative posed by the FSP to the success of this policy is discontinuance of most passenger service. The New Jersey Department of Transportation (NJDOT) estimates, that if the FSP's passenger service recommendations were fully implemented by 1977 the State would be burdened with \$11 million in additional commuter rail service costs. However, USRA's figures for the shifting of added costs to passenger service suggest that the cost impact in New Jersey may be more dramatic. Efforts are underway to obtain USRA's precise projection for New Jersey commuter rail costs.

NJDOT advocates that the following legislative steps be taken to correct the biased and superficial treatment afforded commuter rail service by the FSP:

1. ConRail be required to accept for 180 days after conveyance those commuter rail service agreements it now disavows, which are in effect immediately prior to the conveyance of rail properties.

2. The Rail Services Planning Office (RSPO) be directed to develop standards for commuter rail service agreements.

3. One hundred eighty (180) days subsequent to conveyance, ConRail would be required to maintain commuter rail service for which a state offered a rail passenger service continuation subsidy in conformity with RSPO standards.

4. Special federal operating assistance be provided to the commuter authorities to hold them harmless for three years for increased costs attributable to the FSP and to ConRail to hold it harmless for any losses incurred during its 180 days of operation under existing agreements.

5. Special federal capital assistance be provided to the commuter authorities, from sources independent of UMTA's current funding allocations, to enable the authorities to develop substitute rail service for any jeopardized by implementation of the FSP.

6. Insulation of State and regional or local transportation authorities from any pass-through of any deficiency judgment entered against ConRail for

passenger service properties purchased by ConRail
for conveyance to such authorities:

7. Creation of a regional board with appropriate
NJDOT representation for governance of the Trenton-New
York Penn Station segment of Northeast Corridor.

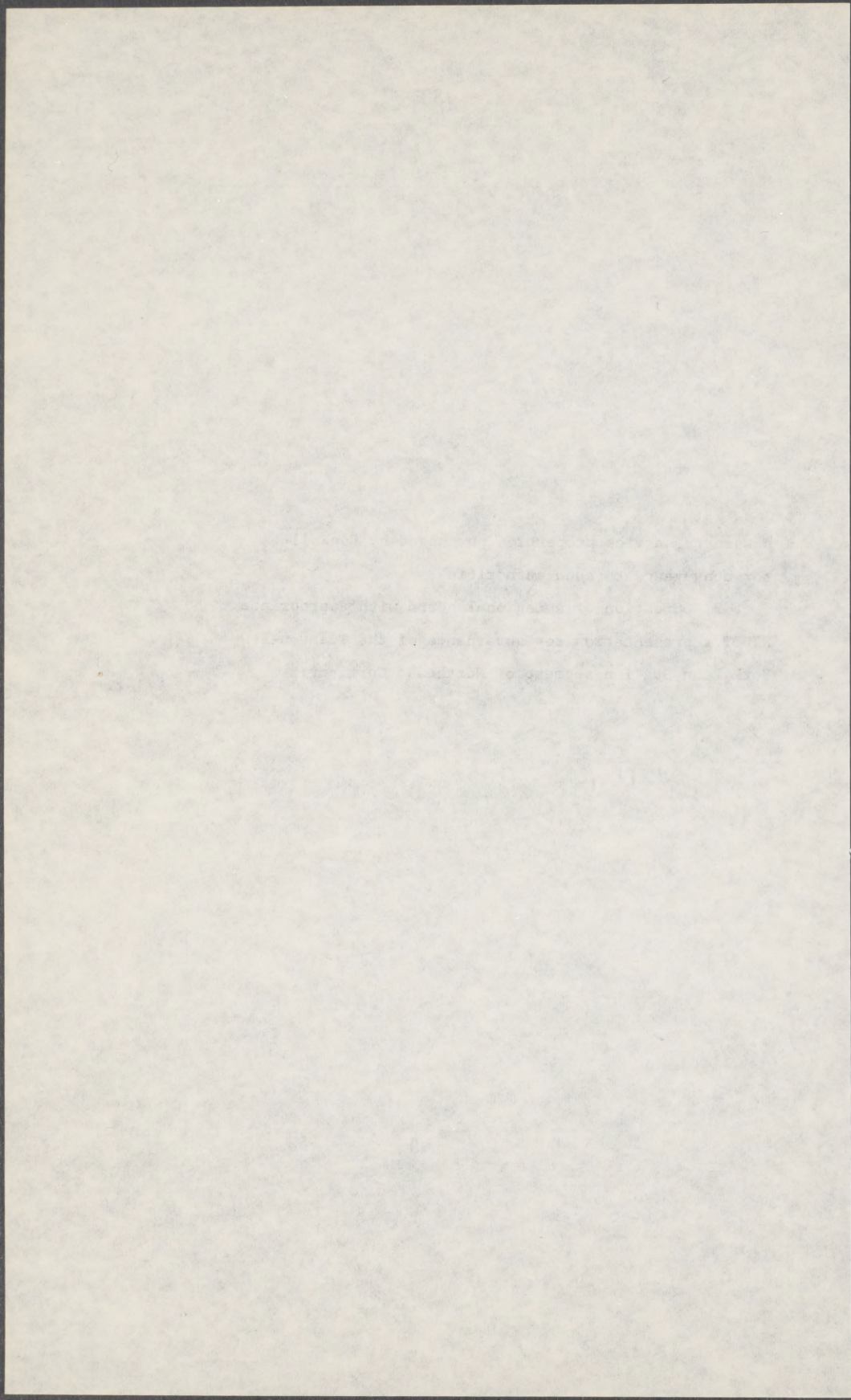
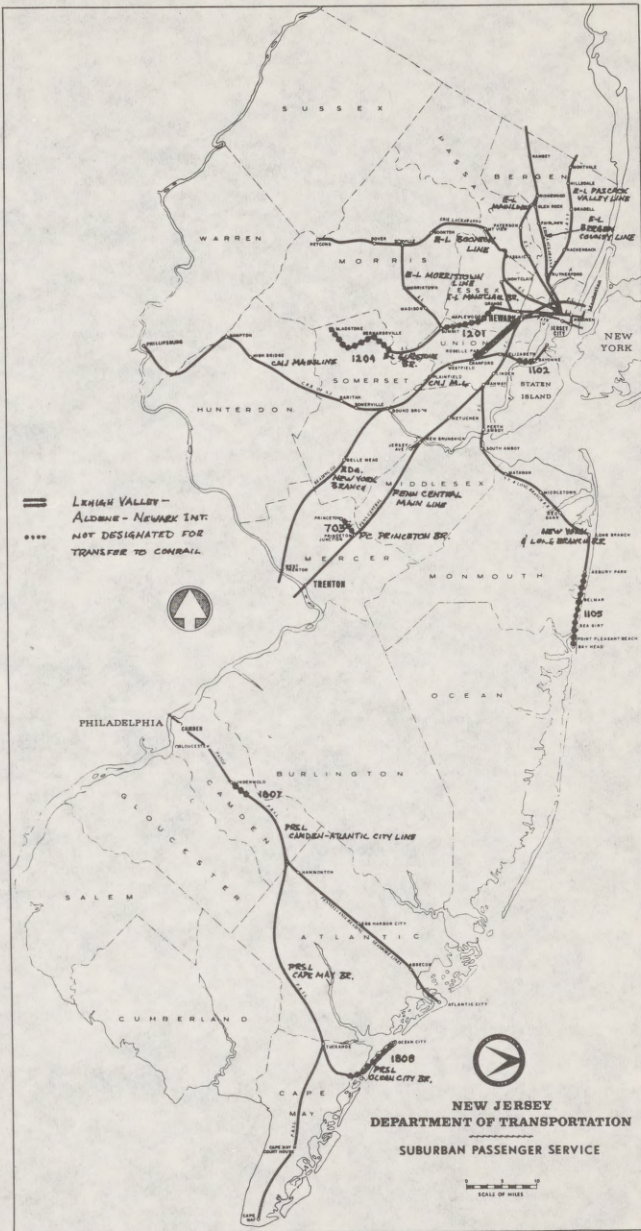
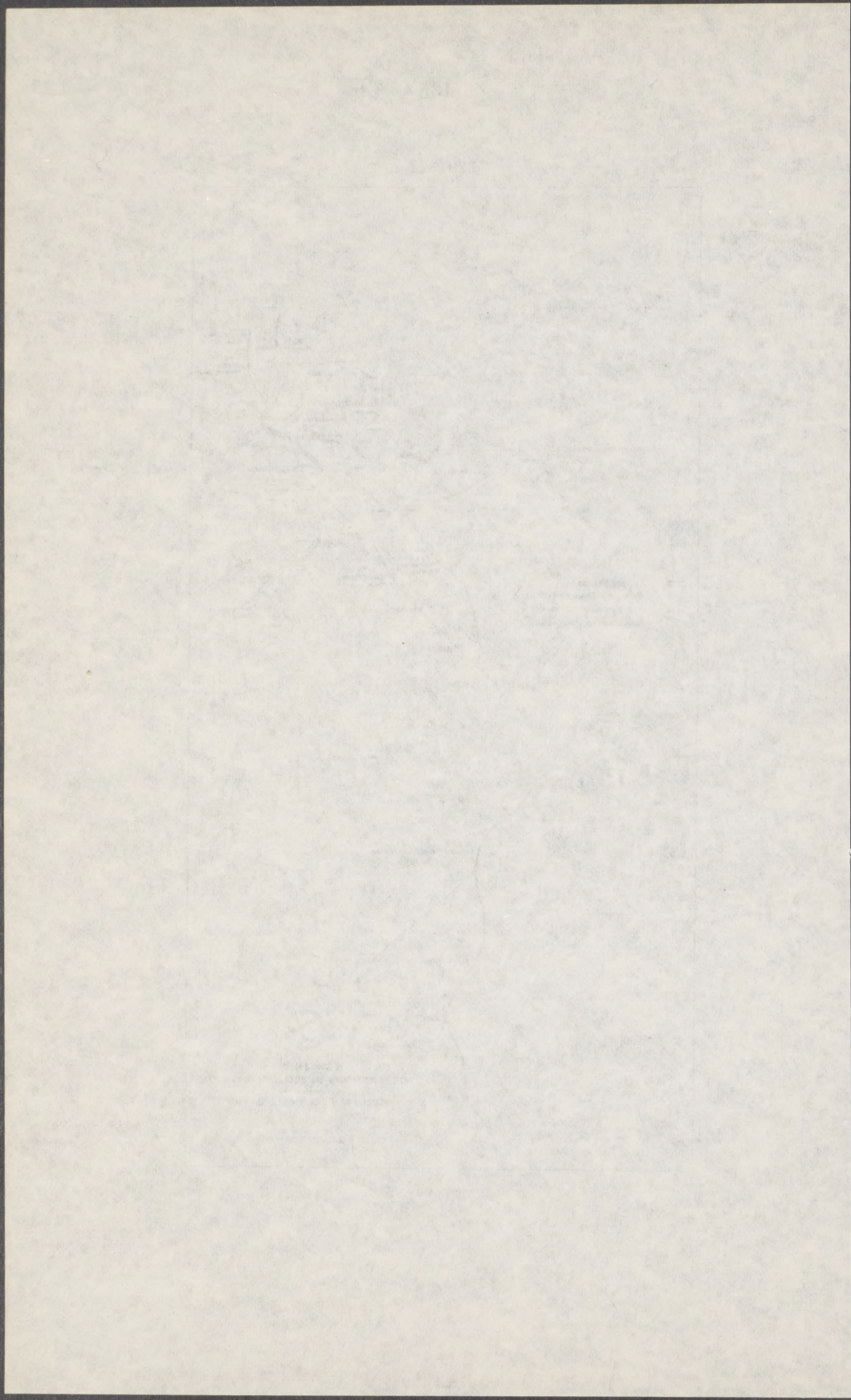


