96th Congress
2d Session

COMMITTEE PRINT

COMMITTEE
PRINT 96–IFC 45

THE RAIL ACT OF 1980

Background Materials

PREPARED FOR THE USE OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

AND ITS

SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE

NINETY-SIXTH CONGRESS

SECOND SESSION

MAY 1980

U.S. GOVERNMENT PRINTING OFFICE

61–466 O

WASHINGTON : 1980

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LETTER OF TRANSMITTAL

Congress of the United States
House of Representatives
Committee on Interstate and Foreign Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

April 23, 1980

The Honorable Harley O. Staggers, Chairman
Interstate and Foreign Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

The Subcommittee on Transportation and Commerce, as well as the Interstate and Foreign Commerce Committee, will be considering the "Rail Act of 1980" in the near future. As you are aware, the issue of railroad deregulation is a very complex issue involving detailed economic regulations.

In order to assist the Committee and the House in considering this legislation, my Subcommittee has prepared a document of background material which relates to the "Rail Act of 1980". I would appreciate it if you would grant permission to have this document printed.

Sincerely,

James J. Florio, Chairman
Subcommittee on Transportation
and Commerce

JJF:bsw

Congress of the United States

House of Representatives

Committee on Interstate and Foreign Commerce
Room 2123, Rayburn House Office Building
Washington, D.C. 20515

April 28, 1980

Dear Colleague:

The Interstate and Foreign Commerce Committee is in the process of considering The Rail Act of 1980. It represents significant changes in government policies related to regulation of railroads.

It is our intention to fashion legislation which assures a strong railroad system for the nation, better service for railroad shippers, and a financially sound railroad industry. The background materials contained in this Committee Print have been put together for the convenience of Committee Members and other Members of the House of Representatives.

As the legislative process works its will on The Rail Act of 1980, we hope all Members of Congress will find these materials helpful in evaluating the various issues relative to regulation of railroads in 1980.

Sincerely,

Harley O. Staggers, M. C.

James T. Broyhill, M. C.

James J. Florio, M. C.

Edward R. Madigan, M. C.

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THE RAIL ACT OF 1980

Background Materials

PART I—ANNOTATED CHRONOLOGY OF FEDERAL RAILROAD LAWS (ECONOMIC)

Commerce Act (February 4, 1887, 24 Stat. 379).—This is the basic Interstate Commerce Act. It covered all rail or rail/water common carriage except for intra-state carriage. Provided for:

tariff publication;
10 days' notice;
unlawful to receive more or less than published;
rates must be just and reasonable;
no discrimination permitted;
long haul must be charged more than short haul;
free or reduced rates for government or charity;
Commission created (five members);
Commission power to hear complaints;
carriers required to afford facilities for interchange of traffic without discrimination;
pooling and divisions of revenue prohibited;
through rates must be published;
no carrier required to let another carrier use its tracks but interchange is required;
Commission may require annual reports and uniform system of accounts and has authority to inquire into carriers management;
Commission to issue orders and seek their enforcement in court; and
until 1935 Commission submitted an annual report of its own to the Secretary of Interior for transmission to Congress (In 1935 the law was changed permitting the Commission to report directly to Congress).

Act of March 2, 1889 (25 Stat. 855).—Related primarily to tariff publication: (1) posting of schedules and tariffs; (2) reductions require three rather than 10 days, and (3) joint rates brought under anti-discrimination requirement. It also gave the Commission subpoena power and the right to have any U.S. District Attorney act to enforce the law.

Elkins Act (February 19, 1903, 32 Stat. 847).—Made rebates to shippers unlawful.

Hepburn Act (June 29, 1906, 34 Stat. 584).—The Hepburn Act was a major extension and updating of the original Interstate Commerce Act. It expanded the Commission from five to seven members, added pipelines except water or natural gas, added express companies, sleeping ear companies and most other railroad-related facilities within the scope of the Act.

Specifically the Act made railroads "common carriers" and spelled out "common carrier duties" including (1) the duty to furnish cars, (2) the duty to provide sidings, etc., (3) the duty of strict liability for lading, (4) changed time for publication of both increases and decreases to 30 days, (5) required schedules to show joint and combination rates, (6) gave Commission authority to prescribe a rate or practice where it found an existing one to be unjust or unreasonable, (7) gave authority to Commission to prescribe joint rates and fix divisions, (8) required additional annual report data including accident causes, (9) established the commodities clause, i.e., carrier cannot haul its own product, and (10) permitted Commission to award damages.

Mann-Elkins Act (June 18, 1910, 36 Stat. 539).—The Mann-Elkins Act was a water carrier protection act and gave the Commission new powers which had the effect of shifting the burden of justifying rate changes onto the railroads. Specifically the Act (1) tightened up the discrimination provisions of long haul-short haul, (2) prohibited predatory pricing against water carriers, (3) added a duty to provide reasonable facilities and rates for through routes, (4) required confidentiality of bill of lading data, (5) made unreasonable regulations and practices for handling and transporting property unlawful, and (6) gave the Commission the power to suspend a rate increase pending hearings up to ten months.

Panama Canal Act (August 24, 1912, 37 Stat. 566).—The Panama Canal Act gave the Commission jurisdiction over rail/water movements but more significantly, it prohibited railroads from owning water carriers in competition with rail routes. The Act successfully headed off transportation companies.

Valuation Act (March 4, 1913, 37 Stat. 701).—The Valuation Act gave the Commission the responsibility for ascertaining the value of all property owned or used by every common carrier.

Cummins Amendment (March 4, 1915, 38 Stat. 1196).—This law related to strict liability for lading, set time limits for filing and permits rates based on value.

Second Cummins Amendment (August 9, 1916, 39 Stat. 441).—Further clarification of fact that carrier could limit liability where rates had been authorized based on value. The act also defined "ordinary livestock."

Esch Car Service Act (May 29, 1917, 40 Stat. 101).—The term "car service" was defined to include movement, distribution and returns of car. Each carrier was given a mandate to have reasonable car service practices and unreasonable practices were made unlawful. The Commission was given authority to require carriers to file their car service rules. The Commission was also given emergency authority to require movement or distribution of cars.

Commission Division Act (August 9, 1917, 40 Stat. 270).—Froze the filing of rate increases until after January, 1920 and enlarged the Commission to nine members with no more than five from the same political party.

Transportation Act of 1920 (February 28, 1920, 41 Stat. 474).—The Transportation Act of 1920 was an ambitious attempt to give the

Commission a more positive role in structuring an optimum railroad system for the country. The 1920 Act introduced the requirement for a carrier to obtain a certificate of convenience and necessity in order to extend its lines, begin new lines, or abandon old lines. The Act reinforced the duty carriers had to provide cars and equipment and the power the Commission had to force such action. It authorized the Commission to prescribe minimum as well as maximum rail rates and to prescribe minimum and maximum rates for joint rail-water movements. The time in which a rate could be suspended was cut back to 120 days and for the first time the Interstate Commerce Act was amended to include a provision recognizing the need for rates to match revenue needs. The Commission was given authority over joint use of facilities consolidations and mergers. In addition, pooling of freight and proceeds were permitted and the Commission was given authority to adjust divisions of revenue where there were joint rates, taking into consideration the carrier's financial situation and the public interest.

The 1920 Act also enlarged the size of the Commission to 11 members and placed restrictions on inter-locking directorates and various insider stock activities.

Act of June 7, 1924 (43 Stat. 633).—The Act simply related to the time for filing actions for recovery of overcharges before the Commission.

Act of July 3, 1926 (44 Stat. 835).—The Act simply extended strict liability for lading to property re-consigned or diverted in accordance with tariffs.

Mayfield-Newton Act (March 4, 1927, 44 Stat. 1446).—The 1927 Act clarified that with respect to strict liability for lading, an action could be brought against the carrier in the district or state where the carrier operated. It also permitted the Commission to provide reduced rates for transportation of property in case of earthquake, fire, flood, famine, drought, epidemic, pestilence or other disaster. The period in which a proposed rate could be suspended was changed from 120 days to 7 months.

Maples Amendment (April 23, 1930, 46 Stat. 251).—The 1930 amendment to the Interstate Commerce Act simply extended the time for filing a claim with respect to the strict liability for lading from 4 months to 9 months.

Emergency Rail Transportation Act (June 16, 1933, 48 Stat. 211).—The Emergency Transportation Act of 1933 placed a moratorium upon job reductions resulting from carriers trying to economize during the Depression by consolidating operations. No consolidations or operations took place under the Act. The Act also removed the standard for balancing revenue needs and rates (contained in the 1920 Act) and substituted that the Commission should give "due consideration . . . to the need for adequate and efficient service at lowest cost consistent with furnishing such service . . ."

Act of June 27, 1934 (48 Stat. 1264).—The Act was another effort to use the railroad system for combatting the effects of the Depression. Specifically, it gave the Commission authority to permit reduced rates for transportation of commodities specified by the Commission with the object of improving nationwide housing standards and improving employment and stimulating industry.

Motor Carrier Act (August 9, 1935, 49 Stat. 543).—The Act brought motor carrier regulation under the Interstate Commerce Act. Of lesser note, it authorized the Commission to report directly to Congress rather than through the Secretary of Interior and laid the foundation for port equalization rates.

Transportation Act of 1940 (September 18, 1940, 54 Stat 899).—The Transportation Act of 1940 made a number of technical changes in the Interstate Commerce Act. Most noteworthy among those changes was its encouragement of umbrella ratemaking whereby the rates set for one mode took into account the effect such rates would have on competing modes. Additional time was permitted for the filing of claims under strict liability for lading. The joint ownership or use of spurs, industrial teams, switching or side-tracks was liberalized, and a duty was imposed on railroads to establish through routes with connecting common carriers by water. The Commission was also given authority to transmit its recommendations for legislation directly to Congress. Furthermore, the 1940 Act authorized the Commission to divide itself into divisions so as to better do its work.

Reed-Bullwinkle Act (June 17, 1948, 62 Stat. 472).—The Act reversed Supreme Court decision and made collective rate making permissible for railroads. Specifically it added Section 5(b) to the Act whereby it placed a duty upon the Commission (upon application of carriers with a grant of anti-trust immunity or upon its own motion) to approve agreements between carriers if it finds them to be in the furtherance of the National Transportation Policy. This is the so-called rate bureau provision. The Reed-Bullwinkle Act also made it possible far carriers under Section 20(b)(1) i.e. 49 U.S.C. 11361, to change mortgages or provisions of loans except equipment trusts certificates. Such changes require the approval of the Commission.

Act of August 2, 1949 (63 Stat. 485).—The Act made a public hearing discretionary where the Commission was deciding the joint use of facilities. It also gave the Commission discretion where the Commission was considering mergers, consolidations or trackage rights. The Act also raised the Commissioners' salaries to $15,000.

Act of July 11, 1957 (71 Stat. 292).—The Act amended Section 4 (1) (49 U.S.C. 10726(a)(2) to permit carriers to charge the same rate over a circuitous route to meet the charges of carriers of the same type operating over a more direct route. In addition, the Act required section 22 government rates to be submitted to the Commission in writing unless national security was involved.

Transportation Act of 1958 (August 12, 1958, 72 Stat. 568).—The Act gave the Commission greater authority with respect to intrastate rates, particularly when the issue was one of discrimination. The 1958 Act also represented the first departure from "umbrella rate-making" since the Commission's construction of the 1940 Act. Finally the 1958 Act permitted more speedy approval of discontinuance of rail passenger service.

Act of September 27, 1962 (76 Stat. 635).—The Act made the long-short haul discrimination provisions not applicable to express companies.

Act of May 26, 1966 (80 Stat. 168).—The Act introduced the concept of incentive compensation for ownership of freight cars. Out

of this authority grew the incentive per diem provisions of the Commission.

Act of January 2, 1974 (87 Stat. 1021).—The Act gave the Commission the authority to provide emergency directed service. i.e. 49 U.S.C. 11125.

4–R Act (February 5, 1976, 90 Stat. 31).—The 4–R Act represented a major overhaul of the Interstate Commerce Act. Procedures at the Commission were speeded up by the imposition of statutory time limits. Rate making was excluded unless there was "market dominance" and minimum rates were permitted if they "contributed to going concern value" of the carrier. Car service charges (demurrage and per diem) were to be adjusted by the Commission to better reflect equipment costs and national needs. The adequacy of revenue standard was placed at a level permitting an economic profit on capital. Umbrella rate-making was once again stamped out and a number of innovative pricing options were introduced including peak-demand pricing. Merger procedures were expedited and labor protection added by statute to consolidations or abandonments.

Rail Transportation Improvement Act (October 19, 1976, 90 Stat. 2613).—The Act primarily cleaned up technical mistakes of the 4–R Act.

Department of Energy Organization Act (August 4, 1977, 91 Stat. 565).—The Act removed transportation of oil by pipeline from Commission jurisdiction and put it under the Department of Energy.

PART 2—STATUTORY DEVELOPMENT OF RAIL REGULATION 1887–1979

The purpose of this section of the Background Materials is to discuss the regulation of railroads by the Interstate Commerce Commission in the context of the following matters:

Scope of Regulation
Common Carrier Duties
Rate Standards
Rate Procedures
Freight Car Jurisdiction
Trackage Jurisdiction
Relationships among Railroads
Revenue Divisions
Corporate Requirements
ICC Organization
ICC Procedures

It is not the purpose of this discussion to include each and every addition to the law which expanded or changed the authority of the Commission to regulate railroads. To the extent practicable, however, the evolution of the law will be noted. Part I of these Background Papers shows in a nonfunctional way the expanding regulatory framework through the enactment of laws between 1887 and the present.

SCOPE OF REGULATION

The 1887 Act applied to any common carrier engaged in the transportation of passengers or property by railroad or partly by railroad and partly by water in the United States or between the United States and a foreign country. The 1887 Act excluded transportation of passengers or property shipped wholly within a state. It also defined "railroad" to include all bridges and ferries operated in connection with any railroad and all lines operated under lease or agreement.

In 1906 the transportation of oil or other commodities by pipeline except for water and natural gas was brought within the jurisdiction of the Interstate Commerce Commission. It remained within the Commission's jurisdiction until passage of the Department of Energy Act on August 4, 1977.

In 1906 the term "common carrier" was defined to include express companies and sleeping car companies. The term "railroad" was further defined so as to include all the facilities used by a railroad in connection with transportation.

The scope of regulatory authority over railroads by the Commission continues to be all-inclusive.

COMMON CARRIER DUTIES

The 1906 Act was the first specific reference to common carrier duties, and specifically provided that carriers had a duty to furnish

upon reasonable request, car service for the movement of interstate traffic tendered to it to the best of its ability and without discrimination. In 1917, and again in 1920, car service was defined so as to include movement, distribution, exchange, interchange and return of cars. Also the term "car service" was broadened to include locomotives and other vehicles used by a railroad for transportation purposes.

In 1917 the law was made clear that every carrier had a duty to establish, observe, and enforce just and reasonable rules and practices with respect to car service, and all unjust and unreasonable rules and practices were declared unlawful. In 1920 the duty was further expanded to make certain that the equipment was safe and that there was an adequate supply.

Strict liability for lading was imposed upon railroads by the 1906 Act. In other words, carriers were responsible for any damage under Commission regulations, although a shipper's right for actions in a court of law were preserved. In 1915 the law was further amended with respect to hidden damage, and carriers were prohibited from limiting the time period for filing claims to less than 90 days or from limiting suits to less than two years. In 1916 liability of carriers was clarified so that some limitation was placed upon the liability—at least to the extent that the rate had been set based upon a certain value.

By 1930 the time for filing claims for damage to shipments was extended from four to nine months, and the 1940 Act included joint carriage between rail and water under the strict liability for lading regulations.

Confidentiality of lading data was required in 1910. It became unlawful for a carrier to disclose to anyone the nature of shipments except where required to do so in a court of law.

Reasonable practices and regulations by carriers in connection with shipments were required by law beginning in 1910. It become unlawful for carriers to require unjust or unreasonable classifications, regulations, or practices. Not until the 4–R Act in 1976 was the reasonableness of demurrage charges put into the law. At that time the 4–R Act required that demurrage charges be computed and established in a manner which would fulfill national needs for freight car utilization and maintenance of an adequate freight car fleet. Prior to that time demurrage charges were held very low because of the necessity for railroad carriers to be "reasonable". Consequently, many shippers found rail cars to be cheap storage.

The publication of tariffs became a disclosure requirement from the time of the original Interstate Commerce Act in 1887. Every carrier was required to print and keep for public inspection schedules showing rates for transportation, places between which transportation was offered, classification of freight, terminal charges, and other rules and regulations felt necessary by the Commission. The schedules also had to be filed with the Commission. That requirement has continued to date.

No rate increases were permitted under the original act unless the carrier gave ten days public notice. In 1889 the law was amended to permit reductions in rates after three days notice. In 1906 the law was again changed requiring 30 days notice for either an increase or decrease in rates. Those requirements have remained virtually unchanged to date.

The 1906 Act required carriers to publish joint and combination rates with other railroads or water carriers. That Act also prohibited railroads from making any refund or rebate or exchanging any privileges or facilities not in accord with the tariff. This was a further modification of the original act which made it unlawful for a carrier to charge more or less than its published tariff.

RATE STANDARDS

The original act provided for "just and reasonable charges" for transportation of persons or property. That standard remained intact through the 4–R Act. The 4–R Act permitted a carrier to lower rates to "going concern value" even if the lowered rate was less than average variable cost. The 4–R Act also limited the Commission's jurisdiction over what constituted a just and reasonable maximum rate to those areas where the Commission found that the carrier had "market dominance" over the involved service. Market dominance was defined to mean the absence of effective competition. Recently the Commission's interpretation of market dominance has excluded any rates which are less than 160 percent of revenue to variable cost.

The relationship of rates to revenue needs of the carrier was introduced into the rate-making process in the 1920 Act. The 1920 Act directed the Commission to establish rates so that carriers as a whole (or as a whole in each rate group) would under honest, efficient and economical management and reasonable expenditures, earn an aggregate annual net railway income equal to a fair return on aggregate values of railroad property. The onset of the depression in the early 30's led to legislation which changed this standard. Specifically, the Emergency Transportation Act of 1933 changed the standard to "the need for adequate and efficient service at lowest cost consistent with furnishing such service and the need of revenue sufficient to enable carriers to provide such service." The imposition of this new standard with respect to revenue needs began a process which permitted the Commission to give revenue needs a very low priority in the matter of rate-making. The 4–R Act changed this provision of law to a standard for revenue need closer to the standard in the 1920 Act. The Commission was directed to determine an "adequate rate of return" for the railroad industry. (The Commission has found under this last provision that an adequate rate of return is somewhat above 11 percent—compared to the reality of less than 2 percent for the industry at present.)

Umbrella rate-making—whereby the Commission would hold the level of rates up for one mode in order to protect another mode—grew during the 30's, 40's, and 50's. In 1958 the law was amended to prohibit umbrella rate-making by requiring that "rates shall not be held up to protect traffic of any other mode, giving due consideration to the National Transportation Policy". Unfortunately, the restriction of giving due consideration to the National Transportation Policy meant that umbrella rate-making continued even though the Commission was less adamant in following that practice. The 4–R Act put an end to umbrella rate-making.

Preference to one shipper over another was prohibited from the time of the original Act. Many distortions in rates have evolved as a result

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of the anti-discrimination requirements, i.e., a movement toward equalization of rates regardless of the economic and physical circumstances.

The long- and short-haul discrimination provision contained in the original Act was further strengthened in 1910 to apply whenever rail routes paralleled water routes.

The 4–R Act began to move away from rigidity in rates caused by anti-discrimination requirements when the seasonal rates provision was enacted. Specifically, the Commission was permitted to establish seasonal, regional, or peak demand rates for rail services.

Intrastate rates were not regulated by the original act. The 1920 Act, however, gave the Commission authority over intrastate rates which resulted in undue or unreasonable advantage, preference or prejudice between persons or localities in intrastate commerce or presented an undue burden on interstate commerce.

Free or reduced rates for the government were contained in the original act, and in 1927 reduced rates were permitted for transportation of property in case of earthquake, flood, fire, famine, epidemic, pestilence, or other disaster. In 1957 the law was changed to require the publication of government rates unless disclosure would endanger national security.

The 4–R Act permitted rate differentiation in other categories as well as seasonal and peak demand categories. A separate rate was permitted for separate and distinct services. A special rate was permitted to encourage capital investment in equipment, e.g., Big John grain hoppers.

RATE PROCEDURES

The original Act in 1887 provided for a complaint procedure before the Commission. Any person, organization, or body politic complaining of anything done or omitted to be done by any common carrier was allowed to petition the Commission for redress. Once the complaint was filed, the Commission notified the carrier, which could right the wrong. If the carrier corrected the wrong, that was the end of the matter. If the carrier did not, the Commission had a duty to investigate the complaint. No complaint could be dismissed because of the absence of direct damage to a complainant. In 1910, the complaint procedure was broadened to permit a complaint to be brought by another common carrier.

In 1906, the law was amended to permit the Commission to prescribe just and reasonable rates, if necessary, and to permit the Commission to issue a cease and desist order against any carrier. The Commission was also permitted to prescribe divisions of joint rates.

In 1910, suspension and investigation power was given to the Commission. Upon its own motion or a complaint pending a hearing, the ICC was permitted to suspend the operation of a rate schedule or defer its use for up to 120 days; and if the hearing could not be completed within 120 days, the suspension could be extended an additional six months. The 1920 Act cut back suspensions in that an extension of time was limited to 30 days, rather than six months. However, in 1927, the period of time during which the Commission could suspend a proposed rate increased from 120 days to seven months with no further extension. Not until the 4R Act was the suspension power reduced. The 4R Act provided that the Commission may not suspend an increase on the grounds that it exceeds a just and reasonable

maximum if the carrier does not have market dominance. In addition, there was a 7 percent zone of freedom permitted for a two-year period following January 1, 1976.

The 4R Act also placed the burden of proof on the complainant to establish that the proposed rate change will cause substantial injury to the complainant and that it is likely that the complainant will prevail on the merits. However, the carrier still has the burden of proof to show that the proposed rate is just and reasonable.