EXHIBIT A





THE FINANCING OF RAIL COMMUTER
SERVICE IN NEW JERSEY

The Commuter Operating Agency (COA) in the NJDOT contracts for rail commuter service, pursuant to N.J.S.A. 27:1A-15 et seq., with the Trustees of the Erie Lackawanna Railway Company (EL), the Trustees of the Central Railroad Company of New Jersey (CNJ), the Trustees of the Penn Central Transportation Company (PC), and the Pennsylvania Reading Seashore Lines (PRSL). A map depicting the commuter rail service lines financially supported by the COA, as well as other commuter services in the State, is set forth in Exhibit A on the foregoing page. The COA may pay up to the full cost of providing the service, plus a return on investment of 6 percent. All profits above full cost plus return on investment must be divided equally between the carrier and the COA. The COA may also contract with carriers for improvements to capital facilities in consideration for the continuance of specified passenger service. Each contract must specify the passenger service which the carrier is required to operate, including timetables, train consists and fare tariffs applicable to the service.

El Service

EL provides rail commuter service between communities in Bergen, Passaic, Essex, Morris and Somerset counties and Hoboken, New Jersey, where passenger make connections with the

Port Authorities Trans Hudson Corporation (PATH) for destinations in midtown and downtown Manhattan. The passenger facilities surrounding the Hoboken Terminal comprise USRA Designation Id. #6801. Communities in Essex, Morris and Somerset counties are also provided with service to Newark. At present, no EL rail commuter service provides direct rail access to midtown Manhattan.

This EL service is divided into the diesel service serving Bergen, Passaic, Essex and Morris counties and the electric service serving Essex, Morris and Somerset counties. The diesel service is provided over three lines, the Pascack Valley Line serving eastern Bergen County, the Main Line-Bergen County Line serving western Bergen County and Passaic County, and the Boonton Line serving Morris, Passaic and Essex counties. The electric service is provided over the Morristown Line serving Morris and Essex counties, and its connecting lines, the Montclair Branch serving Essex County and the Gladstone Branch serving Somerset County. The Morristown Line includes USRA line segment #1201 between Summit and Orange; the Gladstone Branch includes USRA line segment #1204 between Millington and Gladstone.

The number of per weekday trains and passengers carried in 1974 by EL commuter service is as follows:

<u>Erie Lackawanna</u>	<u>Trains per weekday</u>	<u>East</u>	<u>West</u>
Pascack Valley Line	12	3,570	3,184
Main Line-Bergen County	65	8,555	8,573
Boonton Line	25	3,230	3,281
Morristown Line, including Montclair and Gladstone branches	<u>162</u>	<u>20,135</u>	<u>20,503</u>
TOTAL	264	35,490	35,541

EL has received financial assistance from the State of New Jersey for its rail commuter services since 1961. In the early years of this relationship, the EL sought discontinuances of a number of commuter rail services. Payments since 1961 now total in excess of \$80 million. In Fiscal Year 1975 (July 1, 1974 through June 30, 1975), the COA paid the EL, pursuant to its passenger service contract, \$17,229,000. That agreement, entered into July 1, 1967, provides that the COA shall pay the EL an amount for each fiscal year equal to the net avoidable costs from suburban passenger service for the preceding calendar year. Furthermore, the agreement provides that, insofar as future legislative appropriations will permit, the COA shall make expenditures to carry out a minimum capital improvement program. To date, the diesel services have been re-equipped with new cars and locomotives and the COA is in the process of implementing federal grants for a project to re-equip and re-electrify the EL's electrified lines. Table 2, *infra*.

Of significance in the context of the Act is the fact that the agreement is terminable upon a year's notice in writing by either party transmitted by June 30 to be effective the subsequent June 30. Neither party has ever exercised the option. The agreement has been modified three times, the final amendment becoming effective June 18, 1974. At that time the COA agreed

to pay the EL for the contracted service on a current basis rather than one based upon preceding calendar year costs.

CNJ Service

CNJ provides rail commuter service over its Main Line from Phillipsburg to Newark Penn Station via the Lehigh Valley between Cranford and Hunter and the PC, pursuant to 1964 trackage rights agreements with the Lehigh Valley Railroad Company and PC. This service covers communities in Warren, Hunterdon, Somerset and Union counties. At Newark, passengers can make connections to midtown Manhattan via PC Main Line service and PATH and via PATH to downtown Manhattan. This service utilizes a key segment of Lehigh Valley double track railroad between the Aldene connection at Cranford and the Lehigh's connection with the PC Main Line in Newark (Hunter). A shuttle operates on the CNJ's Main Line between Bayonne in Hudson County through Elizabeth to Cranford in Union County. This shuttle service traverses Newark Bay over the CNJ's Newark Bay Bridge, USRA Line Segment #1102.