Collective ratemaking—the practice of carriers getting together to establish rates—was a custom long followed and not prohibited by the Interstate Commerce Act. In the mid-1940's, the Supreme Court found the practice to violate the antitrust laws. As a result of that decision, the Reed Bullwinkle Act was passed (over President Truman's veto) placing a duty on the Commission to approve agreements between carriers if it finds them to be in the furtherance of national transportation policy. Once the Commission approved a rate agreement—which it did readily—the carriers were not subject to antitrust law violations. In the 4–R Act, permissible rate bureau activity was slightly narrowed. Railroads were required to apply to the Commission for approval of rate bureau agreements. The Commission was given broad authority to investigate such agreements and required to review such agreements every three years.

FREIGHT CAR JURISDICTION

In 1906, the original Act was amended to place upon carriers the duty to furnish freight cars. In 1917, this duty was further defined by making certain that car service included movement, distribution, exchange, interchange, and return of cars. Also, every carrier had to establish, observe, and enforce just and reasonable rules and practices with respect to car service, and failure to do so was made unlawful.

The 1917 Act also permitted the Commission to establish reasonable rules, practices, and regulations with respect to car service, including classification of cars, compensation to be paid for the use of non-owned cars, and penalties for non-observance of the rules.

It was not until 1966 that the law was changed to require that the Commission in fixing such compensation for the use of freight cars should give consideration to the national level of ownership of such type of car and determine whether such compensation should be computed solely on the basis of ownership expense or whether it should include an incentive element of compensation. This latter provision led the Commission to establish the incentive per diem car hire provision.

The 4–R Act further modified the Commission's role in determining car hire charges by requiring that basic per diem charges be fixed on basis of car ownership costs. This has resulted in per diem charges being adjusted to more adequately reflect the cost of the car.

The 1917 Act also gave the Commission the power to take immediate action in an emergency with respect to supply of cars, with or without hearing or notice, either upon complaint or its own motion to suspend operation of any or all regulations with respect to car service for such time as determined by the Commission, and to make such just and reasonable directions to best serve the interest of the public and commerce of the people. The Commission was given the authority to issue directions as to car service through agents. Failure of a carrier

to comply with direct order with respect to car service was made subject to penalties. The 1940 Act made it unlawful for anyone to bribe anybody else in order to obtain cars.

The 1920 Act made direct reference to coal cars. Specifically, the law made it a duty of every carrier to make just and reasonable distribution of coal cars among coal mines served by it whether located on its lines or customarily dependent upon it for car supply. The 4–R Act somewhat modified this requirement by permitting a distinction to be made between unit trains and non-unit train shipments.

TRACKAGE JURISDICTION

The 1920 Act—which in many ways was an attempt to make the railroad industry into an effective cartel—prohibited any carrier from extending or constructing new lines unless it first obtained from the Commission a certificate of present or future public convenience and necessity. The 1940 Act made it clear that the Act permitted contracts between carriers without Commission approval for joint ownership or joint use of spur, industrial team, switching or sidetracks. The 4–R Act changes the substantive test from whether "the present and future public convenience and necessity require" to "the present and future public convenience and necessity require or will be enhanced" by such construction or operation. It also deleted the authority of the Commission to require a carrier to extend its line or provide safe and adequate facilities. It also specifically exempted from regulation the "acquisition" as well as the construction and operation of spur, industrial team, switching or sidetracks.

Abandonment of track was brought under Commission jurisdiction by the 1920 Act. Specifically it required a certificate from the Commission that the present or future public convenience and necessity permitted such an abandonment. The 4–R Act sets specific time frames in which the Commission must consider an abandonment of line or discontinuance of service and established the branch line subsidy program which, in effect, permits intervention by a state to directly or indirectly subsidize a line in lieu of abandonment.

Switch connections were required by the 1906 Act by requiring a common carrier to provide upon reasonable terms a switch connection or private sidetrack where such is reasonably practical and will furnish sufficient business to justify it. The common carrier is also required to furnish cars without discrimination, and refusal to do either gives the Commission jurisdiction over a complaint and the power to order that such switch be installed.

Joint use of facilities was provided for under the 1920 Act. Whenever the Commission was of the opinion, after a hearing, that acquisition of control of one carrier by another, not involving consolidation of such carriers into a single system, was in the public interest, it could approve such control if consistent with its plan for creation of a limited number of balanced railroad systems. The Emergency Transportation Act of 1933 modified the standard to make joint use lawful, with the authorization of the Commission, for any carrier, or two or more carriers jointly, to lease or contract to operate the properties or any part thereof of another, whether or not it was consistent with the Commission's plan for creation of a limited number of balanced railroad systems.

The 1940 Act, in modifying the merger standards, also made it possible for the Commission to stipulate conditions for the approval of joint use. The 4–R Act modified those conditions by expanding the notice and comment procedures and labor protection standards. It also established time frames for applications and Commission action.

Terminal areas, permitting interchange of traffic, were regulated under the original 1887 Act. However, no carrier was required to give the use of its tracks to a competing carrier. The 1920 Act empowered the Commission to require a carrier to permit another carrier to use its terminal facilities upon payment of just and reasonable compensation.

RELATIONSHIPS AMONG RAILROADS

Emergency routing powers were given to the Commission by the 1917 Act. The Commission was given the power to take immediate action in emergency with respect to supply of cars. In 1974 it was made explicit that the Commission could authorize or direct one railroad to operate properties of another if essential services were threatened to be terminated. This directed service power, which is limited to 240 days, is presently being used by the Commission with respect to the Rock Island. The Commission's attempts to use its more general emergency service powers were not successful in the Rock Island case since the court held the authority 49 U.S.C. 11123 was not broad enough to permit the Commission to direct other carriers to provide service on parts of the Rock Island. Consequently, the Commission used its 1974 authority under 49 U.S.C. 11125 but with the concurrence of carriers who planned to acquire parts of the Rock Island that it should be without compensation. Normally, under 49 U.S.C. 11125 the Commission has to pay the carrier providing the service.

Joint routes and rates were first required under the 1906 Act which gave the carrier the duty to furnish transportation and establish through routes having just and reasonable rates. Where the carriers could not agree the Commission was given authority to establish through routes and joint rates and to fix the division of revenue between the carriers involved. The 1910 Act added the requirement that the carriers had a duty to provide reasonable facilities for operating through routes and reasonable rules for exchange of cars.

The 1920 Act provided that divisions could not unduly prefer or prejudice any participating carrier. In 1940 the duty to establish through routes with connecting common carriers by water was added.

Cancellation of joint routes was made more difficult by the 1940 Act by placing the burden of proof on the carrier proposing such cancellation to show that it was consistent with the public interest. The 4–R Act relaxed that burden somewhat by mandating that the Commission in considering proposed cancellations of through routes should compare distance, time, and expense over involved routes and recognize the reduction in energy consumption in overall impact on shippers and carriers affected.

The Commission was given authority to prescribe just and reasonable rates with respect to joint routes and rates in 1910. All orders of the Commission under this provision were originally limited to two years, but the 1920 Act and the 1940 Act expanded the Commission's power in this area by permitting it to establish through routes and prescribe joint rates if it found that the through route proposed is needed.

Interchange discrimination was prohibited from 1887, but under the original act no carrier was required to give the use of its tracks to a competing carrier. The 1920 Act permitted the Commission to require one carrier to use another carrier's facilities upon payment of just and reasonable compensation.

The Commission was given power over consolidations and mergers in the 1920 Act, and the standard for approval was if such consolidation was consistent with the plan to create a limited number of balanced systems. The 1940 Act had introduced certain conditions for approval of mergers. Those conditions were to be added when the Commission found them to be in the public interest. The Commission found labor protection to be in the public interest as well as conditions designed to benefit the economic interests of carriers not involved in the merger or consolidation. The 4–R Act put time limits on the Commission in its consideration of merger consolidation cases. It also codified the need for labor protection and discouraged inclusion of weak carriers as conditions for mergers.

The 4–R Act also established an expedited merger procedure in which the Secretary of Transportation was to play a promotional role. The regulations prescribed by the Department of Transportation in order to get the Secretary involved in this expedited merger procedure tend to present such a burden that the expedited procedure has not been used.

Pooling proceeds between carriers was prohibited under the 1887 Act. The 1920 Act permitted the Commission to approve pooling of freight or proceeds of other carriers. The 1940 Act extended the Commission's authority to approve pooling between railroads and water carriers.

REVENUE DIVISIONS

Division of revenues was originally left to the carriers themselves. In the 1910 Act, the Commission was given the authority to prescribe just and reasonable divisions when the carriers failed to agree. The 4–R Act established new time frames for the conduct of proceedings before the Commission for the adjustment of divisions.

The problem with joint rates centers around the determination of fair and equitable revenue divisions. A division of a joint rate is the share of the revenue each railroad receives for its portion of the through route. Clearly, the optimal method for determining divisions is by the voluntary agreement of the railroads. The ICC has had authority since 1906 to prescribe divisions of joint rates when carriers are unable to agree among themselves.

The Transportation Act of 1920 gave the ICC the authority to set divisions on its own initiative, as well as upon complaint. The provision for intervention, even in the absence of a disagreement among carriers, recognized that the public interest in the division of rates takes precedence over private contractual rights.

Under the 1920 Act, the ICC was authorized to consider not only what is just, reasonable and equitable between carriers, but also the financial needs of particular carriers. Divisions became one means for distributing earnings to weaker roads considered essential to the rail system.

In 1922, the Commission granted the New England railroads a blanket increase in freight divisions with all connecting lines due to the special operating handicaps and serious financial difficulties of the

New England railroads. In 1923, the Supreme Court affirmed the ICC ruling by holding that the Commission had the power to grant a larger division, if the financial need of the weaker roads and the public interest required it, providing that an adequate share was left to the other carrier to avoid a "confiscatory result". This was the first time the Commission prescribed divisions on a territorial basis. By 1922, the rate structure was so complex that group divisions were considered a practical necessity.

Regional groupings are used to resolve interterritorial division disputes. These cases apply to all or a major portion of the interterritorial interline traffic, i.e., traffic that is carried by two or more carriers across regional boundaries. Interterritorial divisions cases are enormously complex, lengthy, and costly. In the Official-Southern divisions case (also referred to as the North/South Divisions Case) the revenues, as settled, totaled nearly one-half billion dollars. (The case lasted from 1952 to 1965.)

The 4–R Act ordered the Commission to establish procedures to expedite division cases. Evidentiary proceedings must be completed within one year after a complaint is filed (two years if brought by ICC initiative), and the Commission must act within 270 days after completion of evidentiary proceedings. The statute has a clause allowing the Commission longer if it needs it. Of course, ICC decisions may still be appealed. (Typically, divisions cases used to take from three to ten years to resolve.)

In response to the 4–R Act directive, in 1976 the ICC adopted administrative procedures in order to expedite divisions cases. Carriers participating in a divisions dispute are required to present evidence on several factors but the Commission may use its discretion with regard to the weight it gives to each of these factors (if it considers them at all). The Commission must consider all statutory criteria, but it is not required to give equal weight to each item or to justify the factors it considers or weights used.

The major objections raised by railroads with respect to the Commission's approach to divisions cases is their substantial reliance on cost based factors, rather than giving adequate consideration to the other statutory criteria, i.e., efficiency, revenue needs, the public interest, and whether a line is an originating, intermediate, or delivery carrier.

In trying to determine an equitable revenue split between the two carriers, each carrier's costs of providing the service has effectively become the Commission's overriding concern.

The Commission has tended to cost out segments of the traffic using Rail Form A. Form A costs are based on historical averages and do not accurately reflect carriers' fully allocated costs. The Commission requires that costing studies be based on Form A, if more reliable methods are not available. Modifications to Form A may be used, but other methods are only acceptable to the extent that they present more accurate cost data.

Ultimately, the joint rates issue is reduced to the century-old battle between the Northeastern and Southern railroads: Are the higher costs of the Northeastern railroads a function of the transportation and economic characteristics of the Northeast or are they a function of carrier productivity? The answer is probably some combination of both reasons. (In the 1930's and 1940's, the situation was reversed.

The Northeastern carriers were financially better off than carriers in less industrially developed regions).

CORPORATE REQUIREMENTS

Accounts and reports were required from the carriers under the original act, and the Commission was given the discretion to require all common carriers to conform to a uniform system of accounts. The 4–R Act required the Commission to create a uniform cost and revenue accounting and reporting system for all railroads in lieu of the former discretionary power of the Commission to prescribe a uniform system of accounts. The new accounting system required by the 4–R Act has yet to be implemented. Proposed regulations by the Commission have come under criticism in that they may be requiring information for information's sake.

Railroad securities were brought under the Commission's jurisdiction by the 1920 Act. The Commission continues to have primary jurisdiction in this area although in some instances the Securities and Exchange Commission has concurrent jurisdiction. The 1920 Act also subjected interlocking directorates to approval by the Commission.

The commodities clause was added to the act in 1906. Under the commodities clause, it is unlawful for any railroad company to transport interstate any article or commodity, other than timber and products thereof, manufactured, mined, or produced by it or under its authority or in which it has an interest except as may be necessary in the conduct of its business as a common carrier. The original purpose of the commodities clause was to prevent discrimination against non-carrier shippers. The creation of holding companies and subsidiaries has made it possible for railroads to carry such commodities at the same rate charged other shippers.

The discrimination requirement of the original act tended to preclude credit preferences among shippers. The 1920 Act made explicit the fact that the Commission had jurisdiction over the extension of credit. Specifically that act provided that no carrier shall deliver or relinquish possession of freight without payment of charges except under Commission rules.

The Panama Canal Act of 1912 prohibited railroads from owning water carriers and, except for trucking companies grandfathered in by the 1935 Motor Carrier Act, railroads may not own trucking companies.

ICC ORGANIZATION

The original Commission was composed of five members. In 1906 its membership was enlarged to seven. In 1917 its membership was enlarged to nine. In 1920 the Commission membership became eleven members, and continues at that level today although not all Commission positions have been filled.

ICC PROCEDURES

The procedures of the Commission have changed little over time. Basically the Commission may investigate on its own or upon a complaint. Over the years the Commission was given the power to issue orders and to prescribe rates or practices.

Part 3—Railroad Capital Shortfall

BACKGROUND

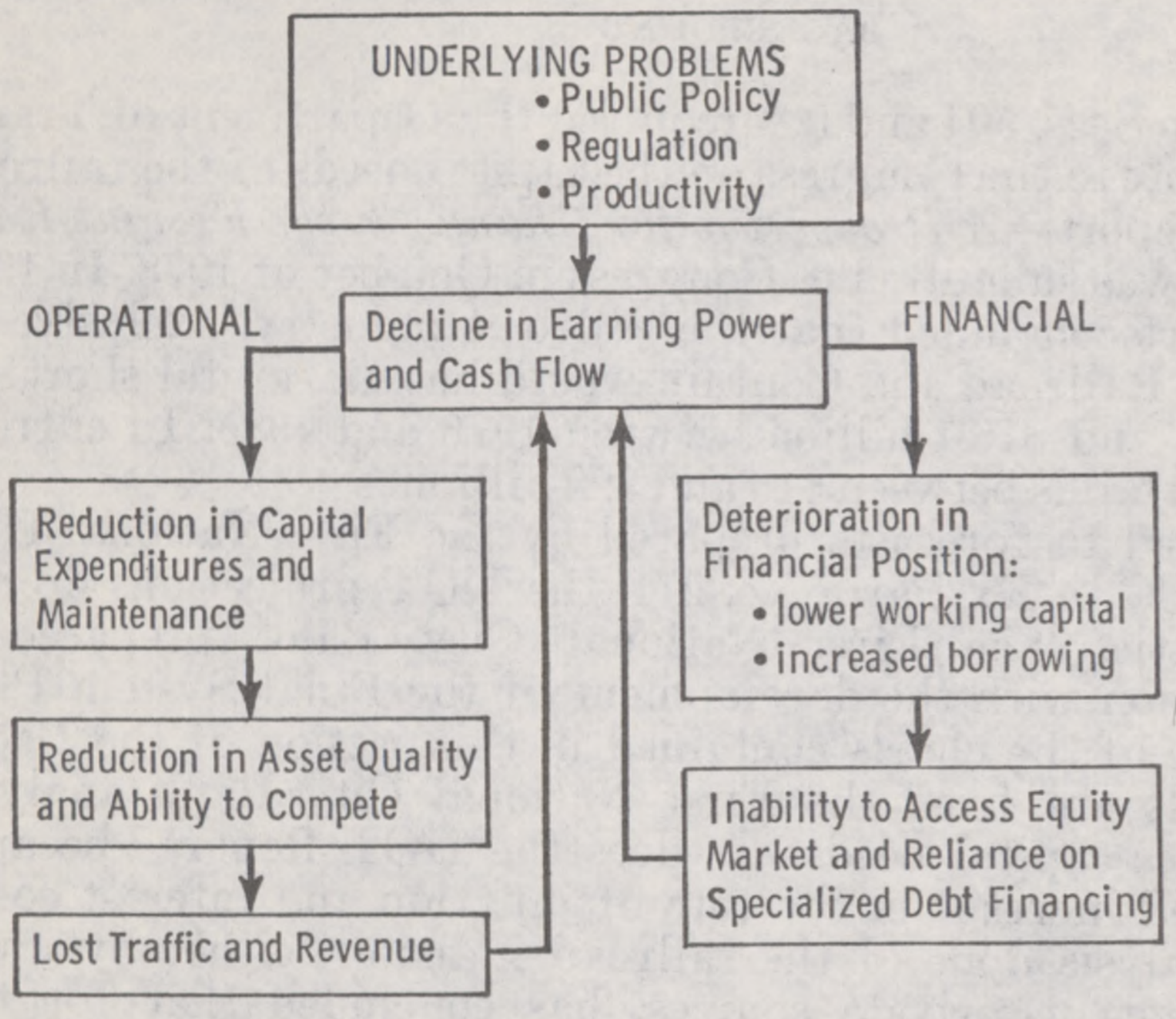
The 4–R Act in Secs. 504 and 901 required the Department of Transportation to report to the Congress on the capital needs of the railroad industry. That report—*A Prospectus for Change in the Freight Railroad Industry*—was submitted to Congress in October of 1978. In 1978 dollars the report concluded that the railroad industry, exclusive of the Long Island Railroad and Conrail, would have a capital shortfall of between $13.1 and $16.1 billion between 1976 and 1985. In current dollars that shortfall is between $16 and $20 billion.

When compared to forecasts prepared by the First National City Bank and the ICC in Ex Parte No. 271, the DOT projections do not appear unrealistic. The First National City Bank prepared a study in connection with the development of the Final System Plan by USRA. Some of the charts contained in this section of the Background Materials are from the First National City Bank analysis which understates capital needs—as does the DOT Report—because of the unexpected increase in the rate of inflation and interest costs.

All of the analysis done of the railroad industry, either by itself or by government or private sources, has concluded that for the period 1976 through 1985 the industry would have a significant capital shortfall. The simple fact of the matter is that the railroad industry is a capital-intensive industry which for several decades has had inadequate earnings to maintain its plant and facilities at a level necessary to achieve improved services. The following flow chart illustrates how this inadequacy of capital tends to feed upon itself, causing further deterioration of the system:

CHART 3-A

Rail Industry Decline



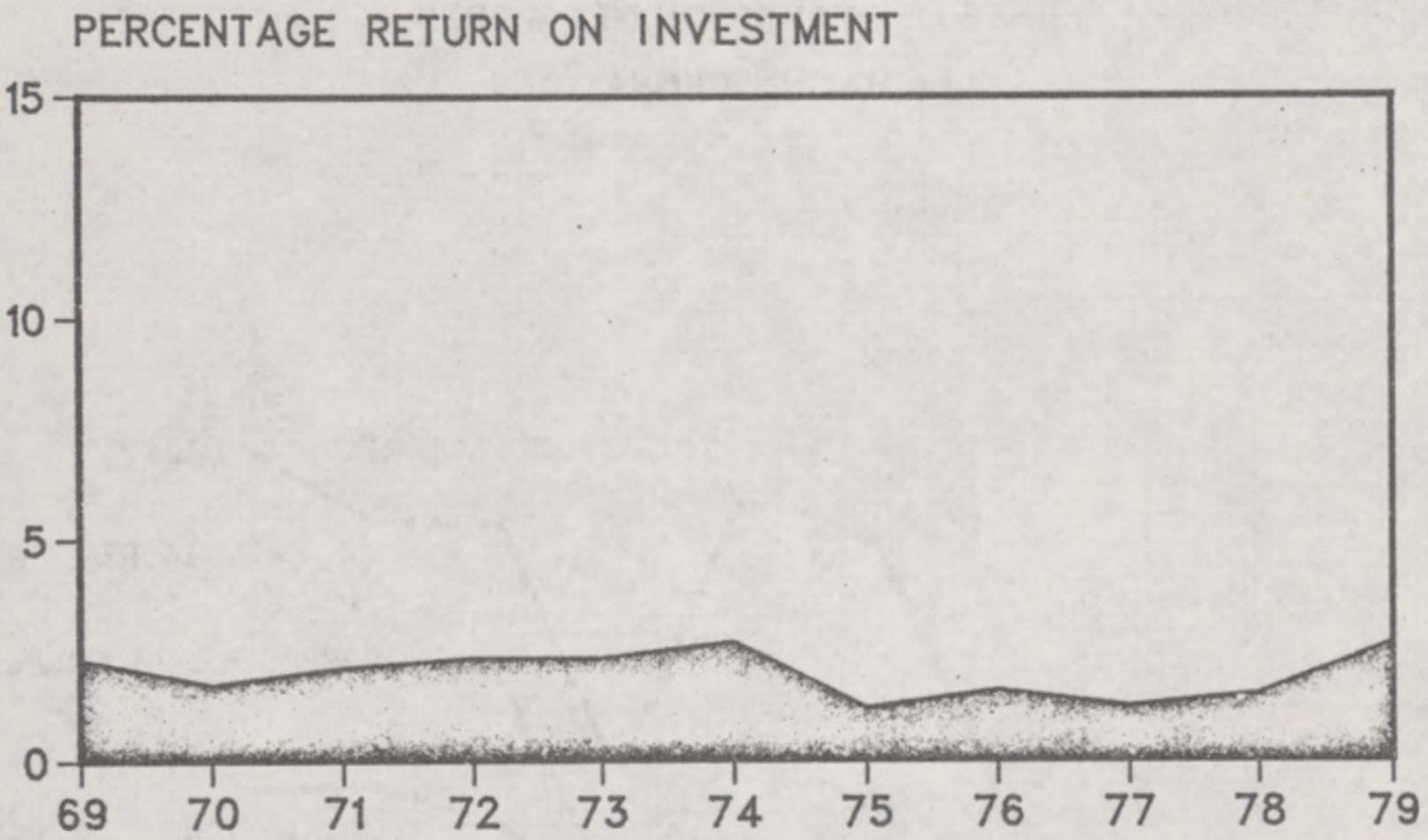
Low earnings and cash flow levels have led railroads to cut back on needed capital expenditures and to reduce maintenance on existing plant facilities and rolling stock. The subsequent reduction in asset quality has resulted in a deterioration in the railroad's ability to offer quality service and compete with other transportation modes. The accompanying loss of profitable traffic has impacted revenues and ultimately earnings, completing the cycle.

On the financial side, due to the insufficient earnings and cash flow, railroads have sought to fund expenditures by drawing down working capital and by increasing the level of debt financing. The result has been a deterioration in both liquidity and capital adequacy. The combination of poor earnings prospects and poor asset quality has effectively closed the equity market to railroads and forced a further reliance on specialized debt financing such as equipment trust certificates, at increasing interest costs. The ensuing negative impact on earnings and capital structure have perpetuated the downward financal spiral.

The 4–R Act required the Commission to determine an adequate rate of return for the railroad industry. The Commission has determined that the industry should be achieving an 11 percent rate of return. The following graph, covering the last decade shows that railroads have consistently been far below that rate of return.

CHART 3-B

RAILWAY RETURN ON NET INVESTMENT HAS BEEN INADEQUATE



NOTE: Rates of return shown above would be lower if adjusted for tax treatment.

Source: Railroad Reports to ICC

In its analysis First National City Bank noted:

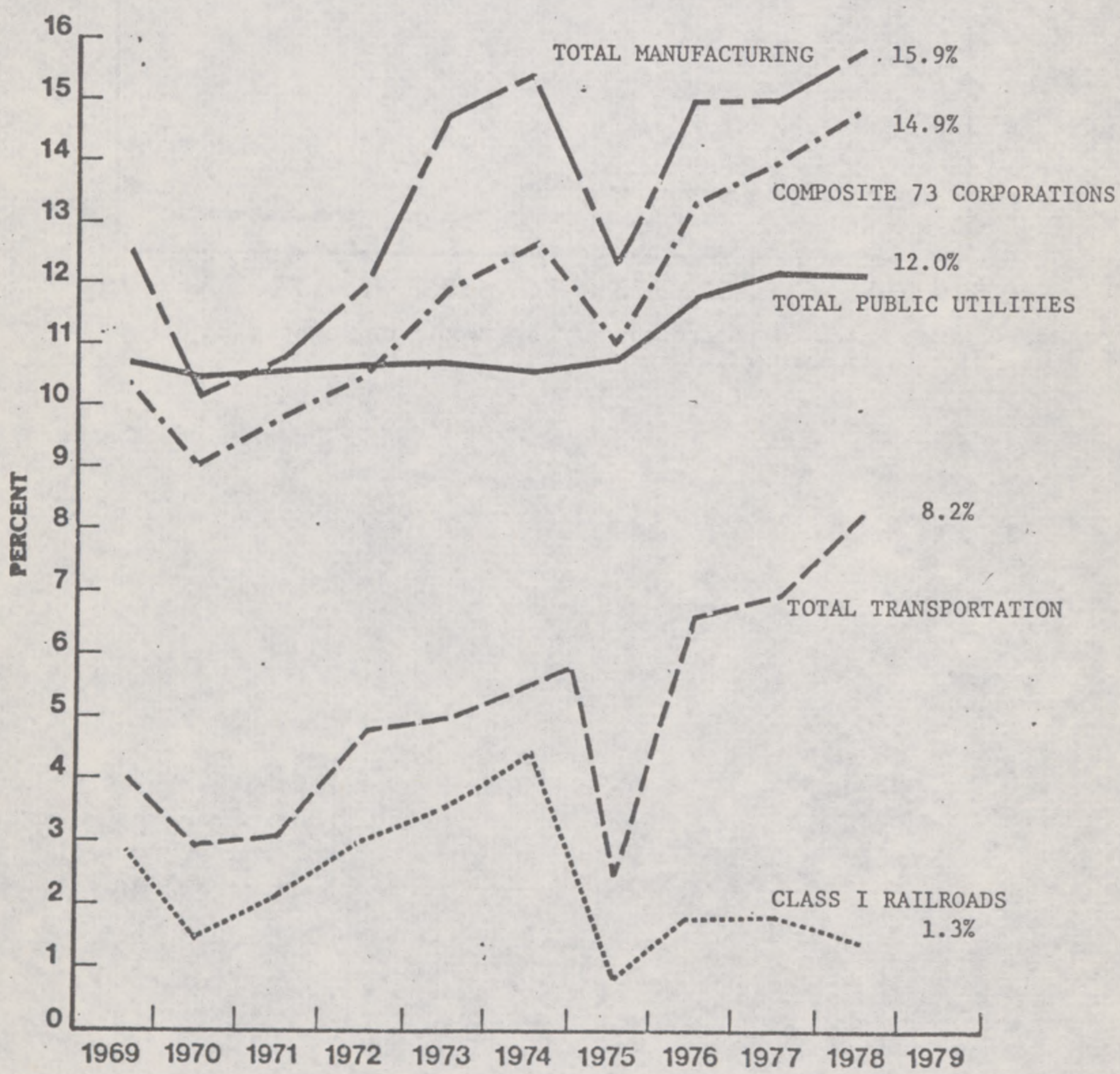
> There is no better measure of overall financial conditions than the rate of return on investment. The low return on investment is the most apparent symptom of rail industry decline. (P. 68, First National City Bank Analysis.)

One way to better understand the significance of rail rate of return is to compare it with the rate of return on net worth for leading corporations. The following graph shows that difference:

CHART 3-C

RATE OF RETURN ON NET WORTH

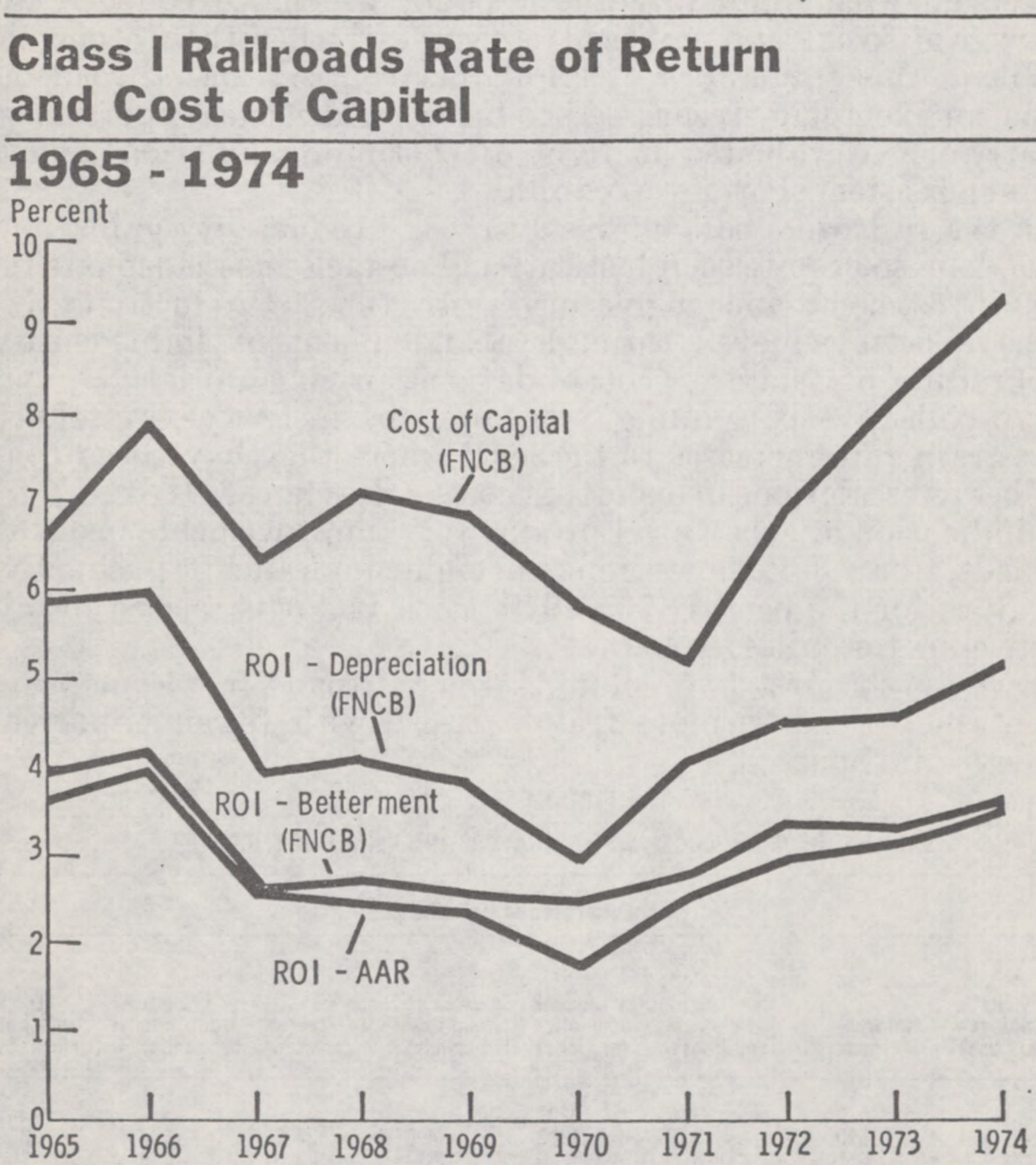
LEADING CORPORATIONS



Source: Citibank

It is often argued by some that the rate of return used for the railroad industry is distorted because the industry uses a betterment accounting method which permits expense of certain capital expenditures on track rather than depreciation. Even taking into account that difference, the rate of return for the railroad industry is still dismal. The following chart covering the period 1965 to 1974 shows that there is little difference between the determination of rate of return using the depreciation method or the betterment method.

CHART 3-D



SOURCE: Association of American Railroads (AAR) - Yearbook of Railroad Facts
Moody's Transportation Manuals and Supplements
Salomon Brothers — An Analytical Record of Yields and Yield Spreads

BANKRUPTCIES

The inevitable result of costs exceeding profits is bankruptcy. The railroad industry since 1967 has seen eleven major bankruptcies. The seven major bankruptcies in the Northeast which led to the formation of Conrail have resulted in a direct cost to the government already in excess of $3 billion. That direct cost will become considerably larger once the government settles the litigation involving the valuation of the property taken over by Conrail and Amtrak.

To date it is at best uncertain whether or not that direct federal investment will lead Conrail to become a healthy corporation. Clearly, absent improved business opportunities, Conrail will continue to suffer financial losses.

The Midwest bankruptcies involving the Milwaukee and the Rock Island continue to cost the government money even though one railroad is being liquidated and the other substantially reduced in size.

PRODUCTIVITY AND EFFICIENCY GAINS

In a regulated industry like railroading, both productivity and efficiency are somewhat limited by public policy which is frequently directed towards social and political objectives rather than economic goals. Within this framework of regulatory control, the railroad industry has an exemplary record of productive and efficient operations, particularly when evaluated in light of continuing inflation, and a serious and persistent shortage of capital.

It is in the railroads' best interests to seek productivity gains, and they have done so despite such institutional obstacles as inadequate returns on investment, and regulatory restrictions. Productivity increases have been achieved through abandonment of light-density lines, upgrading of facilities, consolidations, pricing initiatives, and innovative collective bargaining.[1] Ensuing productivity gains have helped restrain rate increases to the level where they have been consistently below escalations in operating costs. (See chart 3–K.)

As an indication of substantial productivity improvements made by the railroads, Chart 3–E shows trends in eight single-factor productivity indicators for the period 1967–1978. Each factor is related to rail freight revenue ton-miles.

As shown in the first two columns, the railroads in recent years have been able to handle more freight traffic with fewer employees working less total hours.

CHART 3–E

SINGLE-FACTOR PRODUCTIVITY INDICATORS IN FREIGHT SERVICE

	Freight revenue ton-miles per—							
Year	Employee (millions)	Employee-hour	Average route miles operated in freight service (millions)	Active locomotive (millions)	Serviceable freight car (thousands)	Freight car-mile	Freight train-mile (thousands)	Freight train-hour (thousands)
1967	1.4	579	3.4	42.1	457	24.3	1.7	34.9
1968	1.4	590	3.5	43.2	490	24.7	1.7	35.4
1969	1.5	611	3.6	44.6	512	25.3	1.8	35.7
1970	1.5	616	3.7	44.1	511	25.6	1.8	36.1
1971	1.5	605	3.6	41.9	494	25.3	1.7	35.2
1972	1.5	637	3.7	42.0	527	25.6	1.7	34.4
1973	1.7	696	4.1	44.6	575	27.2	1.8	35.4
1974	1.7	695	4.1	43.5	581	27.7	1.8	36.0
1975	1.6	676	3.7	40.4	533	27.3	1.9	37.5
1976	1.7	712	4.1	42.3	577	27.8	1.9	37.7
1977	1.8	738	4.2	43.3	609	28.7	1.9	38.3
1978	1.9	777	4.5	44.6	640	29.5	2.0	38.5

Source: Railroad reports to the ICC.

[1] A 1979 study by the BLS indicated that rail productivity, based on output per employee-hour registered a 12.2 percent gain in 1978 over 1977, the largest increase of any industry included in the study.

The table also reflects similar improvements in traffic density and utilization of equipment. The significant improvement in freight-car utilization is due not only to larger cars, heavier loadings, and faster trains, but also to industry-wide innovations in introducing such operating techniques as unit trains, piggyback trains, run-through trains and systems improvements, such as centralized car location and automated distribution systems.

The issue of economical service parallels that of productivity in that: (1) it is in the best interest of railroads to increase efficiency—i.e., hold down costs and eliminate waste and redundancy, (2) many of the factors which affect costs (operating and capital) are only partially within the control of railroad management, and (3) within their restrictive environment, railroads have a creditable record of efficiency.

Railroads have an obvious motivation to increase efficiency. Lower costs per unit of service restrain the need for, and level of, rate increases, thereby improving the industry's competitive position. It is in the spirit of efficiency that railroads have rationalized the physical plant, ameliorated restrictive work rules, introduced more automated equipment, and consolidated operations.

In the past several decades, a persistent problem in the railroad industry has been the acceleration of operating costs in the face of diversion of remunerative traffic. Such cost increases are an obstacle to economic efficiency. That the railroads have responded positively is supported by the productivity indicators shown in the preceding table.

Railroad resources are being put to increasingly productive use and costs, where controllable, are being restrained through railroad action. The productivity record of the rail industry is one of significant accomplishment.

CURRENT RAILROAD FINANCES

Despite the modest improvement in railroad earnings indicated by preliminary 1979 financial reports, the fact is the industry's level of profitability remains unquestionably inadequate. There is no evidence that the industry's pervasive revenue need has been alleviated by short-term gains of moderate dimensions.

This is clearly demonstrated by the 1979 rate of return on net investment (ROI) of 2.68 percent which represents a continuation of the persistent low profit levels that have plagued the railroads in recent years. (See Chart 3–B earlier in this Part.) This low ROI is far below any reasonable measure of adequacy, including the 11 percent cost of capital recently proposed by the Commission as essential to viability. The railroad's rate of return has not exceeded 3 percent since 1966.

During the past decade, various major capital need studies (some already referred to) have provided comprehensive analyses of investments that are required to provide a viable rail transporation system.

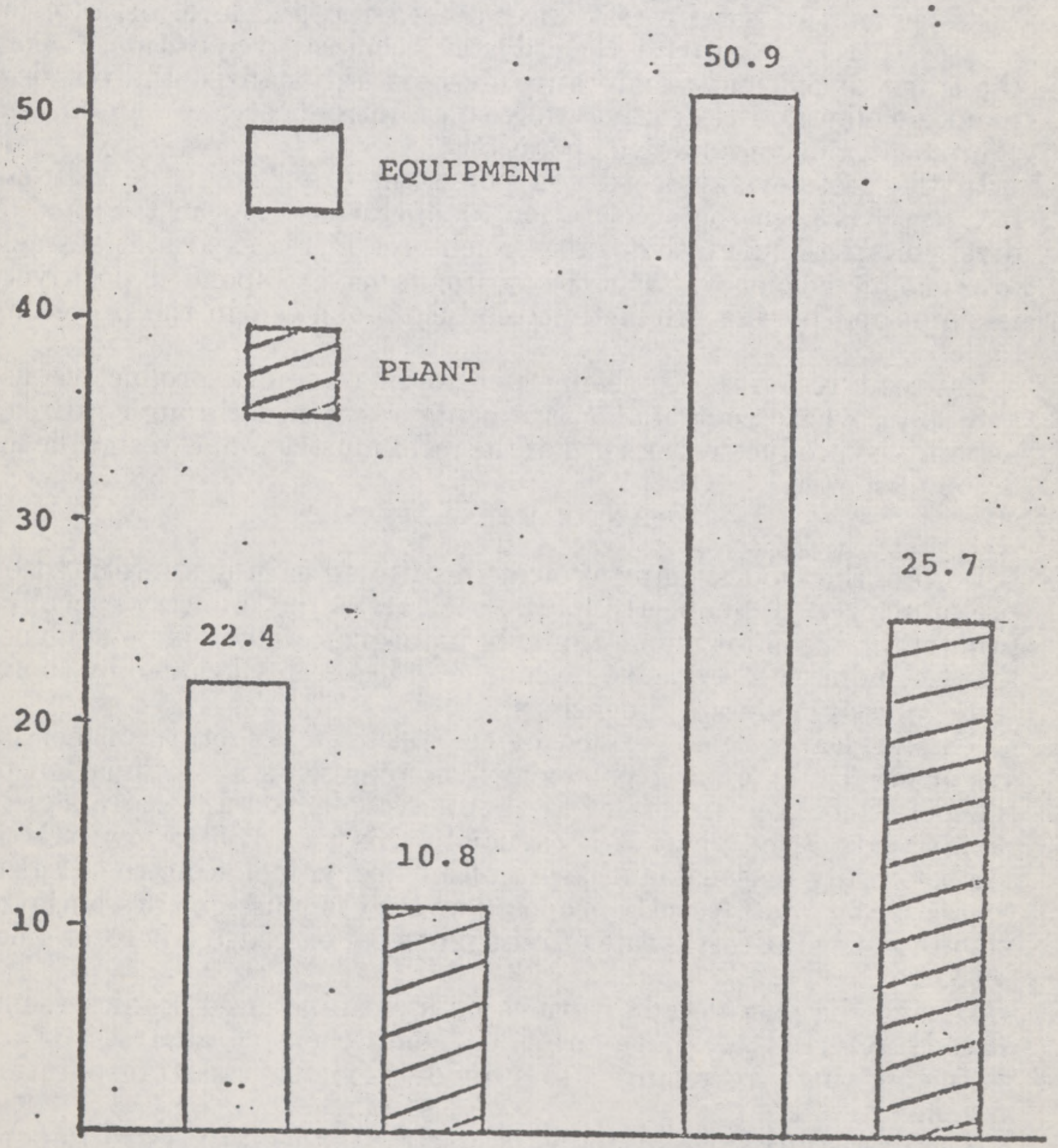
The first study done by industry itself was the 1970 Astro Report. It projected a 10-year investment need of $33.2 billion. When adjusted for inflation by updating to 1979 cost levels, the 10-year needs soars to $76.6 billion.

In 1974, the Astro methodology was used to provide an update of Astro I forecast. These forecasts should be viewed against the fact that the industry spent only $20 billion during the 1969 to 1979 period for capital needs. Chart 3–F and 3–G show the Astro I and Astro II estimates adjusted to reflect inflation.

CHART 3-F

ASTRO I

PROJECTED TEN-YEAR INVESTMENT REQUIREMENTS

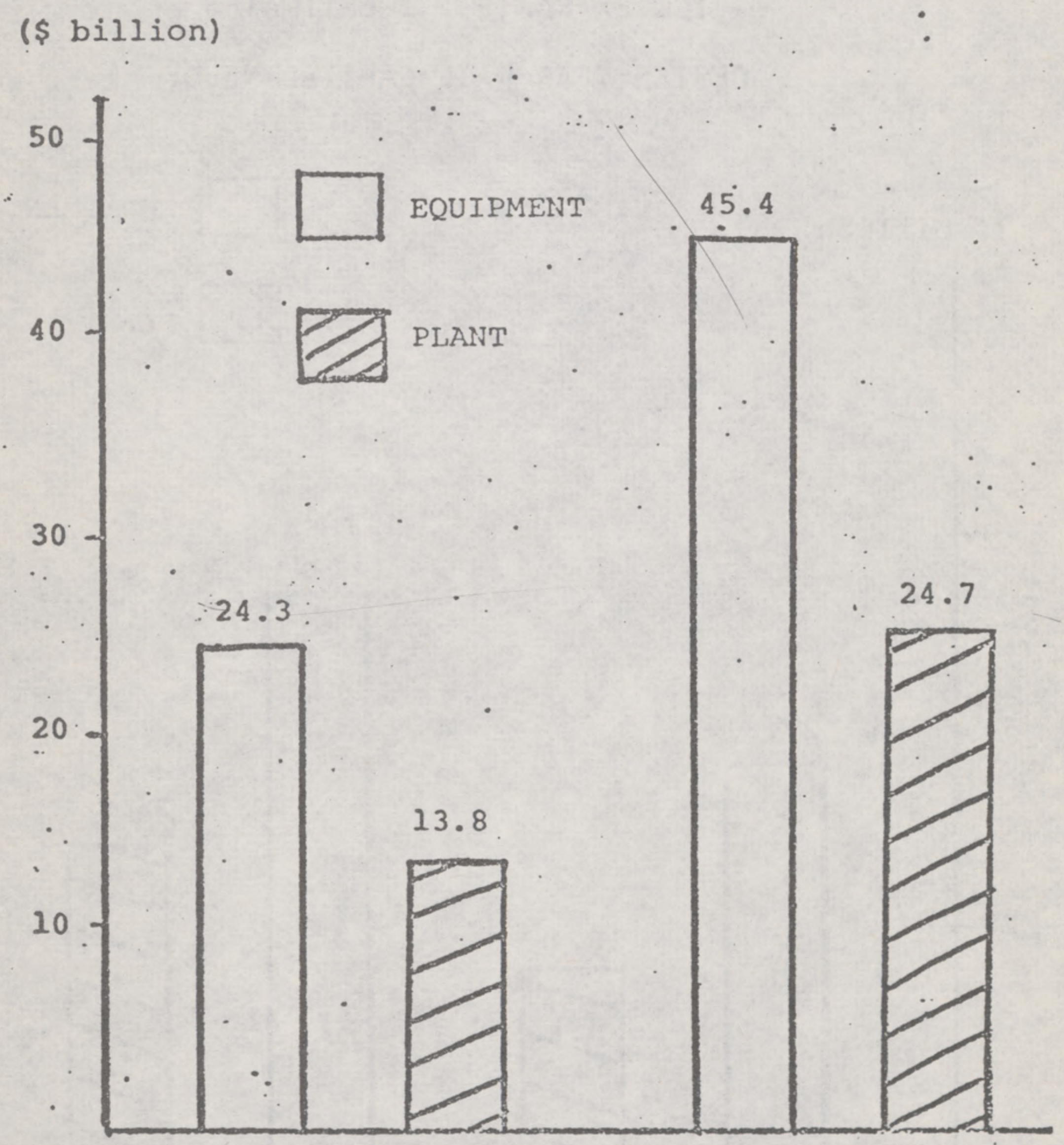


SOURCE: ASTRO I, AAR.