CNJ also operates rail commuter service over The New York and Long Branch Railroad (NY & LB) (joint venture owned by CNJ and PC) from communities on the North Jersey Coast from Ocean County, through Monmouth, Middlesex and Union counties to Newark Penn Station. There, passengers may also make PC Main Line and PATH connections to midtown and downtown Manhattan. The NY & LB

includes USRA Line Segment #1105 between Asbury Park and Bay Head. In addition to trackage of the NY & LB, the North Jersey Coast service is operated over a short piece of CNJ trackage north of the Raritan River, and pursuant to trackage rights agreements over the PC's Perth Amboy and Woodbridge branch and the PC Main Line between Rahway and Newark Penn Station.

The total number of per weekday trains and passengers carried in 1974 by the CNJ is as follows:

<u>The CNJ</u>	<u>Trains per weekday</u>	<u>East</u>	<u>West</u>
Main Line (including Bayonne Shuttle)	62 (plus 41)	7,474	7,350
New York & Long Branch	<u>14</u>	<u>3,695</u>	<u>4,121</u>
TOTAL	117	11,169	11,471

The State of New Jersey has been providing financial assistance to the CNJ since 1961 for its commuter rail operations. The sum paid now exceeds \$72 million. During Fiscal Year 1975, the State paid the CNJ, \$13,731,000 pursuant to a service agreement, dated July 1, 1973. The July 1, 1973 interim operating agreement required the CNJ to operate specified passenger service through midnight June 30, 1974 in consideration of payment by the COA of a base amount per month subject to adjustment in accordance with principles outlined in the agreement. This compromise agreement had followed a bitterly fought legal effort by the Trustee to discontinue passenger service without regulatory authority approval.

After a threatened cessation of all rail services by the Trustee, the July 1, 1973 agreement was amended and extended for a period of five months by a contract dated July 1, 1974, wherein the parties negotiated a shared cost approach to the determination of CNJ's loss in providing passenger operations. After still another threatened cessation of all rail services by the Trustee, the July 1, 1973 agreement was further extended until June 30, 1975 by a contract dated December 1, 1974. This agreement recited that the CNJ and COA had agreed to have the United States Department of Transportation (USDOT) make binding determinations as to the appropriateness of cost allocations between freight and passenger service and that it and the July 1, 1974 agreement would be amended in accordance with said determinations. In addition to the binding determinations, the USDOT was to make recommendations as to whether the present compensation and revenue components of the agreement were fair and equitable.

In April, 1974 USDOT determined that the proper method of reimbursement is based upon long term avoidable costs. Since the COA had been paying the CNJ pursuant to a method approximating full cost, USDOT determined that the CNJ was being over-compensated by approximately \$1,100,000 per year. This amount, USDOT recommended, could be considered return on investment to the CNJ. The COA also has been contributing funds,

up to \$2.7 million, for the rehabilitation of track, roadbed and signal system on the CNJ Main Line, pursuant to an agreement dated July 8, 1974.

Four extension agreements have recently been executed extending support for the CNJ service through September 30, 1975 at previous cost allocations. Each party reserved its rights against the other to retroactive claims based upon the right to enforce the USDOT determinations or such other claims as they may have.

Service over the NY & LB is provided by both the CNJ and the PC. Reimbursement for this service accordingly falls partially under the CNJ payments and partially under the PC payments, set forth below. In each case the basis for determining passenger costs is in accordance with the methodology used for the parent carrier (i.e. CNJ or PC, as the case may be). In addition, the State has expended more than \$3.7 million for upgrading the NJ&LB during the past four years.

A further extension of the existing contract through the mandatory conveyance date or June 30, 1976 is currently before the COA.

PC Service

PC provides a rail commuter service over its Main Line, a portion of the Northeast Corridor, from Trenton in Mercer County, through Middlesex, Union and Essex counties, to New York Penn-Station. This service includes stops at Princeton Junction, New Brunswick, Metuchen, Elizabeth and Newark. Service also originates

at the Jersey Avenue Park-and-ride, South of New Brunswick. The branch lines between Princeton and Princeton Junction, USRA Line Segment #703, is used to bring passengers to the commuter and Amtrak intercity service on the Main Line. Additional commuter trains to Newark and Manhattan are operated from South Amboy in Middlesex County to Manhattan over the Perth Amboy & Woodbridge branch and the Main Line west of Rahway. PC also provides rail commuter service, for the North Jersey Coast, supplementary to that provided by the CNJ. The PC's service provides direct access to New York Penn Station.

The total number of per weekday trains and passengers carried by PC in 1974 is as follows:

<u>PC</u>	<u>Trains per weekday</u>	<u>East</u>	<u>West</u>
Main Line	83	21,488	20,317
South Amboy	20	1,094	908
North Jersey Coast	<u>20</u>	<u>6,384</u>	<u>6,132</u>
TOTAL	123	28,966	27,357

PC received financial operating assistance from the State from 1961-1965, and again from 1970-1975, in a total amount of \$29,398,242. During Fiscal Year 1975, the State paid PC \$10,199,000, pursuant to Interim Service Agreement No. 2, dated September 1, 1973.

The financial arrangements between the COA and PC have been marked by consecutive short term agreements. By a lease agreement, dated July 1, 1965, the COA agreed to furnish the

PC with 80 passenger cars over a specified period of time and the PC agreed to operate passenger service until June 30, 1977. The COA also agreed, subject to the availability of funds, to make expenditures for operating expenses and other capital improvements in equipment and facilities as specified in future agreements between the parties. On September 1, 1970, the parties contracted for the performance of previously deferred maintenance and improvements to various facilities.

Superseding certain provisions of the July 1, 1965 lease agreement and in contemplation of a long term Operating Agreement, the COA and PC entered into an Interim Agreement, dated January 1, 1973, terminable upon execution of the Operating Agreement or automatically on August 31, 1973, whichever occurred first.

Effective September 1, 1973, PC and COA entered into Interim Agreement No. 2. This agreement, the outside term of which was June 30, 1974, provided that COA would make monthly payments to PC at agreed negotiated rates pending accord on a method for determining costs attributable to contracted passenger service in the proposed Operating Agreement. The cost philosophy to be used was to follow that being established in litigation for an Amendment Agreement between AMTRAK and PC. To date, the basis of the AMTRAK-PC Amendment Agreement has not been established by the PC Reorganization Court. Consequently, provisions calling for the determination of costs

on that basis are not in place. Accordingly, the parties agreed to extend and amend Interim Agreement No. 2 providing for the continuation of service through June 30, 1975. Further extensions of Interim Agreement No. 2 beyond June 30, 1975 to September 30, 1975 are awaiting approval of the PC Reorganization Court. A new extension and amendment of Interim Agreement No. 2 is presently before the COA. It is based on a basically avoidable cost philosophy and is to be effective through the conveyance date, or June 30, 1976, is presently before the COA.

PRSL Service

PRSL provides rail commuter service over its lines between communities in Atlantic and Cape May counties and Lindenwold, where connecting trains are available on the Lindenwold High Speed Line operated by the Delaware River Port Authority Transit Company for travel to Camden and Philadelphia. PRSL service is operated over USRA Line Segment #1808, between Ocean City and Palermo, and USRA Line Segment #1807, between Lucaston and Lindenwold.

This service consists of the following number of trains per weekday: Atlantic City line, 6; Cape May line, 2. The number of passengers carried per weekday in 1974 approximates 300 one way.

Since 1963 the State of New Jersey has provided the PRSL financial assistance for its rail commuter service and payments now total more than \$4.5 million. In Fiscal Year 1975, the State paid PRSL \$800,000 pursuant to a service agreement, dated July 1, 1973. That agreement, which was originally to terminate June 30, 1974, based compensation on the net avoidable cost of PRSL passenger service. This contract has been extended several times through September 30, 1975. A proposal to extend the contract through December 31, 1975 is currently before the COA.

Joint Reading-CNJ Service

The Reading Company (Reading) provides rail commuter service from Philadelphia to West Trenton, through Mercer and Somerset counties, and then to Newark Penn Station. Reading operates this service without any financial assistance contract with the COA. The service consists of two trains in each direction on weekdays only and carries approximately 370 passengers per day in each direction. The service operates over Reading tracks from its origin to Bound Brook where, pursuant to a trackage rights and cost sharing agreement with the CNJ, the service proceeds to Cranford and thence, pursuant to trackage rights agreements with the Lehigh Valley and PC, to its terminus, Newark Penn Station. Passengers then may make PC Main Line or PATH connections to midtown or downtown Manhattan. This service utilizes, as does the CNJ, a key segment of double track railroad

between Cranford (Aldene) and a connection with the PC Main Line in Newark. This segment is owned by the Lehigh Valley Railroad Company. At present the CNJ portion of the costs of operating this service is reimbursed in the contract between the CNJ and the COA. In August 1975 Reading petitioned the United States Railway Association for permission to discontinue this passenger service, as well as all of its other passenger services.

Capital Assistance Program

New Jersey has invested large sums in the maintenance and development of commuter rail services. Table I below provides a description of the capital assistance programs the State or related agencies have completed or are embarked upon in efforts to maintain or develop commuter rail service in New Jersey.

Budgetary Considerations

The COA has budgeted for Fiscal Year 1976 financial assistance for commuter rail service to the following carriers in the following amounts:

EL	\$22,800,000
PC	16,600,000
CNJ	15,700,000
PRSL	<u>800,000</u>
TOTAL	\$55,900,000

The COA expects to receive \$35 million in operating assistance funds from the Urban Mass Transportation Administration, pursuant to Section 5 of the Urban Mass Transportation Act of 1964, as amended. Some \$13 million reimburses the State for a portion of its public transportation outlays in Fiscal Year 1975; some \$21.9 million will be distributed for Fiscal Year 1976. Receipt of these funds is contingent upon successful negotiation of a labor protective agreement. The COA's Section 5 applications show that these federal funds will be used to defray commuter rail service costs as follows:

	<u>1975</u>		
	<u>Section 5 Funds</u>	<u>State Funds</u>	<u>Total</u>
EL	\$4,448,672	\$12,780,328	\$17,229,000
CNJ	3,840,411	9,890,589	13,731,000
PC	2,746,971	7,452,029	10,199,000
PRSL	<u>246,697</u>	<u>553,303</u>	<u>800,000</u>
TOTAL	\$11,282,751	\$30,676,249	\$41,959,000

	<u>1976</u>		
	<u>Section 5 Funds</u>	<u>State Funds</u>	<u>Total</u>
EL	\$ 7,645,662	\$15,154,338	\$22,800,000
CNJ	6,347,330	9,352,670	15,700,000
PC	4,369,202	12,230,798	16,600,000
PRSL	<u>--</u>	<u>432,000</u>	<u>432,000</u>
TOTAL	\$18,362,194	\$37,169,806	\$55,532,000

The COA is currently acting on proposals for extensive fare increases on contracted commuter rail service. Those increased were to become effective October 1, 1975. These proposals were necessitated by a \$9 million shortfall below anticipated needs legislative appropriations for financial assistance to railroad and bus companies. At the Legislature's request for additional time to study the situation, the COA is expected to suspend implementation of the fare increases until December 1, 1975.

Capital funds in New Jersey for public transportation development are about to become extremely tight. With the exception of a \$10 million appropriation for the Woodcrest Station Project of the Delaware River Port Authority Transit Corporation, the only funds for capital expenditures in the State are the remaining proceeds of the 1968 \$200 million public transportation

bond issue. As shown in Table I some \$106,120,600 of these funds have been expended or obligated to construct new railroad stations and parking lots, carry out various projects of rehabilitation and purchase passenger cars, locomotives and buses. Of the remaining \$93,879,400, \$83,600,000 has been designated to match proposed federal capital grants: \$47,600,000 for EL re-electrification and re-equipping . \$25,000,000 for NY&LB electrification and re-equipping and \$11,000,000 for purchase of new and used buses to upgrade the New Jersey bus industry. All except \$92,800 of the remaining \$10,279,400 has been designated for various other public transportation projects. A recent report of the Governor's Capital Needs Study Commission indicates the pressing need for massive additional expenditures for public transportation capital projects in the State. In response to that report, legislation has been enacted for a November 1975 public referendum on a bond issue, which includes \$300 million for public transportation capital expenditures.

CAPITAL ASSISTANCE PROGRAM FOR
NEW JERSEY COMMUTER RAIL SERVICES
(IN THOUSANDS)

EL PROJECTS				
<u>Sponsor</u>	<u>Description</u>	<u>Funding Source</u>	<u>Total Cost</u>	<u>Status</u>
		<u>Federal</u>	<u>State</u>	
State of New Jersey	32 New Diesel Locomotives and 155 Passenger Cars	\$41,459	\$41,459	Complete
State of New Jersey	26 Reconditioned Passenger Cars	1,354	1,354	Complete
State of New Jersey	Improvements to 26 Stations	1,262	1,262	Complete
State of New Jersey	Littleton Rd. Park-and-Ride Station and Parking Lot	334	334	In Plan- ning stage
State of New Jersey	Montclair Connection Station Station and Parking Lot	\$1,512	756	In Design stage
State of New Jersey	200 MU Electric Passenger Cars, Reelectrification	232,376	58,094	Bids in- vited for 160 cars, Consultant selected for reelectri- fication
Port Authority of New York & New Jersey	Direct Rail Access to N.Y. Penn Station	120,000	150,000	Under design capital grant application to UMTA being prepared
		<u>Port Authority</u>		
	Subtotal	\$353,888	\$103,259	\$487,147
		\$30,000		
		<u>Port Authority</u>		

CAPITAL ASSISTANCE PROGRAM FOR
NEW JERSEY COMMUTER RAIL SERVICES
(IN THOUSANDS)

Sponsor	Description	PC PROJECTS		Total Cost	Status
		Funding Source			
		Federal	State		
State of N.J.	105 MU Electric Passenger Cars	\$25,394	\$12,698	\$38,092	Complete
State of N.J.	Metro Park Station High Level Platform and Parking Lot	1,279	1,339	2,618	Complete
State of N.J. & Boro. of Metuchen	New Metuchen Passen- ger Station & High Level Platform	1,014	412	1,521	Plans ready additional \$2,500 required
State of N.J.	New Trenton Station	Borough 95	2,273	2,273	Complete
State of N.J.	Princeton Junction Station Parking Lot		400	400	Complete
State of N.J.	Reconstruction of Rah- way Railroad Station		1,034	1,034	Complete
State of N.J.	Elizabeth Reconstruc- tion		235	235	Complete
Port Authority of NY & NJ	Newark Penn Station Renovation	\$12,000	Port Authority	12,000	Agreements in process
	Subtotal	\$27,687	\$18,391	\$58,173	

CAPITAL ASSISTANCE PROGRAM FOR
NEW JERSEY COMMUTER RAIL SERVICES
(IN THOUSANDS)

CNJ PROJECTS					
Sponsor	Description	Funding Source		Total Cost	Status
		Federal	State		
State of N.J.	Aldene Plan-connection of CNJ tracks into Penn Station Newark	\$ 4,323	\$ 4,057	\$ 8,380	Complete
State of N.J.	146 Reconditioned Passenger Cars		4,811	4,811	Complete
State of N.J.	11 Reconditioned Rail Diesel Cars		1,970	1,970	
State of N.J.	Improved Passenger Train Handling Facilities		293	293	Complete
State of N.J.	Rehabilitation of Passenger Stations		228	228	Complete
State of N.J.	Rehabilitation of Main Line Track		2,800	2,800	In Process
State of N.J.	Installation of Radios on Passenger Equipment		67	67	Complete
State of N.J.	Train Dispatching Consolidation		37	37	Complete

State of N.J.	Water Pollution Cor- rection at Raritan	414	414	Capital Grant Application Filed with UMTA
Port Authority of N. Y. & N. J.	Extension of PATH to Plainfield	200,000 \$147,000 <u>Port Authority</u>	347,000	
	Subtotal	\$204,323	\$161,677	\$366,000

CAPITAL ASSISTANCE PROGRAM FOR
NEW JERSEY COMMUTER RAIL SERVICES
(IN THOUSANDS)

NY & LB PROJECTS

<u>Sponsor</u>	<u>Description</u>	<u>Funding Source</u>		<u>Total Cost</u>	<u>Status</u>
		<u>Federal</u>	<u>State</u>		
State of N.J.	48 Reconditioned Passenger Cars	\$ 2,446	\$ 2,446	Complete	Complete
State of N.J.	Little Silver Parking Lot	423	423	Complete	Complete
State of N.J.	Rehabilitation of Highway Crossings and Station Platforms	1,750	1,750	In Process	In Process
State of N.J.	Construction of New Matawan Station	3,000	3,000	In Design Stage	In Design Stage
State of N.J.	Water Pollution Correction at Bay Head	392	392	Complete	Complete
State of N.J.	Middletown Station Parking Lot	707	707	Complete	Complete
State of N.J.	Rehabilitation of Bridges	3,200	1,850	5,050	In Process
State of N.J.	Rehabilitation of Track	1,943	1,943	In Process	In Process
State of N.J.	Bay Head Tie Replacement	106	106	Complete	Complete