CHART 3-G

ASTRO II

PROJECTED TEN-YEAR INVESTMENT REQUIREMENTS



REQUIRED INVESTMENT

SOURCE: ASTRO II, AAR.

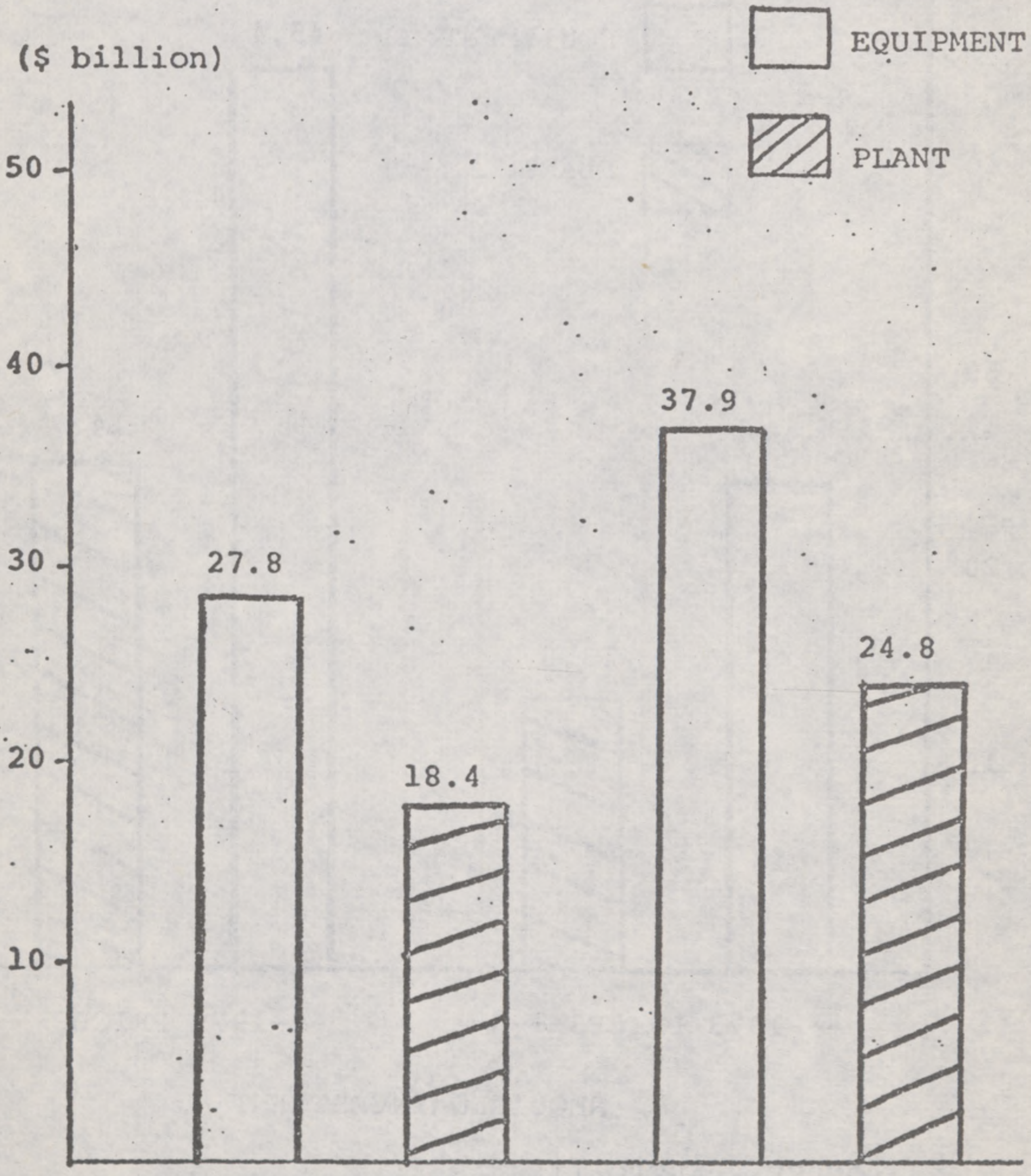
61-466 O - 80 - 3

The Interstate Commerce Commission in Ex Parte 271 showed more modest needs than the industry studies but nevertheless they were more than three times greater than the current rate of railroad investment in capital needs. Chart 3–H below shows the ICC capital needs estimate adjusted to 1979 prices:

CHART 3-H

ICC EX PARTE 271 ESTIMATES

OF TEN-YEAR RAIL CAPITAL NEEDS

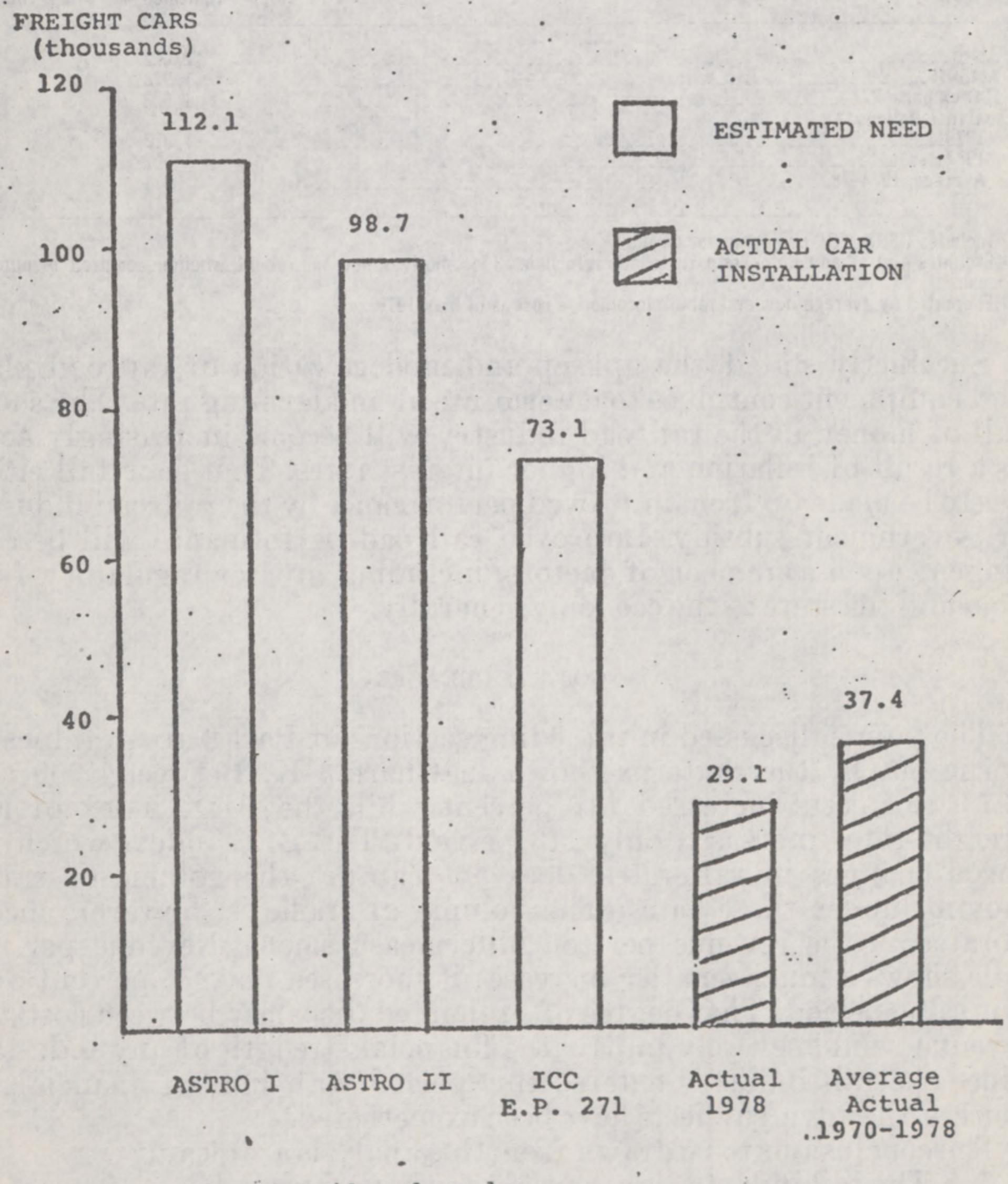


SOURCE: ICC, AAR.

Freight cars and locomotives are by far the largest components of the industry's capital requirements. Chart 3–I shows the estimated freight car installation requirement identified by the Astro studies and the ICC Report. As these figures show, the lowest of these estimates is nearly twice the average installation rate of the years 1970 to 1978.

CHART 3-I

COMPARISON OF REQUIRED AND ACTUAL
ANNUAL FREIGHT CAR FLEET EXPANSION *



* Class I Railroads only.

SOURCE: ASTRO I, ASTRO II, ICC, AAR.

The industry shortfall with respect to needed locomotive installations is even more dramatic. Class I railroads average 931 units per year installed over the 5-year period 1974 to 1978. The lowest of the five study estimates—the Commission's projections—is 74 percent higher than the average rate of installations over that period. The other four estimates are approximately double the current installation rate. Chart 3–J shows these differences:

CHART 3–J

COMPARISON OF ACTUAL LOCOMOTIVE INSTALLATIONS WITH STUDY REQUIREMENTS

Study	Average annual installations indicated	Average annual cost, May 1979 prices (millions)
1. Astro	2,002	1,183
2. Astro II	1,978	1,125
3. ICC ex parte 271 [1]	1,623	1,080
Actual installations: [2]		
1978	1,312	[3] 775
1977	992	[3] 586
Average, 1974–78	931	[3] 550

[1] Includes USRA, FSP projection for ConRail.
[2] Excludes Amtrak and Auto-Train. Installations include all locomotives, new and rebuilt, whether acquired by purchase or lease.
[3] Estimated by average new and rebuilt locomotive cost as of May 1979.

Succinctly stated, the upkeep and modernization of railroad plant and equipment continues to deteriorate at an alarming rate. The shortfall of money in the railroad industry will become increasingly acute as a result of inflation and higher interest rates. That shortfall either has to be made up from improved performance by the railroad industry or government subsidy. Improved railroad performance will be contingent upon a number of factors, including greater regulatory freedom and the state of the economy generally.

COST INCREASES

The points discussed in preceding sections of Part 3 are graphically borne out by the patterns shown in Chart 3–K. Between 1969 and 1978, rail costs increased 147 percent while the BLX index of rail freight rates increased only 113 percent. The BLS index, which records changes in rail rates, does not capture the volume of traffic moving under those rates. The volume of traffic is, however, incorporated in the revenue per ton mile measurement. Revenue per ton mile shows a much smaller increase; it increased only 76 percent over this same period. That degree of prolonged disparity between cost and revenue would severely impair the financial strength of any industry. Since the rail industry entered this period with limited financial resources, the adverse effects have been exacerbated.

The conclusions to be drawn from this analysis are clear:

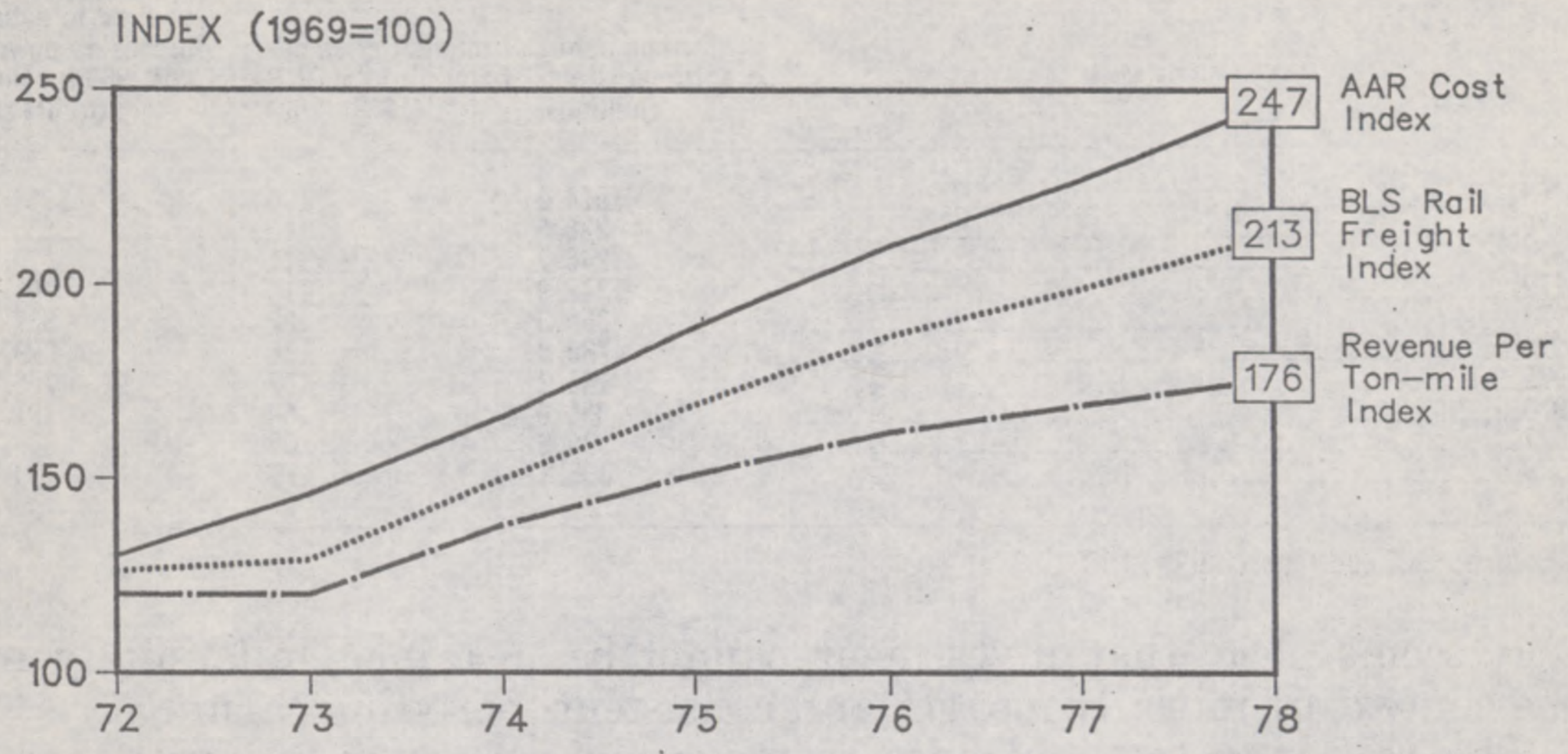
The rail industry is essential to economic growth.

The strength of the rail industry is clearly linked to flexibile management response to perennially changing market conditions.

Reduction of the scope and intensity of regulation is essential to improve financial performance of the rail industry.

CHART 3-K

COST INCREASES HAVE OUTPACED RATE INCREASES



Source: Railroad Reports to ICC, Bureau of Labor Statistics, AAR

EFFECTS OF INFLATION ON RAIL EARNINGS

The pernicious effects of inflation have been particularly acute for the rail industry. Chart 3–L shows clearly the inexorable erosion of net return on investment (NROI). When adjusted for the effects of inflation, the 1978 NROI is 62 percent below the 1969 level. Moreover, even on a nominal basis, without recognition of the deteriorated purchasing power of the dollar, the 1978 NROI is still 35 percent below 1969 earnings. This prolonged decline is disturbing to the rail industry and should be alarming to the shipping community served by that industry. As noted previously in this report, the rail industry has maintained consistently high levels of investment throughout this period. The dilution of rail earnings, in terms of purchasing power is also shown in Chart 3–M. 1978 earnings would have to triple to equal the purchasing power of 1969 earnings.

CHART 3–L

RAILWAY REAL (CONSTANT DOLLAR) EARNINGS HAVE DECLINED

[Dollar amounts in millions]

Year	NROI in current dollars	Implicit price deflator for GNP	"Real" NROI
1969	$655	100	$655
1970	486	105	463
1971	595	111	536
1972	654	115	569
1973	650	122	533
1974	768	134	573
1975	351	147	239
1976	452	154	294
1977	343	163	210
1978	427	175	244

Source: Railroad reports to the ICC.

CHART 3–M

INFLATION HAS DISSIPATED RAILWAY EARNINGS

Year	Income before extraordinary items (millions)	Implicit price deflator for total GNP (1969=100)	Income before extraordinary items required to equal purchasing power of 1969 income (millions)
1969	$514.2	100	$514.2
1970	226.6	105	539.9
1971	246.7	111	570.8
1972	318.9	115	591.3
1973	359.3	122	627.3
1974	730.2	134	689.0
1975	144.2	147	755.9
1976	355.0	154	791.9
1977	325.6	163	838.1
1978	306.8	175	900.0

Source: Railroad reports to the ICC.

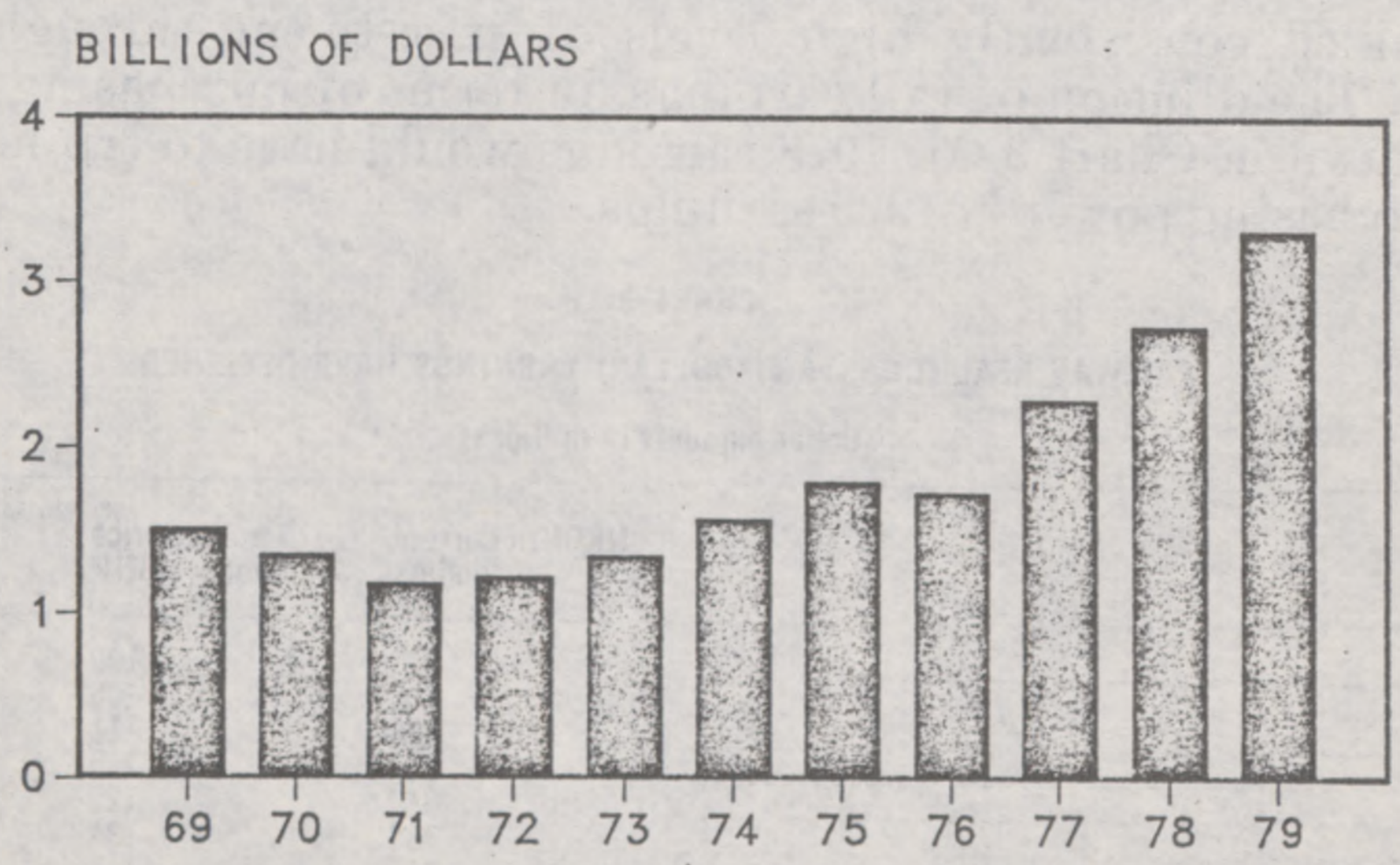
It seems clear that investment cannot be sustained indefinitely in the context of initially meager and consistently eroding earnings.

The rail industry continues to move more revenue ton-miles each year. However, it is crucial to note that, in terms of 1972 constant dollars, the industry now realizes approximately half the revenue per ton-mile it earned during the Great Depression.