State of N.J.	Purchase of 50 MU Electric Passenger Cars and Electrification from South Amboy to Red Bank	99,686	25,297	124,982	Capital Grant Application Filed with UMTA
	Subtotal	-	\$37,914	\$140,800	

CAPITAL ASSISTANCE PROGRAM FOR
NEW JERSEY COMMUTER RAIL SERVICES
(IN THOUSANDS)

PRSL PROJECTS

<u>Sponsor</u>	<u>Description</u>	<u>Funding Source</u>		<u>Total Cost</u>	<u>Status</u>
		<u>Federal</u>	<u>State</u>		
State of N.J.	Rehabilitation of 10 Rail Diesel Cars	\$	,750	\$,750	Complete
GRAND TOTAL	-	\$688,784	\$174,991	\$1,052,870	
	Borough of Metuchen	95			
	Port Authority of New York & New Jersey	\$189,000			

FSP AND ITS EFFECTS ON NEW JERSEY
COMMUTER RAIL SERVICES

On July 26, 1975, USRA issued the FSP as mandated by the Act. The FSP describes a program for providing an adequate and economically self-sustaining regional rail system for the Northeast and Midwest portions of the United States. One of the goals Congress established for the FSP was the effectuation of "the movement of passengers...in rail transportation in the region in the most efficient manner consistent with safe operation, including the requirements of commuter and intercity rail passenger service..." Section 206(a)(7) (emphasis supplied). Included as a separate chapter in the FSP were recommendations for continuation of intercity and commuter rail operations. The Interstate Commerce Commission has observed that the FSP's treatment of commuter rail service does not meet this goal.

FSP recommendations for commuter rail service fall into three principal categories: the effect of commuter service agreements, principles for assigning costs to passenger vs. freight service, and the Northeast Corridor. Major points affecting the State of New Jersey in each of these categories are as follows:

Commuter Service Agreements

Ownership

1. Commuter authorities should purchase or lease those lines over which they are the dominant user.

Operations

2. ConRail is obligated to operate commuter rail services on property transferred to it pursuant to the Act.
3. ConRail would be available to operate commuter services on properties not transferred to it.
4. The commuter authorities have the option of choosing a carrier other than ConRail.

Contractual Obligations

5. The Act requires that with respect to properties transferred pursuant to the Act, passenger service financial support agreements must be honored if they were in force at the time of passage of the Act and are still in effect. Section 303(b)(2).
6. Pursuant thereto, ConRail will assume the EL contract with the COA for operation of suburban passenger service in New Jersey and New York.
7. On properties not transferred pursuant to the Act, such pre-existing agreements must be honored. Section 304(c)(2)(B).
8. Financial support agreements for commuter services over properties to be transferred pursuant to the Act which were in effect at the time of enactment but whose terms have been extended during the planning process have been deemed not binding upon ConRail.

9. Consequently, the FSP identifies the following New Jersey financial support agreements for commuter services as not binding upon ConRail:
 - All PC services operated in the New York-Newark area for the account of NJDOT.
 - All CNJ services operated in the New York-Newark area for the account of NJDOT.
 - All PRSL services operated in the Philadelphia area for the account of NJDOT.
10. Although ConRail is "obligated" to provide these commuter rail services, new financial support agreements will have to be negotiated prior to conveyance if present service is to be continued. The State of New Jersey assumes the discontinuance to which the FSP is referring is one pursuant to an order of an appropriate regulatory authority.
11. Reading service between Philadelphia, Pa. and Newark, N.J. via Bound Brook, N.J. is not presently under contract with NJDOT. The FSP recommends that ConRail seek a satisfactory financial support arrangement for the provision of this service; if such agreements are not executed by the time of conveyance, petition for discontinuance of the service should be filed with the proper regulatory authority.

12. ConRail should negotiate, where possible, with the various commuter authorities for new operating agreements with payments by each appropriate authority essentially on a "net avoidable cost" basis, with a provision penalizing the authorities for "freight train delay" and in accordance with the cost sharing "principles" set forth below.

Passenger - Freight Cost Sharing "Principles"

1. ConRail has the responsibility to provide satisfactory passenger service on all lines in its system in accordance with the various principles for sharing ownership and operating costs recommended by USRA.
2. Passenger service should not be subsidized by freight service and ConRail should not be burdened with any passenger deficit.
3. Passenger operations should have priority over freight operations.
4. The exclusive user of a facility should be its owner and should bear the full ownership, maintenance, and operating costs of the facility.
5. Where freight and passenger operators both use a facility, the dominant user should own the facility and bear all the costs of that facility except those which could be avoided if the minority user were not present.

6. To determine the dominant user, all passenger services, both intercity and commuter, should be considered as one entity and all freight services, regardless of carrier, should be considered as one entity.
7. In instances where two or more passenger entities jointly use an exclusive passenger facility, the responsibility for allocating costs on an equitable basis should be with the users.
8. Where passenger and freight operators both use a facility on an equal basis, the costs of owning and using the facility should be shared equitably.
9. Passenger entities should make their own arrangements for financing.

Northeast Corridor

1. The responsibility for provision of intercity passenger service resides with Amtrak.
2. Passenger and through freight operations should be separated in the Northeast Corridor between New York and Washington. Operationally, this separation will be accomplished by providing a through freight route comprised of segments of the B & O, Reading, Lehigh Valley, and CNJ. This through freight route includes the double track segment of the Lehigh Valley between Aldene and Newark required by CNJ passenger service and joint CNJ-Reading passenger service.

3. Freight operations should not be expected to bear the costs of the purchase of the direct capital costs associated with eliminating freight interference with the passenger operation on the Northeast Corridor.
4. Amtrak will acquire the Northeast Corridor properties where passenger service operates.
5. Responsibility for continuation of commuter service in the Northeast Corridor should be resolved between Amtrak and the various commuter agencies on an equitable basis.
6. Full operational control of Northeast Corridor traffic should be vested with Amtrak, i.e., it should be responsible for all signaling, dispatching and maintenance in the Corridor.
7. ConRail should provide operating crews, maintenance, personnel and line management support under contract as requested and required by Amtrak.
8. The Federal Railroad Administration recommends that a Disputes Board be created which would be charged with reconciling disputes on the Corridor between the intercity, commuter and freight services. The composition of the Disputes Board is not revealed in the FSP.

Undesignated Passenger Lines

The following line segments in New Jersey which presently carry commuter passenger service are not designated for acquisition by ConRail:

- Nassau to Princeton on PC Princeton Branch (703).
- Asbury Park to Bay Head Junction on NY & LB (1105).
- Palermo to Ocean City on PRSL Ocean City Branch (1808).
- Lindenwold to Lucaston on PRSL (1807).
- Hunter to Newark Interchange on Lehigh Valley Newark Branch.
- Bayonne "BV" to Elizabethport "FH" on CNJ Newark Bay Bridge (1102).
- Hoboken to West End on all EL lines.
- Orange to Summit on EL Morris Line (1201).
- Millington to Gladstone on EL Gladstone Branch (1204).

All of the above track segments adjoin track segments designated for transfer to ConRail. In each case, existing passenger service operates from designated to undesignated segments or vice versa, and in most cases use of the undesignated properties is essential to the continued provision of any of the service. See Table 2 below. ConRail is obligated to operate commuter rail service over the designated segments.