Over the last decade, the railroad has spent progressively more on capital investments (See Chart 3–N). However, that expenditure of funds has been far less than was needed to provide the needed capital investment for the maintenance or improvement of service. It is also important to note that because of low earnings, increasingly greater amounts of the money necessary for the capital investment have come from outside financing. Chart 3–0 illustrates the greater dependence

CHART 3-N

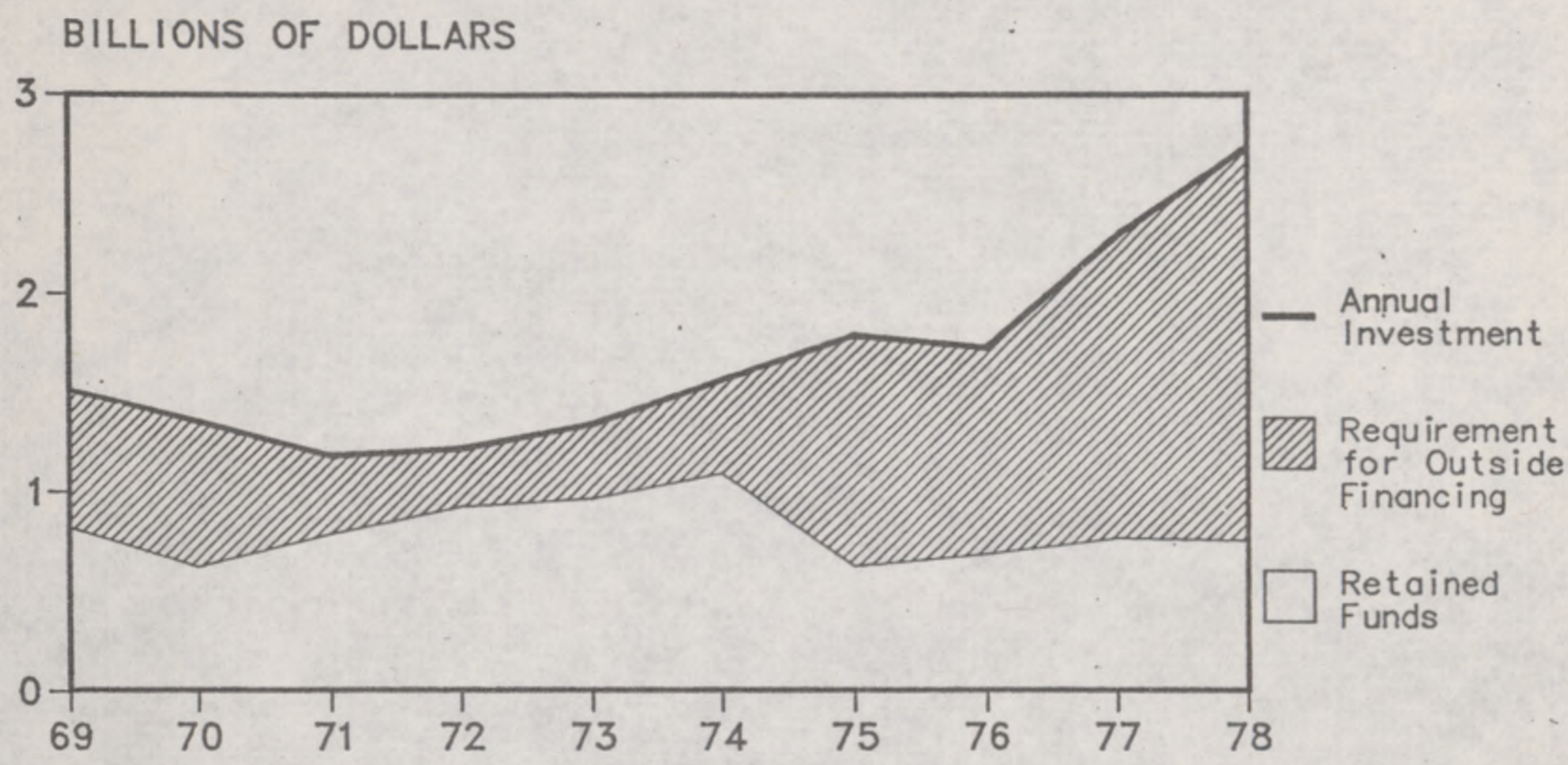
ANNUAL RAILWAY CAPITAL INVESTMENT
HAS INCREASED STEADILY



Source: Railroad reports to ICC.

CHART 3-0

RELIANCE ON OUTSIDE FINANCING HAS INCREASED



*Represents income before extraordinary items, plus deferred taxes and depreciation and retirement charges, less cash dividends and equity in undistributed earnings of affiliated companies.

Source: Railroad Reports to ICC

upon outside financing and Chart 3–P shows how retained funds have been a smaller and smaller percentage of annual capital investment. Over the long run, this fact alone will assure a continued decline of the railroad industry.

CHART 3–P

RAILROAD RELIANCE ON OUTSIDE FINANCING HAS INCREASED

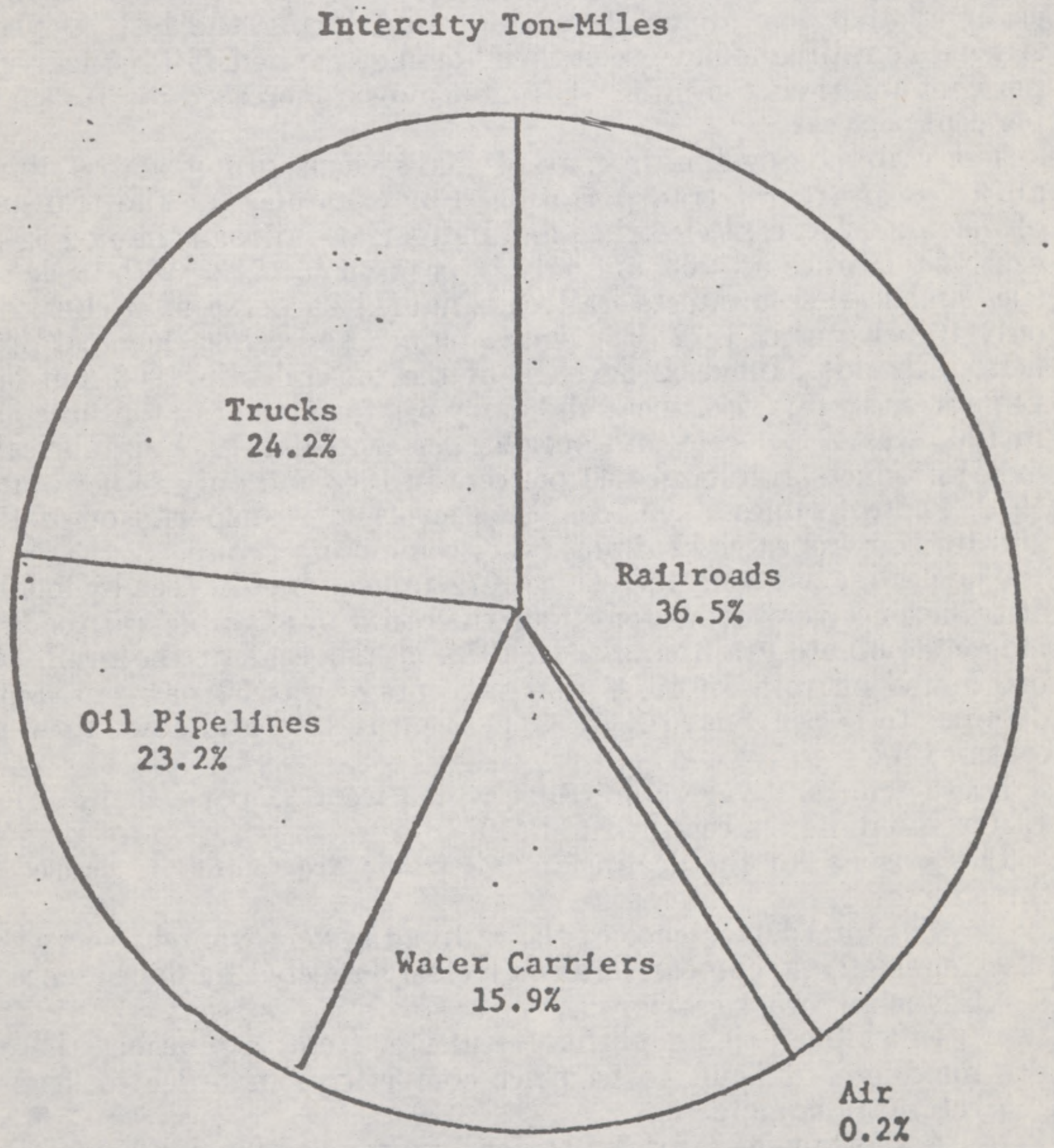
Year	Total investment (millions)	Retained funds [1] (millions)	Retained funds as percent of total investment
1969	$1,509.4	$815.6	54.0
1970	1,351.4	618.0	45.7
1971	1,177.6	784.1	66.6
1972	1,215.6	923.1	75.9
1973	1,342.1	964.1	71.8
1974	1,565.4	1,090.8	69.7
1975	1,789.7	621.7	34.3
1976	1,724.7	682.6	39.7
1977	2,290.4	762.8	33.6
1978	2,738.2	749.8	27.4

[1] Represents income before extraordinary items, plus deferred taxes and depreciation and retirement charges, less cash dividends and equity in undistributed earnings of affiliated companies.

Source: Railroad reports to the ICC.

Part 4—The Railroad Market and Pricing

In 1979, Class I railroads in the United States generated $25.7 billion in operating revenue, equaling 1.1 percent of the Gross National Product. The railroads handled 927 billion ton-miles of freight in 1979, 36.5 per cent of the nation's total freight traffic. The nation's total freight traffic is divided by mode on a ton-mile basis as follows:



While the railroads' share of intercity ton-miles continues to be impressive, it nevertheless is about half of what it was in 1947. For example, between 1947 and 1977, the economy (real GNP) was growing 185 per cent. Industrial production during that time increased 250 per cent and tons of intercity freight increased 91 per cent. The railroads, however, carried 9 per cent fewer tons in 1977 than they did in 1947.

In absolute terms (the number of tons of freight picked up regardless of distance travelled) trucks now carry almost 50 per cent more tonnage than the railroads. In 1947, railroads were hauling almost three times as much tonnage as the motor carriers.

Ton-mile performance data (1 ton-mile is equivalent to one ton carried one mile) which reflect the distance travelled as well as tonnage carried tell basically the same story. With real GNP growing 185 per cent and total intercity ton miles by 129 per cent between 1947 and 1977, truck traffic soared 5½ times, pipeline traffic increased by 433 per cent, and barge lines moved eight times more. From the increased traffic available, railroads were able to increase their ton miles by only 25 per cent. Trucks increased their ton miles by 450 per cent, oil pipelines by 433 percent, and inland barge by 700 per cent. Thus, in an economy that has almost tripled in size during the last 30 years, America's railroads have seen their tonnage carried fall by nearly 10 per cent and their ton-miles of freight moved increased by less than 1 per cent per year.

The railroads decline in market share seems to cut across almost all areas of freight transportation. For example, for the transport of machinery, except electrical and industrial, railroads hauled 52 per cent of ton-miles in 1963, but only 38 per cent in 1972. With basic textiles and leather products, railroads hauled 25 per cent in 1963, but only 16 per cent in 1972. For drugs, paints, and other chemical products, railroads hauled 62 per cent of the ton-miles in 1963, but only 44 per cent in 1972. For meat and dairy products, the rail ton-mile haul in 1963 was 47 per cent and only 28 per cent in 1972. For fabricated metal products, rail hauled 41 per cent in 1963 and only 23 per cent in 1972. Those declines taken from the Census of Transportation of 1963 and 1972, are repeated in almost every commodity group.

The decline has continued since 1972 and can best be seen by looking at traffic once very dependent upon the rail. For example, railroads no longer dominate grain traffic. In 1973, 58 per cent of the grain sold originated on rail. In 1974, that percentage was 62 per cent, but it dropped to 47 per cent in 1975; 49 per cent in 1976 and down to 43 per cent in 1977.

Fresh fruit and vegetable traffic which went 31 per cent by rail in 1970 was only 11 per cent by rail in 1977.

The reasons for the decline in rail traffic are primarily caused by three factors:

The interdependence of the railroad system whereby service by financially strong carriers is adversely affected by dependence on financially weak carriers;

Inflexible pricing ability resulting from regulation, thereby making it difficult to be price competitive in order to keep or retain traffic; and

A shortage of capital, previously discussed in part 3.

RAILROAD INTERDEPENDENCE

The top 20 railroads in the country account for over 92 per cent of the revenue going into the railroad industry. The top six railroads account for over half of the revenue in the industry. Chart 4–A shows the ranking of Class I carriers by freight revenue for 1978.

CHART 4–A

RANKING OF CLASS I CARRIERS BY REVENUE

[Class I carriers, 1978]

Carrier	Freight revenue (thousands)	Percent of total	Cumulative percentage
CR	$2,812,500	13.90	13.90
BN	1,912,480	9.45	23.35
SP	1,616,085	7.99	31.34
ATSF	1,491,298	7.37	38.71
UP	1,465,557	7.24	45.95
MP	1,160,083	5.73	51.68
SOU Sys	1,120,735	5.54	57.22
N & W	959,040	4.74	61.96
SCL	881,002	4.35	66.31
L & N	802,559	3.97	70.28
B & O	792,569	3.92	74.20
ICG	688,215	3.40	77.60
C & O	636,056	3.14	80.74
CNW	583,388	2.88	83.62
CMSTP & P	395,447	1.95	85.57
SLSF	375,992	1.86	87.43
CRI & P	365,749	1.81	89.24
SOO	245,559	1.21	90.45
SLSW	223,730	1.11	91.56
D & RGW	213,301	1.05	92.61
Top 20	18,741,345	92.61	----------
Others	1,494,720	7.39	7.39
Total	20,236,065	100.00	100.00

Source: Railroad reports to the ICC.

ConRail, which heads the list of carriers, accounting for nearly 14 per cent of the total revenue, is hardly a healthy carrier. It was formed in April of 1976, out of the estates of six bankrupt railroads in the Northeast. Because railroads depend upon one another in order to either receive freight for delivery or transfer freight for delivery, ConRail's performance affects every other railroad. When ConRail's share of the total rail business is added to the share of the total rail business handled by other bankrupt or financially weak carriers, over 30 per cent of the "rail business" is being handled by financially weak rail carriers. This adversely affects all rail carriers because about 70 per cent of all rail traffic is interchanged between two or more railroads. Chart 4–B shows the extent of the interdependence within the railroad industry.

CHART 4–B

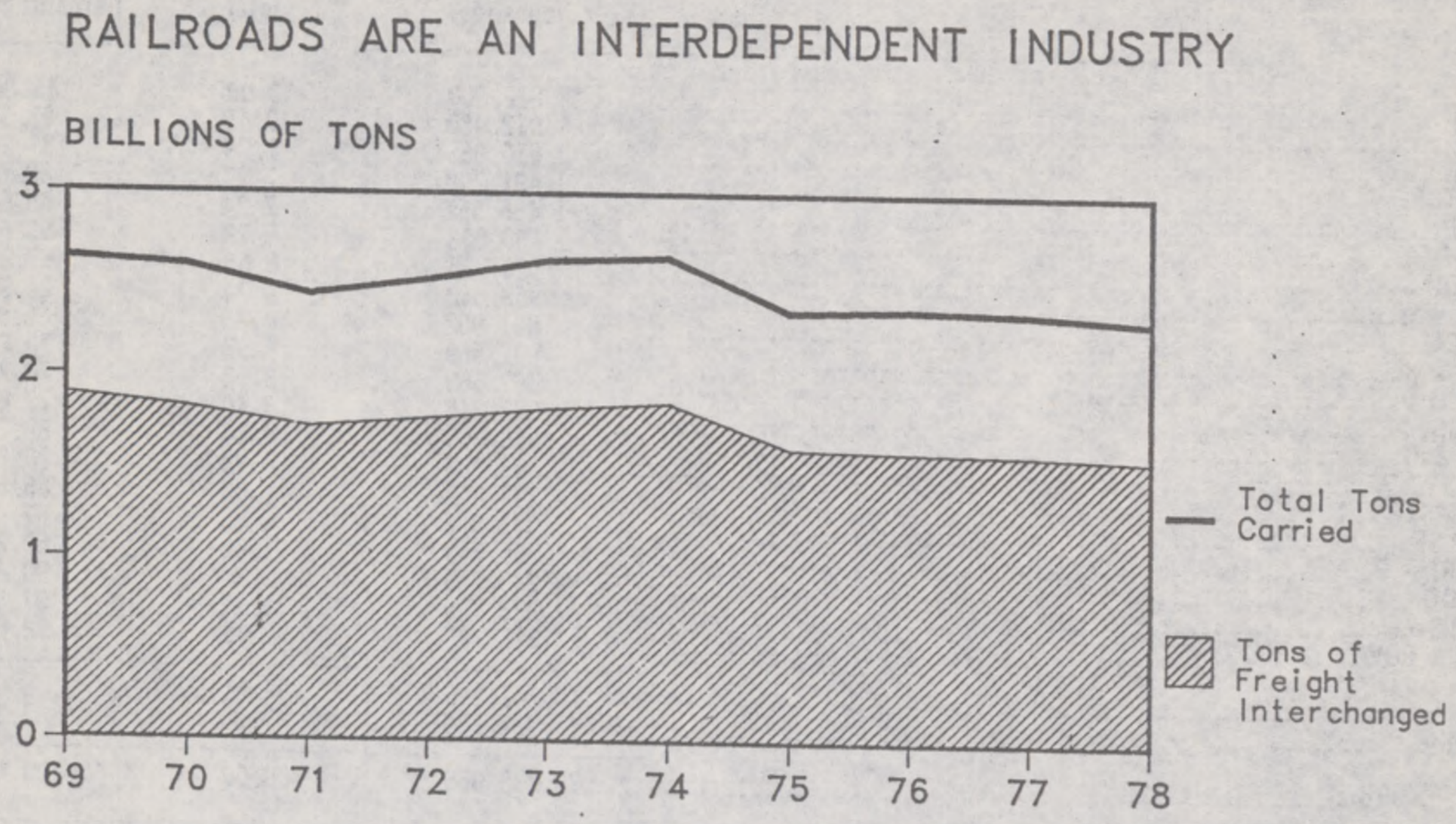
RAILROADS ARE AN INTERDEPENDENT INDUSTRY

Year	Tons of freight interchanged (thousands)	Total tons carried (thousands)	Interchanged tonnage as a percent of total
1969	1,891,887	2,637,512	71.7
1970	1,824,636	2,600,124	70.2
1971	1,718,275	2,442,758	70.3
1972	1,767,576	2,527,556	69.9
1973	1,822,241	2,632,299	69.2
1974	1,856,572	2,652,070	70.0
1975	1,606,429	2,357,849	68.1
1976	1,590,825	2,369,247	67.1
1977	1,578,500	2,352,475	67.1
1978	1,555,755	2,310,183	67.3

Source: Railroad reports to the ICC.

Chart 4–C illustrates the interdependence of railroads as well as the decline in total tons carried by railroads.

CHART 4-C



Source: ICC, AAR

The slight decline in the per cent of interchange between carriers is accounted for by the consolidation of six bankrupt carriers in Con-Rail and the per cent of interchange can be expected to slightly decline if railroads merge into fewer companies. Nevertheless, railroads will continue to be interdependent. This interdependence will mean that service will be no better than the quality of service offered by the weakest carrier in the interchange.

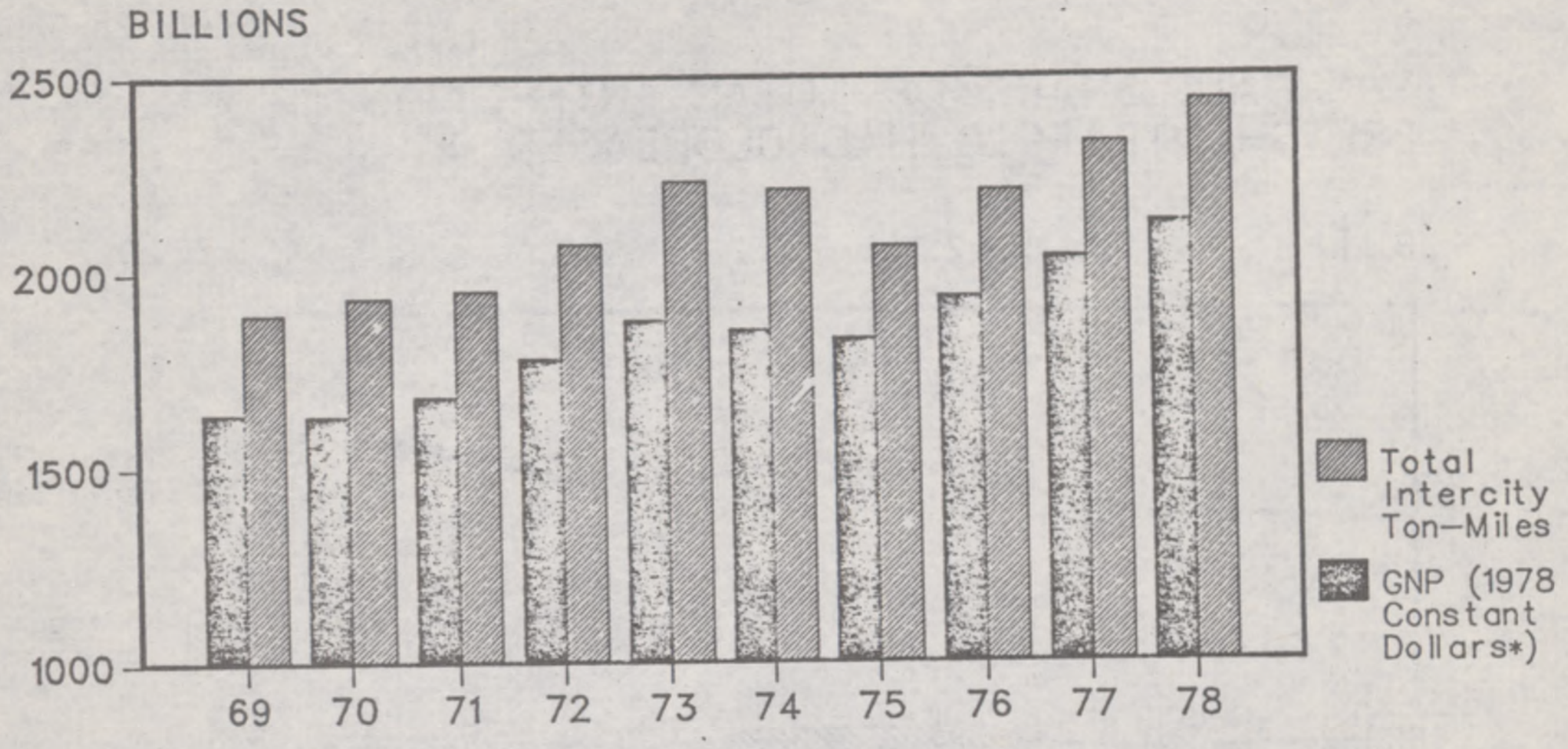
THE EFFECT OF RAILROAD RATE REGULATION

Transportation is a derived demand. In other words, transportation needs tend to increase roughly in the same proportion as the Gross National Product. Chart 4–D shows this relationship.

The demand for railroad service has lagged behind transportation demand and appears to be lagging further and further behind. Chart 4–E shows a continual decline in railroad demand as compared to total transportation demand over the last ten years. The only exception has been during the oil crisis of 1973–1974.

CHART 4-D

TRANSPORTATION IS A DERIVED DEMAND



*Deflated by use of GNP implicit price deflator.

Source: Department of Commerce, Railroad Reports to ICC

CHART 4-E

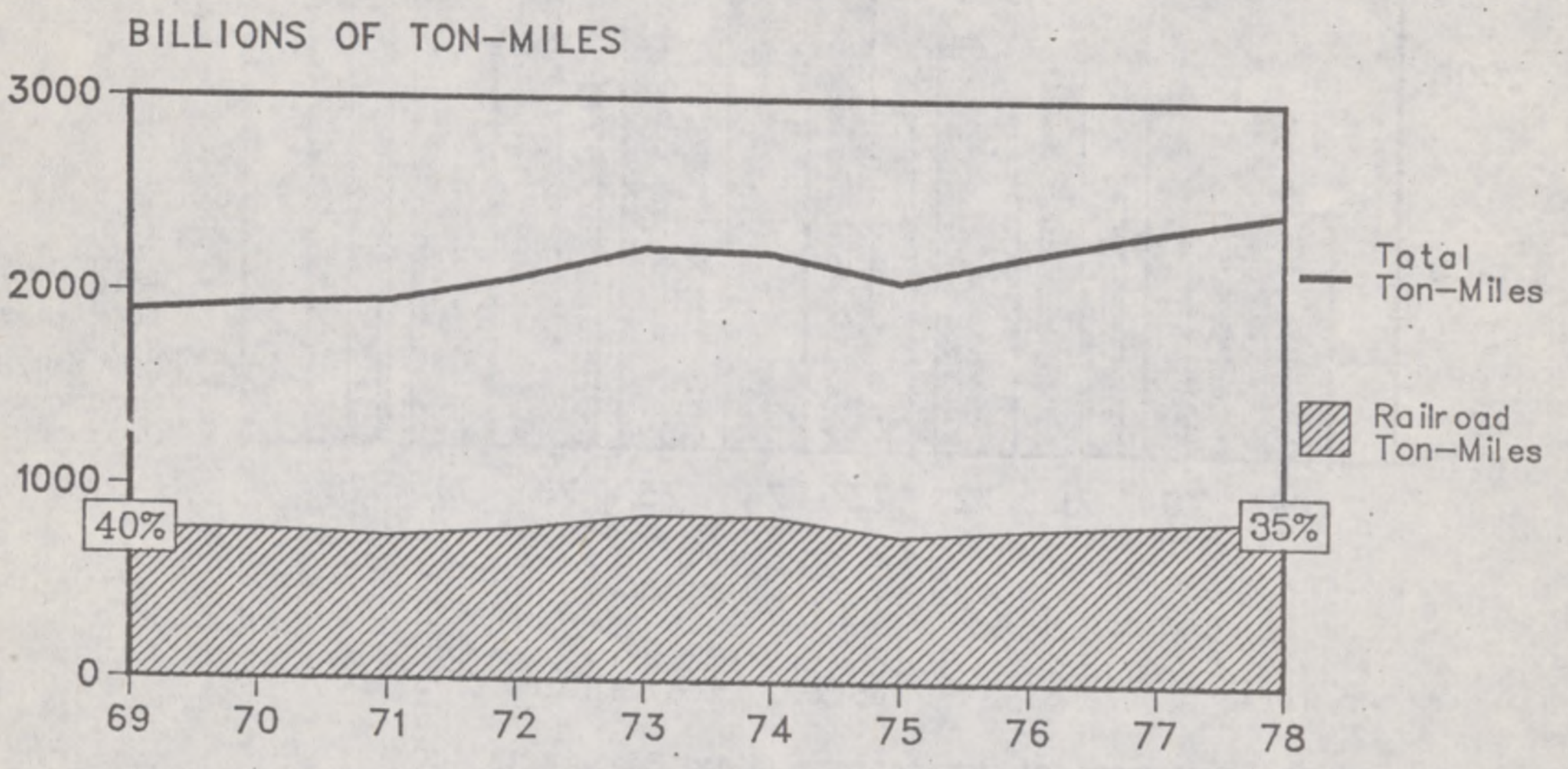
RAILROAD DEMAND HAS LAGGED BEHIND TRANSPORT DEMAND

Year	Total intercity ton-miles (billions)	Railroad ton-miles (billions)	Railroad tons (millions)
1969	1,895	768	1,473
1970	1,936	765	1,485
1971	1,954	740	1,391
1972	2,073	777	1,448
1973	2,232	852	1,532
1974	2,212	851	1,531
1975	2,066	754	1,395
1976	2,209	794	1,407
1977	2,331	826	1,394
1978	2,437	858	1,389
Index:			
1969	100	100	100
1970	102	100	101
1971	103	96	94
1972	109	101	98
1973	118	111	104
1974	117	111	104
1975	109	98	95
1976	117	103	96
1977	123	108	95
1978	129	112	94
Average annual change	3.2	1.3	(0.7)

Source: Railroad reports to the ICC and Transportation Association of America.

Chart 4–F graphically shows the lack of growth in rail ton-miles. As a matter of fact, the railroads' share of ton miles has dropped from 40 per cent in 1969 to 35 per cent in 1978.

CHART 4-F



Source: Railroad Reports to ICC

The degree to which railroads are regulated adversely affects their ability to compete with other modes of transportation. About 2/10's of one per cent of the traffic on the Great Lakes is regulated. 3.7 per cent of the traffic using domestic deep sea ports is regulated; 16.3 per cent of the river and canal traffic is regulated; 44 per cent of truck ton-miles is regulated; 84 per cent of pipeline ton-miles are regulated; and 100 per cent of railroad ton-miles are regulated. Needless to say, the extent of regulation over rails is greater than over any other mode of transportation. Rate regulation has significantly weakened the railroads' ability to be price competitive in capturing or retaining traffic.

Before the enactment of the 4–R Act in 1976, every shipper could file a complaint with the Commission that a rate was not "just and reasonable." Whether or not the Commission upheld his complaint, the shipper was able to almost completely thwart individual rate increases and because of this, there was a natural reluctance by railroads to drop prices in order to meet competition. The 4–R Act attempted to alleviate the pervasive chilling effect that rate regulation had on railroad pricing responsiveness in competitive markets. It did so by preserving rate regulation only where the rail carrier was market dominant. In 1977,

the Interstate Commerce Commission announced three standards to be used in market dominance determinations:

Revenue to variable cost ratio test;
70 per cent rail market share test; and
Substantial shipper investment in rail related facilities.

This initial market dominance test did little to free up pricing on a movement-by-movement basis because from 45 to 97 per cent of the representative commodities making up the bulk of railroad business fell within the area of regulation. Chart 4–G shows how specific commodities fared under the Commission's original test.

CHART 4–G

ESTIMATED PERCENTAGE OF RAIL MOVEMENTS EXCEEDING MARKET DOMINANCE CRITERIA, 1977 [1]

Representative commodity [2]	Market share >70 percent [3]	Revenue/cost >1.6 [4]	Substantial investment test [5]	Range of commodities susceptible to market dominance [6]
Wheat	77	43	12	77–100
Fresh vegetables	24	----------	----------	24– 25
Iron ore	68	58	52	68–100
Bituminous coal	55	22	25	55–100
Construction aggregates	22	6	13	22– 41
Industrial sand	22	21	4	22– 47
Wheat milling products	24	7	15	24– 46
Canned vegetables and fruit	24	7	3	24– 34
Wood chips	45	8	----------	45– 53
Lumber	45	26	1	45– 72
Pulpboard	74	28	22	74–100
Organic chemicals	31	51	83	83–100
Petroleum refinery products	6	44	85	85–100
Cement	41	24	20	41– 85
Coke	11	17	30	30– 58
Manufactured iron and steel	58	58	----------	58–100
Auto parts	82	52	----------	82–100
Iron scrap	84	31	8	84–100
Total commodities	45	27	25	45– 97

[1] This analysis is taken from the report on the "Impact of the 4–R Act Railroad Ratemaking Provisions" done by the ICC in 1977. Revenue/cost ratios at 1977 levels are from the report of A. T. Kearney for the ICC. "A study to perform an n-depth analysis of market dominance and its relationship to other provisions of the 4–R Act." April 1979.

[2] The major commodities used in this comparison are representative to the commodity groups reported in the weekly carload reports—the CS54A. These commodities represent approximately 53 percent of all rail tonnage moved. (From 1977 1-percent waybill statistics.)

[3] This market share analysis is based on the 1972 Census of Transportation augmented by a special study done for DOT by Jack Faucett Associates to include bulk commodities. The market share test in this market dominant category is based solely on intercity freight tonnage moved.

[4] According to Section 202 of the 4–R Act, all rail movements with revenue/cost ratio exceeding 1.6 are subject to the Market Dominance provision.

[5] The substantial investment test performed by A. T. Kearney was based upon a shipper receiving loads in private cars and receiving multiple car shipments (greater than 5).) This test is an arbitrary estimate of substantial investment by a shipper and may, for example, understate investment for manufactured iron and steel products and auto parts.

[6] The range in percentage of traffic subject to market dominance was determined for the 3 individual market dominance tests. For example, the upper and lower bound for wheat traffic is from 77 percent (from market share test assuming all traffic failing the revenue/cost and substantial investment test is included in the 77 percent) to 100 percent (77 percent market share test) plus 43 percent (revenue/cost test) plus 12 percent (substantial investment test) equals 100 plus percent.

Chart 4–H shows the results of market dominance cases from 1976 through 1979. Of the 48 cases brought, 21 were cases in which the Commission permitted suspension of rates during the adjudication of the case.

CHART 4–H

RESULTS OF MARKET DOMINANCE CASES (1976–79)

Commodity	Suspensions				No suspensions			
		Number of cases quoting—				Number of cases quoting—		
	Number of cases	Market share test	Revenue/cost test	Sub. inv. test	Number of cases	Market share test	Revenue/cost test	Number of cases
Chemicals	5	5	5	5	3	2	2	
Coal	6	5	4	3	13	8	2	6
General merchandise	4	3	1	1	7	5	2	
Minerals and ores	2	2	1		1	1	1	
Iron and steel	2	1	1	1				
Other	2	2			3	3		
Total	21	18	12	10	27	19	7	6)

	Suspended [1] (percent)	Not suspended [1] (percent)
Market share test	45	59
Revenue/cost test	30	22
Substandard investment test	25	19

[1] This column refers to the percentage of each particular market dominance test to the total number of tests quoted in all the cases. For example, in the 21 cases in which rates were suspended, 40 different market dominance tests were used to protest the rates in question. Of these 40 tests, 18 (45 percent) were of the market share test, 12 (30 percent) were the revenue/cost test, and 10 (25 percent) were the substantial investment test.

Not only was the Commission's original market dominance test only a slight relaxation in rate regulation, but also the Commission's suspension power continued to further thwart ratemaking on an individual commodity or movement basis. The Commission, once a complaint has been filed or on its own motion, can investigate a rate and, during its investigation, it can suspend the use of that rate. Both the investigation process and the suspension process have tended to discourage flexible price adjustments. This lack of pricing flexibility and selectivity has undoubtedly contributed to the railroads' inability to price competitively, while at the same time assuring an inadequate return on investment.

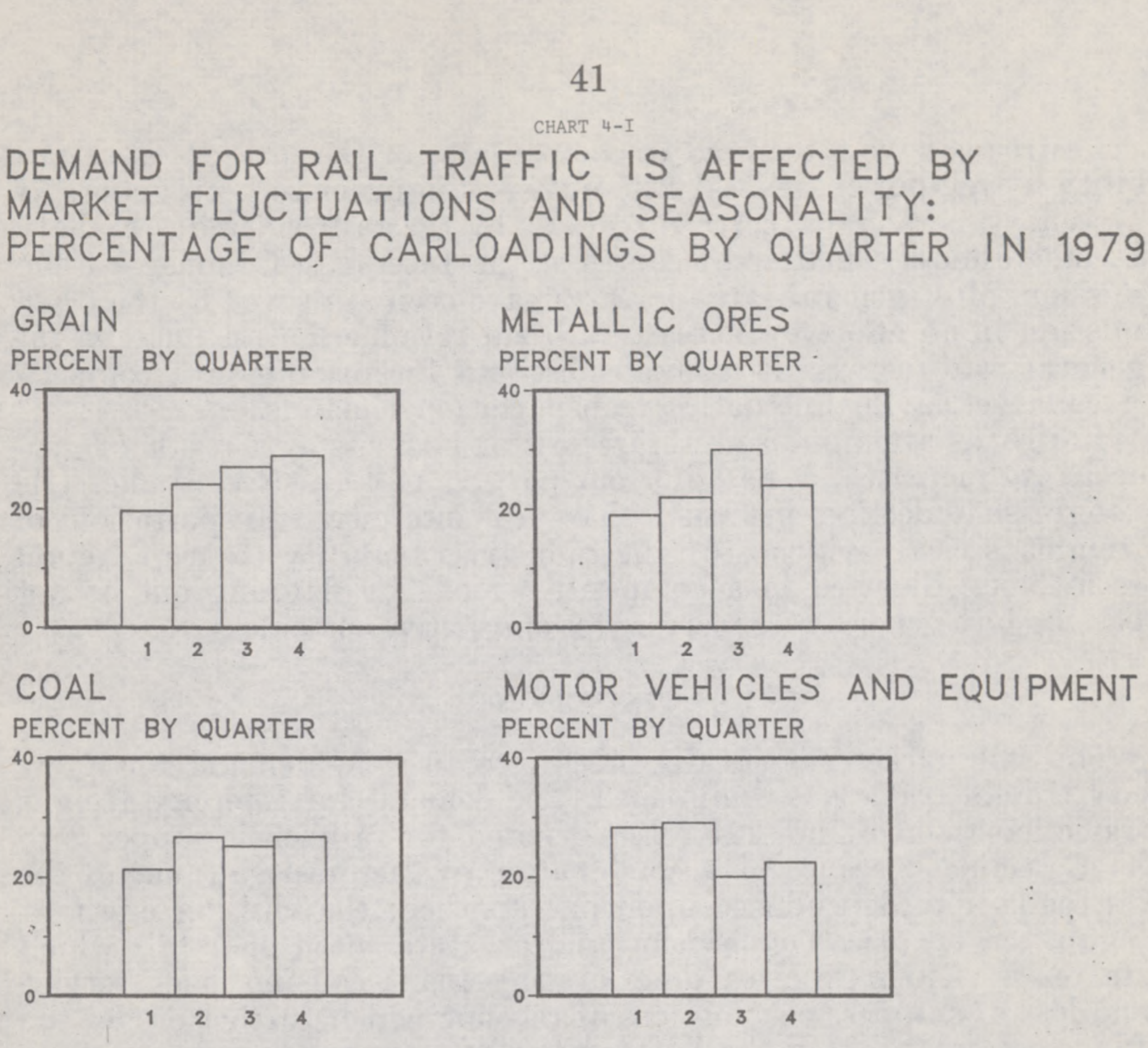
THE NEED FOR FLEXIBLE PRICING

As shown in Chart 4–I, demand for rail traffic is affected not only by competition from other modes, but also by market fluctuations and seasonality.

The demand fluctuations between commodities vary from year to year as well as on a seasonal basis. The year to year fluctuations of railroad demand among commodities simply shows that we have a dynamic economy. No harm would come from this phenomenon were it not for the fact that railroad rates, being completely regulated, cannot be selectively adjusted—quickly—so as to pick up revenue in one area in order to compensate for slack in another area.

CHART 4-I

DEMAND FOR RAIL TRAFFIC IS AFFECTED BY MARKET FLUCTUATIONS AND SEASONALITY: PERCENTAGE OF CARLOADINGS BY QUARTER IN 1979



Source: AAR

RAILROAD DEMAND FLUCTUATES AMONG COMMODITIES

[Millions of tons originated]

	STCC	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
Commodity:											
Farm products	01	119.3	134.2	121.6	125.8	156.1	142.2	134.4	135.4	121.9	128.7
Metallic ores	10	126.4	126.7	110.4	110.0	125.1	126.5	106.4	97.9	83.2	112.5
Coal	11	383.0	404.6	360.6	375.0	376.1	390.9	407.6	407.5	414.9	383.1
Nonmetaljic minerals	14	171.4	161.3	157.8	164.7	170.5	171.0	150.6	135.6	139.6	134.7
Food and kindred products	20	107.7	110.1	106.4	106.1	106.0	107.3	100.2	101.9	98.7	95.4
Lumber and wood products	24	99.9	101.9	104.7	110.0	108.9	105.3	88.6	99.6	99.3	95.1
Pulp, paper and allied products	26	42.5	42.5	42.2	44.3	46.5	48.2	40.6	44.2	44.9	41.4
Chemicals and allied products	28	92.1	91.6	90.8	95.2	99.7	101.4	91.4	100.7	104.2	106.7
Petroleum and coal products	29	34.6	36.3	34.2	48.0	52.6	53.0	45.8	46.4	46.2	44.4
Stone, clay and glass products	32	77.9	71.1	69.9	73.5	72.6	68.0	56.8	57.3	59.9	59.9
Primary metal products	33	87.1	82.2	72.1	60.9	71.4	70.3	51.4	53.1	55.2	60.1
Transportation equipment	37	28.8	24.2	29.5	31.4	34.3	29.8	27.3	32.6	33.6	32.2
Waste and scrap material	40	41.8	39.8	37.5	39.8	44.7	48.1	38.2	27.5	36.1	37.8
Index:											
Farm products	01	100	112	102	105	131	119	113	113	102	108
Metallic ores	10	100	100	87	87	99	100	84	77	66	89
Coal	11	100	106	94	98	98	102	106	106	108	100
Nonmetallic minerals	14	100	94	92	96	99	100	88	79	81	79
Food and kindred products	20	100	102	99	99	98	100	93	95	92	89
Lumber and wood products	24	100	102	105	110	109	105	89	100	99	95
Pulp, paper and allied products	26	100	100	99	104	109	113	96	104	106	97
Chemicals and allied products	28	100	99	99	103	108	110	99	109	113	116
Petroleum and coal products	29	100	105	99	139	152	153	132	134	134	128
Stone, clay and glass products	32	100	91	89	94	93	87	73	74	77	77
Primary metal products	33	100	94	83	70	82	81	59	61	63	69
Transportation equipment	37	100	84	102	109	119	103	95	113	117	112
Waste and scrap material	40	100	95	90	95	107	115	91	90	86	90

Source: Railroad reports to the ICC.

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Railroads have attempted to compensate for the lack of rate flexibility by relying on general rate increases in order to keep going. At present, general rate increase requests by the railroad industry have become almost a matter of course at the Interstate Commerce Commission. Most general rate increases have been approved by the Commission in an effort to increase railroad revenue. Unfortunately, the general rate increase is a poor substitute for pricing in a competitive market having fluctuating transportation demands.

Railroads attempt to minimize loss of business as a result of general rate increases by flagging out particularly sensitive traffic. The progressive decline in rail's share of intercity transportation of freight is clear evidence of the industry's inability to keep freight from being diverted to a competitive mode by flagging out or not passing on a general rate increase to competitive customers.

CONCLUSIONS

The rail market has not diminished because the demand for intercity freight traffic has diminished. The demand for intercity freight traffic has tripled since 1947. The demand for rail service appears to have declined because of a combination of factors rising out of the railroad's interdependence upon one another; the chilling effect of regulation on price competition and a capital need shortfall which creates a vicious cycle of deteriorating plant causing poor service and loss of shippers causing loss of revenue which further erodes the funds necessary to stem the deterioration of plant and facilities.

Part 5—Railroad Rates and Coal

RAILROAD RATES

Railroad rates are simply the price that a railroad charges for carrying freight from one place to another. In that respect—but only in that respect—railroad rates are no different than charges made for any other service or prices charged for any product in a grocery store.

In all other respects, railroad rates are far different from charges for services or prices for products. The first difference is that railroad rates are regulated. The railroad industry has in effect had price controls ever since the Interstate Commerce Act was enacted in 1887. With price controls, there is the inevitable requirement of filing, publication, and formal procedure for any price change.

The other major difference between railroad rates and prices or charges used in other businesses is the sheer number of rates which must be listed, published, and billed. It has been estimated that as many as a trillion rates are filed within the Interstate Commerce Commission. The neighborhood supermarket, on the other hand, is probably working with no more than 400 to 500 different items to price. The railroad industry is working with different rates or charges between virtually every city and town in America and those rates have further differences based on the commodity to be shipped and a number of other variables, including how it is to be shipped, in what, when, and hundreds of other peculiarities or conditions ranging from car cleaning to special servicing. The sheer number of rates on file at the Commission is mind-boggling. It is also a direct product of long-term comprehensive price regulation. The complexity of railroad rates arising out of the sheer number of rates and requirements for filing and publication is further complicated because of the process used in establishing or changing rates. Approximately 70 per cent of all traffic on the railroads is interchanged and thereby travelling under a joint rate. A joint rate is one which is agreed upon by two or more rail carriers. Each carrier must agree to the rate and once the rate is fixed, no carrier can change the rate unless all other participants in the movement to which the rate applies agree. As a practical matter, then, collective ratemaking became inevitable if for no other reason than to deal with an unwieldy ratemaking system.