The FSP and the Act assure the continuation of passenger service over the undesignated properties of EL. Section 304(c)(2)(B). As for the undesignated segments owned by PC, CNJ and PRSL, the COA could offer a rail service continuation

STATUS OF NEW JERSEY COMMUTER RAIL PASSENGER SERVICES
UNDER USRA FINAL SYSTEM PLAN

Railroad and Service		Included in ConRail in N.E. Through Freight Alternative Routing Corridor	Part of N.E. Psngr. (& Local Frt.) Corridor (Washington-NY)	Not Included on ConRail Lines (Light-Density Branches)
Train Series Number	Origin and Destination			
PENN CENTRAL (PC)				
1100	Bay Head-New York			Bay Head Jct.-Asbury Park
3600	South Amboy-New York			
3700	New Brunswick-New York			
3800	Trenton-New York			Rahway-N.Y.C.
3900	Rahway-New York			Rahway-N.Y.C.
4100	Princeton Branch			New Brunswick-N.Y.C.
CENTRAL RAILROAD COMPANY OF NEW JERSEY (CNJ)				
800	Raritan-Bayonne			Princeton-Princeton Jct.
5300	Bay Head-Newark			Nwk. Bay Bridge-Bayonne
5400	Raritan-Newark			Bay Head Jct.-Asbury Park
5700	Phillipsburg-Newark			
5800	Cranford-Newark			
5900	Plainfield-Newark			
READING COMPANY (RDG)				
5600	Philadelphia-Newark			
PENNSYLVANIA-READING SEASHORE LINE (PRSL)				
100	Atlantic City-Lindenwold			Lucaston-Lindenwold
200	Ocean City-Tuckahoe			Ocean City-Palermo
300	Cape May-Lindenwold			Lucaston-Lindenwold

Table 2

STATUS OF NEW JERSEY COMPUTER RAIL PASSENGER SERVICES
UNDER USRA FINAL SYSTEM PLAN

Railroad and Service		Included in ConRail Line	ConRail in N.E. Through Freight Alternative Routing Corridor	N.E. Psngr. (& Local Frt.) Corridor (Washington-NY)	Not Included on ConRail Lines (Light-Density Branches)
Train Series Number	Origin and Destination				
ERIE LACKAWANNA RAILWAY COMPANY (EL)					
100	Montclair-Hoboken	Montclair-West End			West End-Hoboken
300	Summit-Hoboken	Orange-West End			Summit-Orange West End-Hoboken
400	Gladstone-Hoboken	Millington-Summit Orange-West End			Gladstone-Millington Summit-Orange West End-Hoboken
500	Morristown-Hoboken	Morristown-Summit Orange-West End			Summit-Orange West End-Hoboken
600	Dover-Hoboken (via M&E)	Dover-Summit Orange-West End			Summit-Orange West End-Hoboken
1000	Netcong-Hoboken (via Boonton Line)	Netcong-West End			West End-Hoboken
1000	Dover-Hoboken (via Boonton Line)	Dover-West End			West End-Hoboken
1100	Suffern-Hoboken	Suffern-West End			West End-Hoboken
1200	Waldwick-Hoboken	Waldwick-West End			West End-Hoboken
1600	Spring Valley-Hoboken	Spring Valley-West End			West End-Hoboken
50's	Port Jervis-Hoboken	Port Jervis-West End			West End-Hoboken

Table 2

subsidy rental to the estates to assure continued use of their properties in commuter rail service. Section 304(c)(2)(A). Due to a quirk in the Act, these rental arrangements will have to be in effect more than two weeks prior to the conveyance date.

Capacity Constraint Projection: Aldene to Newark

The ICC in its evaluation of the Final System Plan points out that USRA's plans for the Lehigh Valley trackage between Aldene and Newark interlocking project a freight density of up to 37 freight trains per day. At this time over this same trackage 54 daily CNJ and Reading commuter trains are operated pursuant to a pre-Act trackage rights agreement. The I.C.C. concludes:

"There is not sufficient capacity to handle the projected freight traffic in addition to the commuter traffic. Successful rerouting of all of the present Corridor through-freight service cannot be achieved until the capacity constraint east of Aldene is relieved." I.C.C., Evaluation of U.S. Railway Association's Final System Plan, p. 22.

The USRA Supplemental Report to the FSP, issued September 1975, acknowledges that combined freight and commuter traffic volumes to and from Newark will exceed the capacity of the Lehigh Valley route. The Supplemental Report alters the final structure of the FSP's operating plan with the following statement at p. 16:

"The Central of New Jersey (CNJ) line has been retained as a second route. Passenger traffic between Aldene and Newark might be rerouted via the CNJ to Elizabeth and the PC with a new connection being constructed between the CNJ and PC at Elizabeth."

FISCAL IMPACT OF FSP UPON NEW
JERSEY COMMUTER RAIL SERVICES

In testimony before the House Subcommittee on Transportation and Commerce, on September 9, 1975, USRA Board Chairman Arthur Lewis forcefully stated that unless passenger service contracts are straightened out within six months, ConRail would move to discontinue these services. He said that otherwise passenger service would prove to be "an enormous drain on ConRail." Moreover, Chairman Lewis specifically asked the House Subcommittee to include in its report on the FSP a specific recommendation approving the cost sharing "principles" enunciated in the FSP. These statements underscore the FSP's recommendation that the shifting of substantial costs from ConRail to the commuter authorities must be implemented if the FSP's forecasts of financial viability for ConRail are to be fulfilled. The I.C.C. report on the FSP pointedly observes that FSP pro forma financial forecasts for ConRail show a marked increase, in constant dollars, from 1973 to 1976 in anticipated receipts from passenger revenues and subsidies. The report observes that the commuter authorities and the taxpayers are to be required to support this aspect of ConRail's financial well-being. Interstate Commerce Commission, Evaluation of the U.S. Railway Association's Final System Plan, p. 35.

To implement this substantial shift of costs the FSP recommends a maximum bargaining posture for ConRail within the confines of its statutory "obligation" to continue to provide existing commuter services over lines which are required for freight service (FSP, p. 45). The FSP recommends that ConRail negotiate a new operating agreement with agencies, such as the COA, in accordance with the FSP's model and cost sharing "principles" relative to the PC, CNJ, PRSL and Reading operations. The FSP further states that these negotiations must be completed prior to conveyance if these commuter rail services are not be threatened with discontinuance proceedings.

The provisions of the model agreement proposed in the FSP are that the commuter authorities will pay basically the net avoidable costs of providing commuter passenger service. (FSP p. 45, ftn. 3). At this level, NJDOT would have no quarrel with the FSP, as the majority of COA operating assistance funds for commuter rail operations in New Jersey are now paid on this basis. Note, however, that the COA net avoidable cost determinations do not include consideration of "estimated charges for freight train delay attributable to passenger service." This factor is included in the USRA model agreement, notwithstanding the FSP's cost sharing "principle" that passenger service should have priority over freight operations. No formula or mechanism for qualifying freight train delay is presented.

Beyond the model agreement, NJDOT is particularly troubled by the cost implications of the FSP "principle" that the dominant user of a facility should own it and bear all costs of maintaining and operating the facility - except those which could be avoided if the minority user were not present. (FSP pp. 40-41). In other words, where passenger service is dominant, freight service rather than passenger service is treated as avoidable and pays avoidable costs, while passenger service bears the base costs of the facility. For example, on a double track railroad in which one track is required for freight service but two for passenger service, the passenger service would now be charged for the maintenance and ownership costs for two tracks instead of one. This reversal of cost allocation would be repeated many times throughout the railroad cost accounting process.

USRA does not specify the means by which the dominant user should be determined. Depending on the measures chosen, passenger service could be considered to be the dominant service in suburban New Jersey for most, if not all, operations on the EL, CNJ Main Line, PC Main Line, NY&LB and PRSL. In this connection, NJDOT anticipates that ConRail will move to terminate the October 1, 1967 COA-EL agreement by June 30, 1977, because it is based upon the principle that commuter service is avoidable. In light of ConRail's substantial bargaining power and announced determination to succeed financially by shifting costs to the commuter authorities, NJDOT is gravely concerned about leaving the determination of these measures to the bargaining process.

Most significantly, were the dominant user principle imposed upon all New Jersey suburban passenger services by July 1, 1977, the fiscal year impact upon operating assistance costs would be severe. Under this "principle", maintenance and operating costs and return on investment paid by the COA for commuter rail operations would increase by more than \$8 million for a year at 1974 cost levels. Using the USRA table of inflation factors (FSP, pg. 84), at 1977 cost levels the added annual burden to New Jersey from imposition of the "dominant user principle" will be about \$11 million or about 35 percent higher. This represents a 20 percent increase above the COA's current \$55 million assistance levels for commuter rail service in New Jersey. In all equity, should the FSP passenger service recommendations be implemented, the federal government should provide impact funds to the authorities for several years to enable them to adjust their budgets to meet new costs attributable to such implementation.

Another concern centers upon FSP policy that ConRail's freight operations should not be expected to bear the costs of eliminating freight interference with passenger operations on the Northeast Corridor. (FSP, p. 60). One can only infer that Amtrak and the commuter agencies which use the Corridor are to bear those costs. At this time NJDOT does not know the total costs involved in the freight by-pass, how much of these costs might be attributed to the Trenton-Newark Corridor segment and what pass-through policy Amtrak will adopt. See ICC Evaluation, p. 19.