The rate bureau is the mechanism used by the industry for collective ratemaking. The Commission, acting pursuant to the Reed-Bullwinkle Act (1948), reviews rate bureau agreements entered into by the carriers and appoves, rejects, or modifies such agreements. Once the Commission approves an agreement, practices permitted under the agreement are given immunity from the anti-trust laws. This immunity protects both carriers and shippers with respect to their rate bureau activities.

Because rate bureaus are the machinery used to keep the unwieldy railroad pricing system afloat, they often become the focal point for railroad ratemaking reform. The 4–R Act placed some restrictions on the type of agreements that the Commission could approve under Section 5(a) of the Interstate Commerce Act, i.e., the Reed-Bullwinkle Act provision. Those restrictions included the right for a carrier with a single line rate to institute independent action on his single line rate even if carriers in a parallel joint line rate did not agree. There is—and always has been—some independent action whereby certain carriers would publish single line rates that differed from parallel joint line rates. For the most part, however, the changes in rate bureaus under the 4–R Act did not affect the basic workings of a rate bureau in the railroad pricing system.

In the last decade, the railroad industry has relied primarily upon general rate increases in order to increase their revenue. In that environment, the rate bureau serves as a meeting place for determining hold-downs or flag-outs for certain commodities or movements affected by a general rate increase. (The reason for a hold-down or flag-out is that the particular movement or commodity group could not safely absorb a rate increase, i.e., the traffic would go to another mode rather than pay the increase). Of course, the rate bureaus also dealt with new rates which are constantly being added to the trillions of published rates already filed with the Commission.

As an offshoot of its price-setting function, the rate bureau publishes rates which are made available to the shipper. The rate publishing function is generally accepted and useful to both carriers and shippers. In short, the current system of rate bureau rate publication facilitates public knowledge of any rate change.

When one analyzes most criticisms made of rate bureaus, it becomes apparent that the criticism is not of the rate bureau as such but rather is a criticism of the tangled web which makes up the railroad pricing system generally. The tangled web of railroad prices becomes a multilayer of tangled webs because, once in place, joint rates become virtually immune to selective or individual changes. As previously pointed out, each carrier who participates in a joint rate has a veto power over any change in that rate. This rigidity in the rate is disadvantageous to the shipper in that the rate is unlikely to change even to meet competition. And it is disadvantageous to each railroad because it fails to result in pricing which more adequately reflects charges that have a relationship to value of service. In short, the rate procedure itself, rather than the marketplace, controls the price decisions, even if circuitous routes result, thereby eroding efficiency.

THE DISTRIBUTION OF RAILROAD PRICES

Railroad pricing is completely regulated under the Interstate Commerce Act, which mandated that rates must be "just and reasonable." As previously pointed out, the 4–R Act began to move the "just and reasonable" determination away from the specific determination of reasonableness in every case to a system which presumed reasonableness where there was competition among providers of the transportation. The "market dominance tests," as now proposed by the Commission, would deem all traffic which yielded to the railroad

revenue equal to less than 150 per cent of the variable cost to be reasonable without any Commission review. Traffic having a revenue to variable cost ratio between 150 and 180, would be presumed to be competitive and the shipper would have a burden of showing that such rates were unreasonable. Variable cost has thus become an important consideration in determining the reasonableness of railroad rates. Variable cost represents the cost of the railroad for a particular movement, e.g., fuel, labor costs. It does not include the fixed costs to the railroad. The Commission has determined that for railroads to receive an adequate rate of return, all traffic carried by the railroad would have to be charged at a rate which produced revenue equal to about 150 per cent of the variable cost (at present, the average ratio of revenue to variable cost for all traffic on the railroad is about 127 per cent).

There are two major reasons why all traffic on the railroads cannot be charged a rate which produces revenue equal to precisely 150 per cent of the cost of the particular movement. First, competition from other transportation modes is available to most shippers. The very price competitive nature of transportation services results in the rate being held down. Second, certain commodities or shipments simply cannot remain in the marketplace if the rate becomes too high for the product.

Since it is impossible for everything travelling on the railroad to be charged exactly the same price, railroads have used differential pricing, which is used by most businesses—whether or not regulated.

In differential pricing, the seller in effect allocates a larger portion of his overhead to certain transactions than others in order to be competitive. For example, an automobile manufacturer may allocate $3,000 of the cost of overhead to the price charged for its luxury car while allocating only $300 of overhead for the price charged for its economy car. Since more economy cars are sold than luxury cars, the aggregate contribution of revenue to the overhead or fixed expenses of the car's manufacturing company may be greater from the sales of the economy car than from the sale of the luxury car. The purchaser of the luxury car would have to pay considerably more for his car were it not for the contribution to fixed expenses by purchasers of economy cars. Differential pricing tends to optimize the advantage for all users of the service or purchasers of the goods.

Differential pricing in a regulated industry can become distorted because regulatory forces become controlling rather than market forces. In other words, rates can be kept down on certain commodities even though that commodity could absorb the higher rate if only market forces were controlling. In the railroad industry, the long-term effect of rate regulation has been to minimize the beneficial effects that can accrue from differential pricing. Nevertheless, differential pricing is used and a considerable contribution is made to the fixed cost and overhead of the railroad industry from the movement of goods which are in competitive transportation markets. Over two-thirds of the revenues received by the railroads come from traffic which is travelling at less than 150 percent of revenue to variable cost—the fully allocated cost the Commission has found is needed for the industry to receive an adequate return on investment. The following chart shows the approximate distribution of railroad rates with respect to the revenue to variable cost ratio.

Chart 5A

Distribution of railroad revenue,
related to variable costs

210% of Variable Cost 210%	Commodities may include:	Chemicals Automobiles Iron Ore	
150% of Variable Cost 150%	Commodities may include:	Iron Ores Grain Coal Lumber	Automobiles Chemicals
100% of Variable Cost 100%	65% of Rail Tonnage moves at Revenue-To-Cost Ratios Below 150%		
Below Variable Cost			

PRICE OF PRODUCTS

All products in the marketplace reflect a cost for transportation. The percent of final price of products accounted for by transportation charges is relatively small. Chart 5–B below shows that percent for various products.

CHART 5–B.—*Percent of final price of products accounted for by transportation charges*

Product	*Percent*
Building paper and board	13.4
Wheat	8.1
Agricultural chemicals	7.5
Malt liquors	5.9
Wheat flour milling products	5.3
Iron and steel pipe	5.2
Manufactured iron and steel	4.8
Canned fruits and vegetables	4.1
Semifinished steel	4.0
Pig iron	3.8
Plastic products	3.8
Farm machinery	3.5
Plastic materials	3.5
Rubber	3.5
Fresh meat	2.6
Sugar	2.6
Lumber	2.5
Aluminum shapes	2.3
Cotton	2.2
Primary copper products	1.7
Textile products	1.2
Automobiles	.9

Source: Interstate Commerce Commission.

When the price of transportation affects the marketability of a product, that fact alone causes a reduction in the transportation price if the transportation company is receiving any contribution to its fixed cost from having the business.

COAL AND RAILROADS

Coal is the number one commodity carried by the railroads. In 1978, despite the UMW strike, it represented the following for the nation's major railroads:

19.3 per cent of total carloadings (4.4 million coal loadings)
13.5 per cent of gross freight revenues ($2.8 billion)

For major railroads, coal had the following impact:

Norfolk and Western—60.6 per cent of originated tonnage and 35.5 per cent of revenues;
Chessie System—57.6 per cent of originated tonnage and 32.3 per cent of revenues;
Burlington Northern—43.5 per cent of originated tonnage and 23.7 per cent of revenues;
Family Lines—30.5 per cent of originated tonnage and 18.0 per cent of revenues;
Southern Railway System—27.8 per cent of originated tonnage and 12.6 per cent of revenues.
ConRail—23.1 per cent of originated tonnage and 10.9 per cent of revenues;

Those six railroads now account for 74.9 per cent of total railroad coal revenues and 79.6 per cent of total railroad coal carloadings originated. For the railroad industry as a whole, coal accounted for 33 per cent of tonnage; 22 per cent of all carloadings, and 16 percent of total rail revenues.

In view of the nation's efforts to become less dependent on foreign oil through the use of more coal, railroad coal rates have been carefully examined. Nationwide, railroad coal rates averaged about 1.96 cents per ton mile in 1979. One way to determine whether that rate is too high or too low is to compare it with other shipments on the railroads. As a factual matter, coal generates less revenue per ton mile than the average revenue per ton mile generated in the industry (1.96 cents per ton mile vs. nearly 3.5 cents per ton mile). Chart 5–C illustrates the low revenue level from coal as compared to total traffic and other bulk commodities.

As a matter of fact, in current dollars, rail rates for coal have lagged far behind coal prices. Chart 5–D shows how the market has been accepting a higher price for delivered coal even though the rail rate has increased very little from 1931.

CHART 5-C

REVENUE COMPARISONS

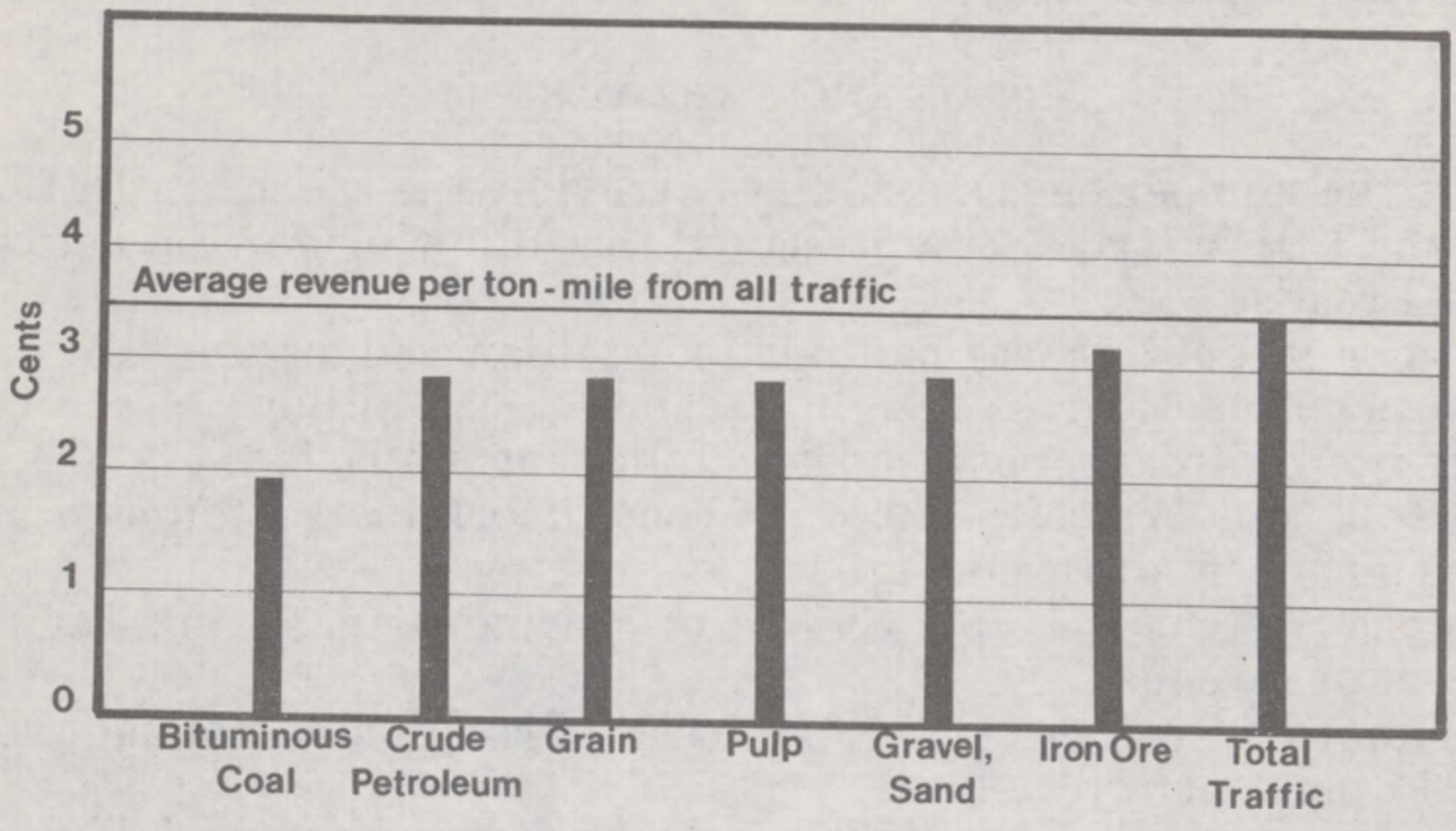
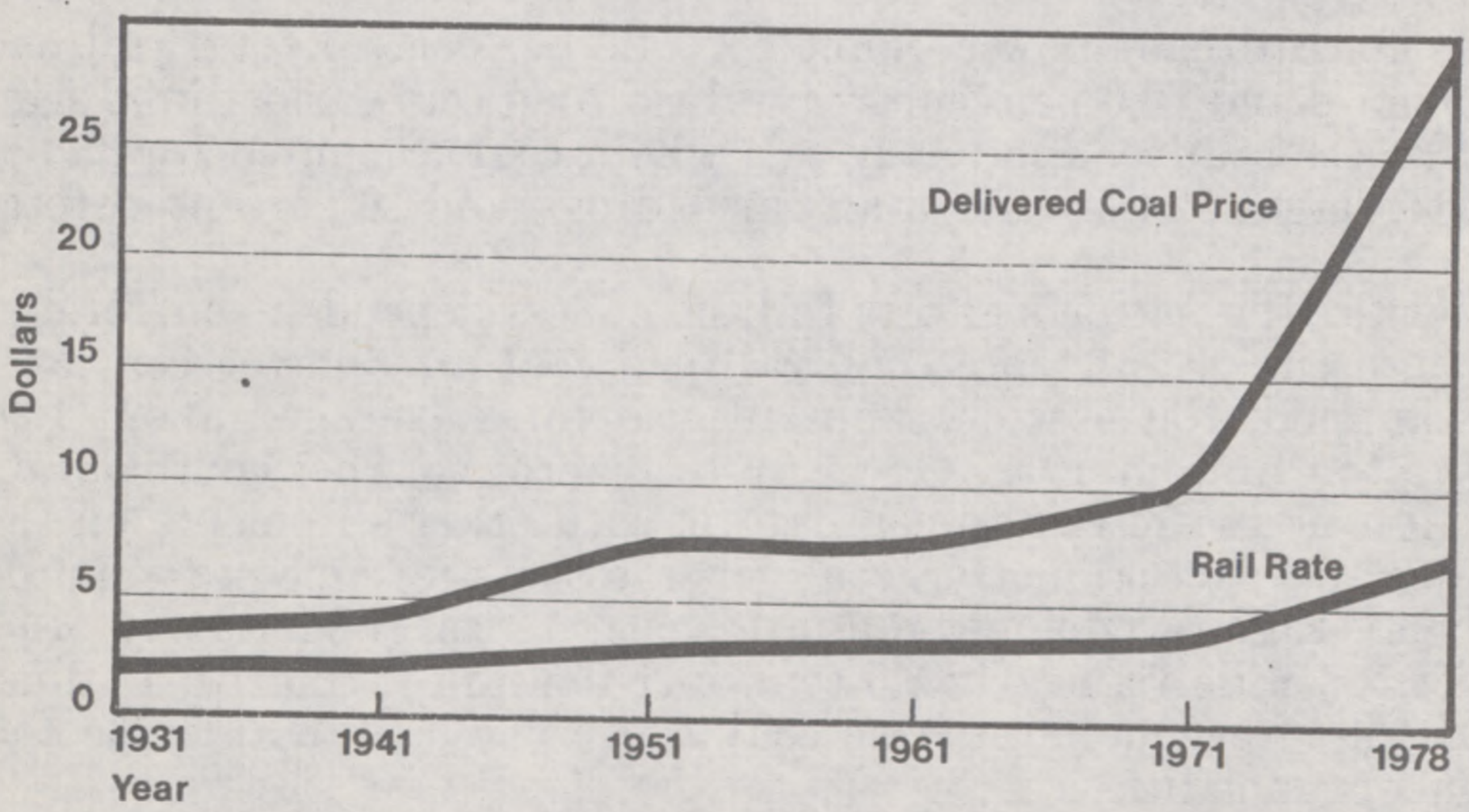


CHART 5-D

COAL PRICES vs RAIL RATES



In the 1960's, oil was cheap and plentiful and coal was not the fuel of choice for many reasons. Coal prices dropped somewhat—and rail coal rates dropped with them, even further. Chart 5–E shows that by 1967, coal had dropped to $2.56 a ton (in 1959 dollars) and by 1978, has still not increased to the rate that it was in 1959.

CHART 5-E

COAL RATES

[Per ton]

Year	Average realization rates (f.o.b. mine)	Average rail rates	Total
Current dollars:			
1959	$4.77	$3.45	$8.22
1967	$4.62	$4.00	$7.62
1978	$22.40	$7.32	$29.72
1967/1959 (percent)	−3.1	−13.0	−7.3
1978/1959 (percent)	+369.6	+112.1	+261.6
1978/1967 (percent)	+384.8	+144.0	+290.0
Constant 1959 dollars:[1]			
1959	$4.77	$3.45	$8.22
1967	$3.95	$2.56	$6.52
1978	$9.96	$3.25	$13.21
1967/1959 (percent)	−17.2	−25.8	−20.7
1978/1959 (percent)	+108.8	−5.8	+60.7
1978/1967 (percent)	+152.2	+27.0	+102.6
Constant 1967 dollars:[1]			
1967	$4.62	$3.00	$7.62
1978	$11.67	$3.81	$15.48
1978/1967 (percent)	+152.6	+27.0	+103.1

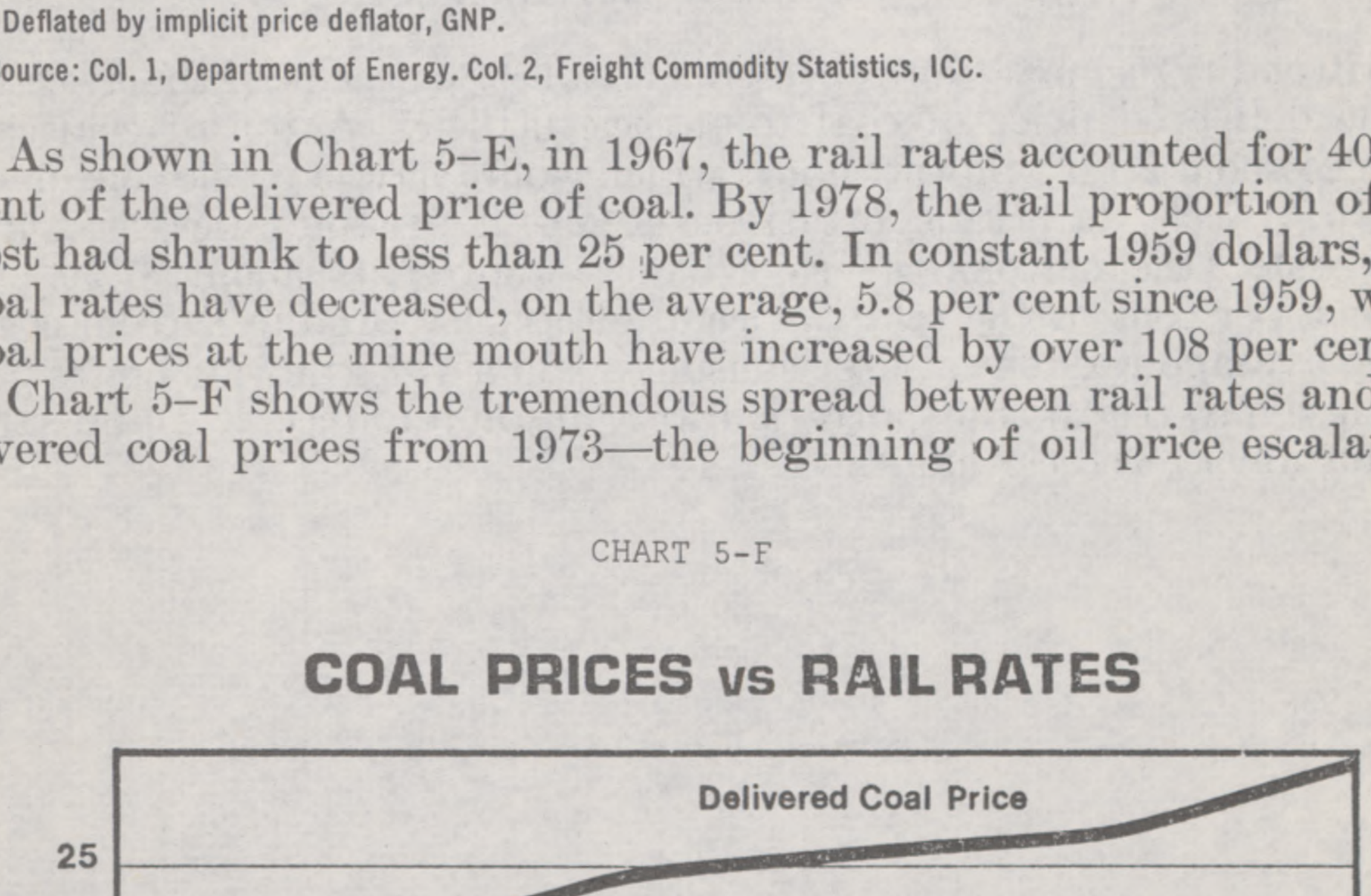
[1] Deflated by implicit price deflator, GNP.

Source: Col. 1, Department of Energy. Col. 2, Freight Commodity Statistics, ICC.

As shown in Chart 5–E, in 1967, the rail rates accounted for 40 per cent of the delivered price of coal. By 1978, the rail proportion of the cost had shrunk to less than 25 per cent. In constant 1959 dollars, rail coal rates have decreased, on the average, 5.8 per cent since 1959, while coal prices at the mine mouth have increased by over 108 per cent.

Chart 5–F shows the tremendous spread between rail rates and delivered coal prices from 1973—the beginning of oil price escalation.