Still a further concern to NJDOT is the potential ripple effect of the passenger dominant theory upon general corporate costs. If passenger service is dominant for a given line in ConRail, what effect, if any, does that have upon the portion of ConRail general corporate costs to be assigned to the service? Will ConRail executive office, legal staff, accounting, real estate, and other general office expenses be analyzed on a net passenger avoidable cost basis or on some other basis? The answers to these questions also carry heavy dollar ramifications, but the FSP is silent on them.

FSP recommendations that nine rail properties used in New Jersey commuter rail service not be designated for transfer to ConRail may also create additional fiscal demands on New Jersey's mass transportation capital funds, which are in short supply at this moment. NJDOT may find it to its advantage to purchase these lines in order to continue, in the most efficient manner, the present commuter rail operations. The net liquidation value assigned by the FSP to these properties is approximately \$1.2 million. It should be noted that this \$1.2 million is applicable only to purchases made pursuant to designations to ConRail in the FSP of an option to purchase these properties for conveyance to NJDOT. This low-cost procedure may, however, not be available to NJDOT. This could be most unfortunate since the estates have announced that they value these properties at five to ten times higher than USRA has. USRA officials have

informed NJDOT that in any purchase made pursuant to this option-and-transfer mechanism ConRail would require the State to indemnify it for any deficiency judgment entered against it by the Special Court as a result of a finding of insufficient value assigned to the purchased commuter rail property. Such a contractual requirement would disable NJDOT from using this mechanism, because no public official in the State may enter into an agreement with an unliquidated contingent liability for which a sufficient reserve appropriation cannot be established.

As indicated above, the FSP will cause a potential capital burden to fall upon New Jersey as a result of the capacity constraint resulting from maintenance of CNJ and Reading passenger service on a diversion of freight traffic to the double-track Lehigh Valley property between Aldene and Newark. The cost to build a third track between these points to accommodate all this traffic has been estimated at approximately \$60 million.

In summary then, the FSP's recommendations can impose a severe burden on the financial assistance program supporting New Jersey's commuter passenger service. Included in this burden are the following major components:

Charges for freight train delay attributable to passenger service. The impact as yet has been nowhere quantified. Methodology for estimating these costs will have to be de-

veloped through analysis and negotiation. No dollar figure is available but it could well be very substantial.

Facility maintenance and operations costs and return on investment in situations where passenger service is identified as dominant. The estimated added annual dollar impact on New Jersey in 1977, at 1977 level costs, is approximately \$11 million. This result is, in fact, discriminatory to commuter rail service. Not only will freight service not "cross-subsidize" passenger service but passenger service will be making a financial contribution to freight service over and above the net maintenance, operating and ownership savings which could be realized if the service were not continued.

General corporate overhead costs. The fiscal impact will depend on how this category of costs is treated in situations where passenger service is dominant. The potential added cost exposure for New Jersey is severe.

Purchase or lease of passenger carrying lines excluded from ConRail. The estimated dollar impact on New Jersey is \$1.2 million if these lines are purchased from ConRail; if, as may be nec-

essary, these properties are purchased directly from the estates, the purchase price could be considerably higher. Cost of easing capacity constraint on Lehigh Valley. The estimated cost of building a third track between Aldene and Newark on the Lehigh Valley to accommodate existing commuter and diverted freight traffic is \$60 million.

LEGAL AND LEGISLATIVE ISSUES
PRESENTED BY FSP

USRA converted its statutory obligation to respect the requirements of commuter rail service into the following principles enunciated in the FSP:

1. ConRail has the responsibility to provide satisfactory passenger service on all lines in its system; and
2. The provision of these services should not be subsidized by freight services and ConRail should not be burdened with any passenger deficit.
3. The commuter authorities must reach agreement with ConRail on passenger service contracts by conveyance date; if they do not do so ConRail will move to discontinue service.

As indicated above, certain commuter rail services in New Jersey are operated over segments of lines that have not been designated in the FSP for transfer to ConRail. The railroad estates owning these segments are expected to avail themselves of the Act's "quickie" discontinuance and abandonment procedures with respect to these segments as soon as possible. See Section 304(a) and (b). Under these procedures, not sooner than 30 days following the effective date of the FSP, the trustees may give notice of an

intent to discontinue service on a date certain which is not to be less than 60 days after the date of such notice. Thus, if the FSP becomes effective November 9, 1975, notices of discontinuance of commuter rail service over non-designated rail properties could be issued by December 9, 1975, and become effective by February 8, 1976. Discontinuance of commuter rail service over these rail properties could take place unless:

1. With respect to EL properties, the COA makes an offer to the estate (and presumably an operating agreement with ConRail) to continue service under the existing, binding agreement; and
2. With respect to properties on other railroads in reorganization, an offer to the estate (and presumably an operating agreement with ConRail) to continue service pursuant to a rail service continuation subsidy. Section 304(c)(2)(A) or (C).*

*The disparate timetables for discontinuance of service and mandatory conveyance create an anomaly. A rail service continuation subsidy must be offered by February 8 in order to prevent a discontinuance on that date. Yet, on the connecting commuter service over properties to be transferred to ConRail, the properties shall remain in the hands of the estates until February 27, the mandatory conveyance date. Thus, it would appear that the COA may be required to enter into a one-month operating agreement with the estate for the non-designated lines and then an operating agreement with ConRail to be effective on the conveyance date for service over the connected designated and undesignated segments. It would be preferable for all agreements, required by the act, to be effective on conveyance date. NJDOT, therefore, suggests that the Act be amended to provide that the date of discontinuance under Section 304(b)(1) and the mandatory conveyance date be identical.

The FSP recognizes the EL passenger agreement, dated October 1, 1967, as amended and supplemented, as binding upon ConRail. Pursuant to Section 303(b)(2), USRA views that agreement as an arrangement with a State under which financial support from such State was being provided at the time of enactment of the Act.

The FSP does not recognize the COA's contracts with PC, CNJ or PRSL as falling within the scope of Section 303(b)(2), although it is undisputed that the COA was providing financial support to the PC, CNJ and PRSL on January 2, 1974, pursuant to agreements which still exist. The FSP distinguishes the EL contract from the others on the ground that the former, even though it was significantly amended in June 1974, has remained in effect from January 2, 1974 to the issuance of the FSP and will continue to be in effect past the conveyance date. The COA's service agreements with the other carriers since the enactment of the Act contained a series of expiration dates falling subsequent to January 2, 1974, which expiration dates have been extended without interruption. This is an USRA position which the State of New Jersey may ultimately have to challenge in the courts.

The apparent stability gained from the FSP's recognition of the EL contract as binding is mainly illusory. This is so because the current EL agreement contains a provision whereby the contract may be terminated on June 30, 1977 upon notice of either party's

desire to do so.

The FSP places ConRail in an extremely strong bargaining position against the commuter authorities whose passenger service contracts it does not recognize as binding. To accomplish this, USRA has interpreted the Act to require the FSP to obligate ConRail to provide all rail service on a rail property which is designated for transfer to ConRail. Compare Sections 302(b) (ConRail directed to operate rail service over designated rail properties) and 304(a)(1)(A) (rail service may be discontinued if the FSP does not designate that it be operated). Thus, on the one hand, ConRail has "obligated" itself to operate these commuter rail services and cannot discontinue them without approval from the appropriate regulatory body; on the other hand, this interpretation of the Act deprives the commuter authority of the ability to offer a binding rail service continuation subsidy for passenger service, the standards for which have been (or could be set) by a neutral party, the Rail Services Planning Office, Section 304(c)(2)(A). Without the power to bind ConRail to a known set of guidelines, with the concomitant promise of commuter rail stability, the determination of contracted terms remains substantially where it has been - in the unpredictable arena of contract bargaining between the commuter authorities and a giant railroad which only begrudgingly considers itself

obligated to provide the service. This FSP designation of commuter rail service on included properties may also be challenged in the courts as a perversion of the FSP's goal with regard to meeting the requirements of commuter rail service.

Although the FSP set forth its proposals in a model agreement for negotiation with the commuter authorities, these are recommendations only and do not have the force of law upon ConRail. Were ConRail, a "for-profit" corporation, to suffer financial reverses in the near future, the commuter authorities have no protection against a ConRail effort to shift even more costs upon them. Even in the short term, a commuter authority appears dependent upon ConRail's interpretation of the ambiguous set of FSP cost sharing "principles" described above. Under present arrangements, ConRail, a self-interested negotiating party, will be left to decide what standards of measurement determine a passenger dominant line and what costs ConRail intends to shift to the passenger dominant user. NJDOT fears that after the FSP's freight restructuring is implemented the issue of freight or passenger dominance on particular lines will be more open to dispute than it now is. The resolution of these issues would best be left to a neutral party, such as the Rail Services Planning Office.

Another legal question calling for legislative solution is whether once the FSP has designated a rail property and the services provided thereon, does Section 304(e) prevent discontinuance of any of those services for at least two years after the FSP-designed rail system has been in operation. At pg. 223, the FSP seems to indicate that USRA construes Section 304(e) and 302(b) to assure that ConRail will operate all designated rail service over designated rail properties for at least two years. This is still another matter that may ultimately have to be adjudicated.

Still another statutory issue arises from the following possibility. After two years of operation, ConRail may desire to abandon, pursuant to Section 304(e), a rail property, such as the CNJ Main Line, over which freight and passenger service shall have been operated initially, but due to the FSP-phased restructuring of freight routes the line may become insignificant in the movement of freight. It might be argued that at that point a Section 304(c)(2)(A) rail service continuation subsidy offer - an automatic bar to discontinuance - would no longer be available to the State. See Sections 304(a)(1)(A) and 304(c)(1). This is another element of instability that needs legislative correction.

As indicated above, NJDOT has two other fiscal concerns that can and should be cured by action of the U.S. Congress. The first is the pass-through to state transportation agencies of that portion of a deficiency judgment entered against ConRail resulting from a Special Court finding of a valuation inadequacy by USRA with respect to property purchased for use in passenger service. The Congress should provide insulation from the pass-through for the acquiring state transportation agencies. The second is the possibility that the constraint created on the Lehigh Valley trackage between Aldene and Newark by the super-imposition of diverted Corridor freight traffic upon existing commuter operations will necessitate the construction of an expensive third above-ground track. The passenger service, operating pursuant to a binding pre-Act trackage rights agreement, cannot legally be dislodged. Therefore, Congress should provide reimbursement to the State authority, from sources other than existing Urban Mass Transportation Administration funds, for construction of the third track or an equivalent amount to be disbursed toward development of a substitute public transportation service.

NORTHEAST CORRIDOR

The Northeast Corridor (or PC Main Line), from Trenton to New York City, is an object of intense interest to New Jersey. The COA financially supports extensive commuter rail services which operate either wholly or partially over the Corridor. See Table 2. In addition, the State has invested substantial capital in the improvement of stations and other facilities on the Corridor. See Table 1. The PC Main Line passenger service has been fully re-equipped with modern equipment in the past 10 years. As can be seen from Table 1, the State, either through NJDOT or the Port Authority of New York and New Jersey, is planning for substantial capital investment on the Corridor itself or on passenger lines ancillary to it: for example, the pending applications for extension of electrification on the NY&LB and the plans for providing direct rail access to New York Penn Station for Erie Lackawanna riders. Thus, NJDOT has a large stake in decisions to be made by Congress concerning ownership, management and operation of passenger service and facilities in the Corridor.

The FSP recommends that Amtrak assume a wider role in the affairs of the Corridor. It is to acquire or lease the Northeast Corridor; it further recommends that Amtrak will be vested with full operational control of Corridor traffic, i.e., signaling, dispatching and maintenance in the Corridor. The FSP does not directly address the questions of whether Amtrak should assume

the responsibility for operating commuter service; how costs should be allocated between Amtrak's intercity services and commuter services; and the institutional arrangements for assuring the commuter operating authorities that their interests are not trampled by Amtrak.

In testimony before the House Subcommittee on Transportation and Commerce on September 11, 1975, Paul Reistrup, President of Amtrak, stated that full operational control over traffic in the Corridor is a "prerequisite." He stated that:

"Based on the principle that the best solution, wherever it can be achieved, is the single-system single-operator solution - and this should conform with the interests of the commuter agencies as well - the final outcome could involve Amtrak in commuter train operations of the Corridor as well as on the main-line spine of the corridor routes."

NJDOT is sympathetic to this view. It would welcome operational consolidation of all commuter services on the Corridor as well as those feeding into it. In the latter category are the NY&LB and CNJ services. NJDOT's support for Mr. Reistrup's position is leavened, however, by a concern that in this consolidation of operations over the Corridor New Jersey must retain a fair share of the decision-making power over activities and policies in the Corridor which affect it. It must be remembered that the Corridor is also the spine of New Jersey's commuter operations. Among all commuter agencies New Jersey probably uses the Corridor more intensively than any other. New Jersey's

concerns over fare policy, scheduling, points served, employee implementation of policy and, most important, access to the PC trackage east of Newark and New York Penn Station require institutional recognition.

The FSP, in recommending that Amtrak should be designated as the single operating entity responsible for coordinating freight and passenger service on the Corridor, mentions, but does not endorse, the Federal Railroad Administration's proposal for formation of an independent Disputes Board to reconcile major differences between intercity, commuter and freight users. An early draft of the Federal Railroad Administration's Corridor FSP implementation legislation provides for a three member board. The Chairmen of the Interstate Commerce Commission and the National Mediation Board and the Secretary of Transportation are each given the power to appoint one member. NJDOT totally rejects this composition of the Disputes Board. If there is to be any Disputes or Appeals Board, it must adequately represent the interests of the commuter authorities using the Corridor.

The allocation of costs on the Corridor between passenger and freight operations and, in turn, between commuter and intercity passenger services is of critical importance to NJDOT. In its calculations of the cost impact of the FSP upon New Jersey commuter operations, NJDOT found that shifts in cost allocations on the Corridor would result in the biggest cost increases. The recent record of Amtrak's dealings with Penn Central on the Corridor

and the COA's dealings with Penn Central over the cost of commuter services shows that cost allocation on the Corridor is a most knotty problem. The FSP states as one of its cost-sharing "principles" that to determine the dominant user for rail properties which support freight, intercity passenger and commuter services "all passenger services, both intercity and commuter, should be considered as one entity, and all freight services, regardless of carrier, should be considered as one entity." This principle is designed to assure that passenger service on the Corridor is deemed the dominant user, and thus will be required to absorb all ownership costs. The FSP leaves to Amtrak and the commuter agencies the task of resolving cost allocations between themselves on an equitable basis.

Another cost allocation problem may arise from the FSP's determination that ConRail should not (and presumably Amtrak should) absorb certain costs incurred in clearing the Corridor of through-freight traffic. It has been suggested that Amtrak may try to pass through a portion of these costs to the commuter agencies. NJDOT shall staunchly oppose any such pass-through as it is largely Amtrak's plans for expanded intercity service which are responsible for creating the freight capacity problems necessitating establishment of an alternate freight route.

NJDOT takes the position that all contracted commuter service on the Corridor should be considered avoidable. It bases that contention on the fact that federal legislation mandates the maintenance of intercity service on the Northeast Corridor through New Jersey into New York Penn Station; furthermore, the FSP mandates the continuation of full freight service on the Corridor in the short term and local freight services in the long run. The commuter service should, therefore, not be required, in any operating agreement, to absorb Amtrak's service on debt incurred in development of a freight bypass.

As can be seen from the foregoing, the process of determining cost allocations, on the Corridor in particular, should prove difficult. For this reason, NJDOT supports a plan which delegates to an impartial agency, the Rail Services Planning Office, the task of developing standardized guidelines for the determination of rail passenger subsidies.

NJDOT also seeks prompt support for the further development of its Corridor - related capital projects, such as Erie Lackawanna direct rail access to New York Penn Station, the renovation of Newark Penn Station, and improvement in access to Metro Park station. It is hopeful that additional funding may be made available for federal financing of Corridor commuter service improvements and that local development initiatives not be unduly restricted by whatever entity finally governs the Corridor.

Institutional Proposal

NJDOT suggests that the Congress establish a regional board composed of NJDOT, PA of NY&NJ, MTA and Amtrak (in the latter's capacity of owner and operator of intercity service). Voting power on the regional board would be weighted to reflect various measures of density of use of the Corridor between its jurisdictional limits, Trenton and Sunnyside Yard. The board would govern the Corridor within its jurisdictional limits. NJDOT would contract for commuter services with an operating affiliate of Amtrak or another available party. Disputes between commuter and intercity services could be appealed from the regional board to an Appeal Board, chaired by the Secretary of Transportation. The other members of the Appeals Board would be NJDOT, MTA and Amtrak.

○