CHART 5-F



Misunderstandings about rail coal rates have come about for several reasons. First, in order to get clean burning coal, longer hauls are necessary than those of the past. For this reason, a relatively low "per ton mile" rate translates into a substantial "delivered" rate. For example, a controversial "high" rate to San Antonio of $19.04 per ton delivered was produced by a rate of 1.15 cents per ton mile. This rate is well below the national average of all coal rates—but it is applied to a haul of 1,650 miles. On a revenue to variable cost basis, the San Antonio coal haul is less than 174 per cent. In other words, it is well below the mean point of 200 per cent for that ⅓ of rail traffic which is producing more than 150 per cent of revenue to variable cost. Over the long term, this will mean a further deterioration of the railroad system because of inadequate earnings. In the short term, it represents the need for the railroad industry to expend money simply to get coal traffic. All of the principal coal-hauling railroads are investing heavily in new equipment and improved track to handle the anticipated increases in coal traffic. It is estimated that 4,200 replacement coal cars will be needed each year at a cost of $127 million. Replacement needs for locomotives would be 210 each year at a cost of $123 million. In the last five years, open top hopper orders have totaled 83,373—an average of nearly 16,700 a year. Consequently, while coal traffic may be generating revenues slightly above fully allocated costs for all traffic, it is in the short term causing an increased cash outlay by the railroad industry.

COAL RATES AND ELECTRIC BILLS

Railroad transportation represents about 25 per cent of the average of the delivered price of coal to electric utilities. A ton of coal can produce about 2,182 kilowatt hours which would have a resale consumer price of $87.28. Rail transportation—at 2 cents per ton mile over a 400 mile route (the national average haul)—represents about $7.90 per ton or 9 per cent of the retail price of electricity produced from coal.

The average residential user consumes about 737 kilowatt hours per month. Thus, if rail transportation were absolutely free, it would save the consumer $8.60 per month.

Part 6.—Government Treatment of Railroads

GENERAL DISCUSSION

While significant transportation legislation has been passed in recent years, the problems besetting the rail industry remain. Perhaps the key is the fact that two forces have remained largely unchanged:

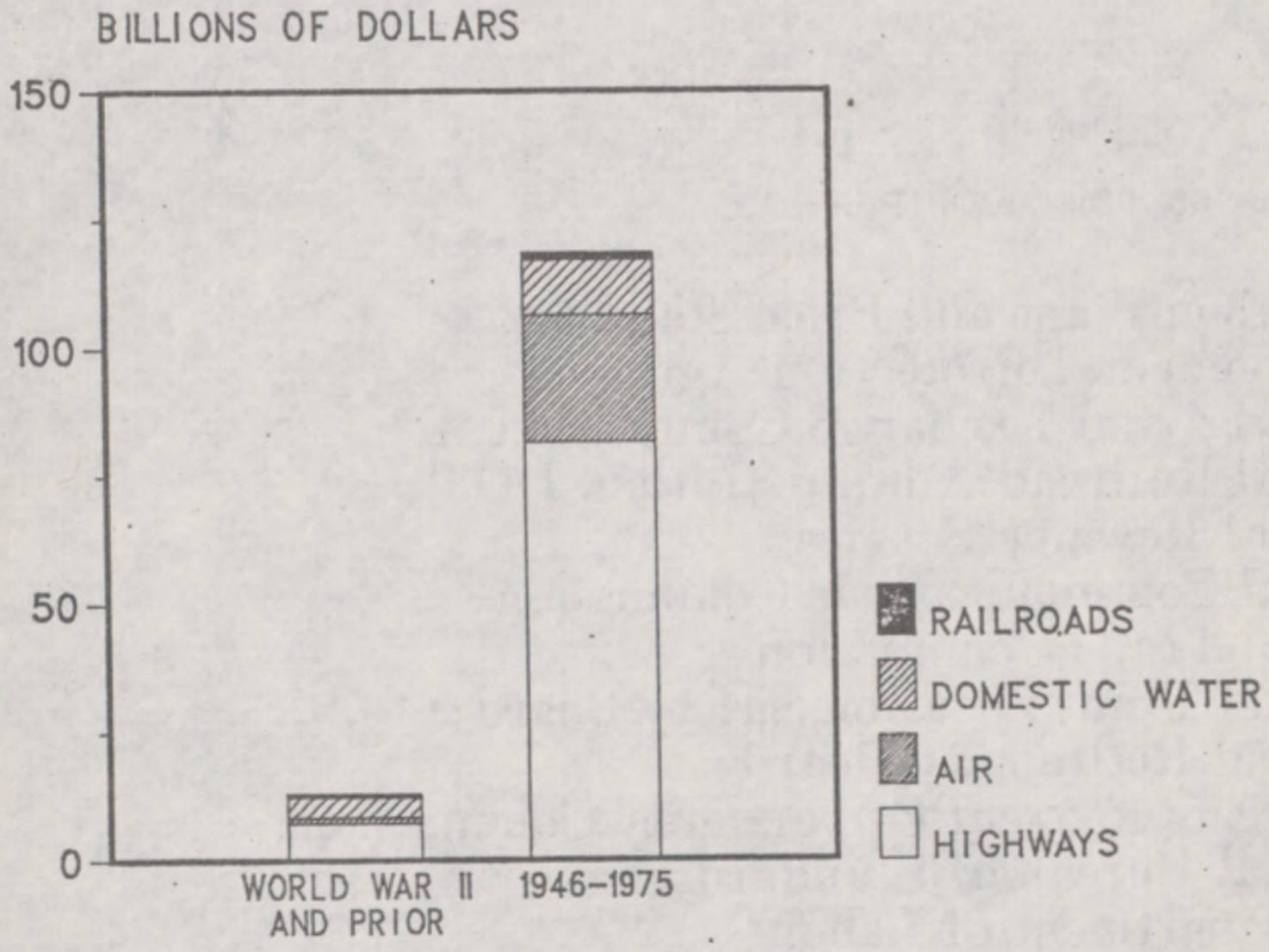
Direct Federal aid to transportation has remained heavily oriented toward the truck, water and air modes for decades.

Interstate rail traffic is almost totally regulated whereas competing modes are much less constrained by regulation.

As shown on Chart 6–A, railroads received only one percent of direct Federal aid to transportation during the 1946–1975 period. The chief source of competition, truck transportation, received 69 percent of the direct Federal aid over the same period.

CHART 6-A

RAILROADS RECEIVE RELATIVELY LITTLE DIRECT FEDERAL AID TO TRANSPORTATION



NOTE: Expenditures relate to both freight and passenger operation.

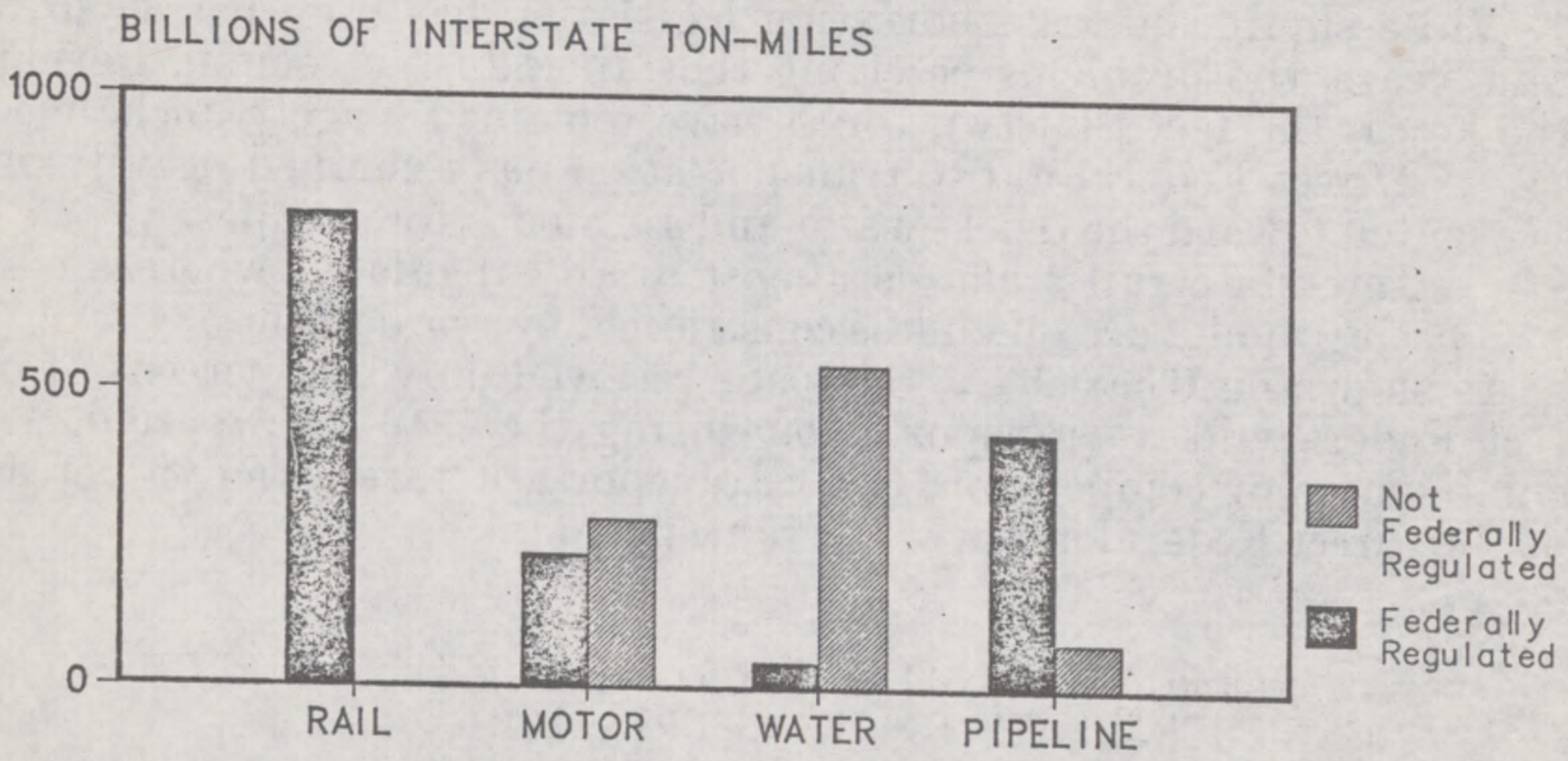
Source: Department of Transportation,
Study of Federal Aid to Rail Transportation,
January 1977.

This imbalance of aid leads to problems which are further exacerbated by the heavy burden of regulation. As Chart 6–B shows, virtually all interstate rail traffic is federally regulated while substantial proportions of competing modes are not federally regulated. The regulation of a few rail commodities has recently been relaxed, but the pattern of disparate treatment of the modes remains.

The Federal regulation of rail described in Chart 6–B refers to the regulatory purview of the Interstate Commerce Commission. However the following Federal agencies also exert control over various aspects of the rail industry:

CHART 6-B

RAILROADS ARE MUCH MORE HEAVILY REGULATED THAN OTHER TRANSPORTATION MODES



Source: ICC, 92nd Annual Report

Council on Wage and Price Stability;
Environmental Protection Agency;
Securities and Exchange Commission;
Federal Railroad Administration, DOT;
Internal Revenue Service;
Federal Communications Commission;
Federal Trade Commission;
National Transportation Safety Board;
Railroad Retirement Board;
Equal Employment Opportunity Commission;
National Bureau of Standards; and
U.S. Department of Labor.

In addition to the constraints imposed by Federal regulations, the rail industry is also faced with multiple and diverse regulations at the state level. As Chart 6–C indicates, fifty states have individual regulatory jurisdiction over railroads. In some instances, such as Minnesota, the rail industry is regulated by more than one state agency. The scope of state regulation encompasses entry, operating authority, abandonment, rates, accounting, service safety, construction, security issues, mergers, acquisitions, insurance and reporting. It should be noted that each of these areas is also regulated at the Federal level.

CHART 6-C

REGULATION OF RAILROADS

AGENCY	Number of Railroad Carriers	Citation of Jurisdictional Authority	Scope of Agency regulation of railroads - Entry	Operating Territory	Abandonment	Rates	Accounting	Service	Safety	Construction	Security Issues	Mergers and Acquisitions	Insurance	Reporting
ICC	493	49 U.S.C. 1 et seq.	x	x	x	x	x	x		x	x	x	x	x
ALABAMA PSC	21	Title 37, Code of Alabama	x	x	x	x	x	x	x	x		x		x
ALASKA TC 7/														
ALBERTA PUB	2	PUB Act, Alberta Resources Railway Act.			x	x	x					x		x
ARIZONA CC	6	Constitution, Article XV		x	x	x	x	x	x	x	x	x	x	x
ARKANSAS TC	27		x	x	x	x	x	x				x		x
CALIFORNIA PUC	34	State Constitution and Public Utilities Act				x	x	x	x					
COLORADO PUC	12	Sec. 40-1-102 CRS 1973	x	x	x	x	x	x	x	x	x	x		x
CONNECTICUT DOT	7			x			x	x	x	x		x		x
DELAWARE TA	4	Title 2, Del. Laws, Ch. 18	x	x	x	x	x	x	x	x	x	x	x	x
FLORIDA PSC	9	F.S. 350, Ch. 350			x 9/	x	x	x	17/	x				x
GEORGIA PSC	26			x	x	x		x				x	x	x
HAWAII PUC	1 14/	Ch. 269, 273-HRS												
IDAHO PUC	6	Title 61, Idaho Code			x	x	x	x	x	x		x		x
ILLINOIS CC	61	Ch. 111 2/3, Sec. 1 et seq.	x	x	x	x	x	x	x	x	x	x		x
INDIANA PSC	24	Ind. Code 1971, 8-1-2-3, 8-3-1		x	x	x	x	x	x		x			x
IOWA TRB	5	Ch. 327C-327H, Code of Iowa, 1977			x 16/	x	x	x	x					x
KANSAS SCC	14	Kansas Stats. Ann., Ch. 66	x	x	12/	x	x	x	x 1/					x
KENTUCKY RC														
LOUISIANA PSC	24	Constitutional & Statutory		2/	12/16/	x	x	x				x		x
MAINE PUC	8	35 M.R.S.A., Chapter 51				x	x	x	x					x
MARYLAND PSC	11	Article 78	x	x	x	x	x	x	x	x	x	x		x
MASSACHUSETTS DPU	14	Ch. 159-163, Mass.Gen.Laws	x	x	x	x	x	x	x	x	x	x		x
MICHIGAN DSHT 8/	23	Act 300, P.A. 1909, Amended			x	x	x	x	x		x	x	x	x
MINNESOTA DOT	15	Minn. Statutes, Ch. 218, 219			x 19/		x	x	x	x				x
MINNESOTA PSC		Minn. Statutes, Ch. 218, 219	x	x		x								
MISSISSIPPI PSC	13			x	x	x	x	x	x			x		x
MISSOURI PSC	15	Chapters 388, 389 RSMO			x	x	x	x	x	x	x	x		x
MONTANA PSC	6	Title 72, RCM 1947	x	x	x	x	x	x	x	x		x		x
NEBRASKA PSC	6	75-301 to 75-440	x	x	x	x	x	x	x			x	x	x
NEVADA PSC	4	Nev. Revised Stats., Ch. 705	x	x	x	x	x	x	x	x	x	x	x	x
NEW HAMPSHIRE PUC	9	RSA 367-374, 377-382, 372A	x	x		x	x	x	x	x	x	x		x
NEW JERSEY DOT 11/	12	NJSA 48:12-1 et seq.	x	x	x	x	x	x	x	x	x	x		x
NEW MEXICO SCC	5	Constitution			x	x	1/	x	x	13/				
NEW YORK DOT	38	Trans. Law; Title 17, NYCRR	x	x	x	x	x	x	x 6/	x 5/	x	x		x
NORTH CAROLINA UC	23	N.C. Gen. Statutes, Ch. 62-3(23) a. 3,4	x	x	x	x	x	x	x	x	x	x		x 1/
NORTH DAKOTA PSC	4	Title 49 N.D. CC				x	x	x	x		x	x		
OHIO PUC	23	Title 49, Ohio Rev. Code	x	x	x	x	18/	x	x	x	x	x		x
OKLAHOMA CC						x	x							
OREGON PUC	23	ORS Ch.756,760,761,763,764			x	x	x	x	x	x 5/				1/10/
PENNSYLVANIA PUC	45	Pa. Public Utility Law	x 3/	x 3/	x 3/	x 3/4/	x	x 4/	x	x 5/		x	x	x 6/
PUERTO RICO PSC	None													
RHODE ISLAND PUC	5	Title 39, Chapter 7, 8, 9	x	x	x	x	x	x	x	x	x		x	x
SOUTH CAROLINA PSC	13	S.C. Code 58-851	x	x	x	x		x	x	x		x		x
SOUTH DAKOTA PUC	6	S.D.C.L. 49	x	x	x	x	x	x	x	x		x		x
TENNESSEE PSC	12	63-301 et seq.	x	x		x	x	x	x	x	x		x	x
TEXAS RC	33	Texas Rev. Civil Statutes Ann. (1925) Article 6445			x	x	x	x	x	x				
UTAH PSC	9	Utah Code, Sec. 54-3-6 and 54-2-1(9)	x	x	x	x	x	x				x		
VERMONT AT 15/	13	Title 30, VSA Chapter 31		x		x		x	x	x	x	x		x
VIRGIN ISLANDS PSC	None													
VIRGINIA SCC	21	Code of Virginia and Virginia Constitution	x	x	x	x	x	x	x	x	x			x
WASHINGTON UTC	14	Title 81, Revised Code of Washington	x	x	x	x	x	x	x	x	x	x	x	x
WEST VIRGINIA	15	Code of West Virginia	x		12/	x 3/		x 3/	x					x 6/
WISCONSIN TC	16	Wisconsin Statutes, Ch. 190-192, 195	x	x	x	x	x	x	x	x	x	x		x
WYOMING PSC	5	Sec. 37-1-101, (a)(vi)(A), Wyoming Statutes 1977			x	x		x	x	x				x

SOURCE: 1978 Annual Report on Utility and Carrier Regulation NARUC.

FOOTNOTES TO CHART 6-C

1/ Annual reports are required to be filed showing intrastate operations.
2/ Sidings.
3/ Intrastate.
4/ Does not apply to authorities of Amtrak.
5/ Public crossings.
6/ Accidents, derailments, collisions, main track blockages in excess of two hours.
7/ Not subject to State regulation.
8/ Michigan Department of State Highways and Transportation.
9/ Stations and tracks.
10/ All grade crossing accidents; all railroad accidents and bridge failures resulting in loss of life or serious injury and accidents resulting in loss of property of $750 or greater.
11/ Under a reorganization plan submitted to the Legislature on September 18, 1978, all autobus and railroad regulatory and safety functions formerly performed by the New Jersey Board of Public Utilities are the responsibility of the New Jersey Department of Transportation effective January 1, 1979.
12/ Abandonments of stations and agencies only; line abandonments by other authority.
13/ Certain structures.
14/ No railroads operating under PUC jurisdiction in State of Hawaii. The PUC does have authority to regulate railroads. The only railroad now operating in Hawaii is being operated on private property--a scenic attraction.
15/ Vermont Agency of Transportation, Department of Bus, Rail, Waterways and Motor Carrier Services, State Administration Building, Montpelier, Vermont 05602.
16/ Intrastate spur trackage of less than three miles in length or over which the ICC has not exercised its jurisdiction.
17/ Safety jurisdiction repealed in 1978.
18/ Annual statement required - Section 4907.13.
19/ Abandonments of stations and agencies; abandonments of any spur, industrial, team, switching or side track which has been used directly by the shipping public.

The constraints imposed by regulation have been considerable. Not the least of these constraints has been the impact on the railroads' ability to recover costs. It has been estimated that the combined effect of Federal and state regulatory lag in adjusting rates to cover inflation has generated losses of over $1 billion per year over the past two to three years.

Changes in transportation legislation and regulation have responded to both the problems of the rail industry and the increasing competitiveness of the transportation marketplace. However, these changes have proved insufficient to fully address the needs of the industry and its shippers.

TRANSPORTATION EXPENDITURES ACCORDING TO THE CONGRESSIONAL BUDGET OFFICE

The following eight tables summarize federal transportation expenditures by mode for fiscal years 1978 and 1979. Also included are estimates of expenditures by the private sector and by state and local governments for 1978. With only a few exceptions, these data represent cash outlays rather than obligations. For rapidly growing capital-intensive programs such as mass transit, there can often be a significant difference between obligations and outlays.

Tables 1 through 6 cover the major modes of transportation: highways, air, water, railroads, mass transit, and pipelines, respectively. Table 7 presents federal expenditures that could not be easily assigned to a single mode, the Office of the Secretary of Transportation and the Interstate Commerce Commission, for example. Table 8 summarizes federal expenditures for 1978, comparing them with private expenditures and with private plus government expenditures combined.

In examining these tables, several limitations should be kept in mind. First, although federal expenditures are calculated from the federal budget in a relatively straightforward way, private, state, and local expenditures are estimated from a variety of sources. The estimates of expenditures by state and local governments are particularly uncertain because of the wide range in the quality of data provided by the different governments and because of the difficulty in separating federal transfer payments from true state and local expenditures.

Second, opinions vary about the exact definition of federal expenditures. Several modes, international shipping and passenger and freight railroads, for example, receive significant federal aid in the form of loan guarantees. These do not usually represent a federal cash outlay unless the loans default. In the attached tables, loan guarantees are not included in the estimate of federal expenditures, but are included at the bottom as important, supplementary aid. Tax expenditures, however, are included in federal expenditures since they represent federal revenues foregone. The largest federal transportation expenditure, the deductibility of state and local fuel taxes for non-business purposes, has since been repealed, but was in effect in 1978 and 1979.

Third, opinions also vary over whether or not user charges should be netted out of federal expenditures. Government expenditures for two modes, highways and air transportation, are financed in large part by user charges. At the federal level, the Highway Trust Fund and the Airport and Airway Trust Fund are the financing mechanisms used. Because of these user charges, federal and state and local government expenditures are presented on both a gross basis and a net basis after subtracting the user charges from gross expenditures. Private expenditures have been adjusted accordingly to maintain the same total level of private plus public expenditures.

Finally, user charges also raise questions of the proper allocation of costs and tax receipts among the various submodes. A recent study by the Federal Aviation Administration [1] indicates that general aviation (primarily private business planes) paid only about 14 percent of their share of Federal Aviation Administration expenditures in 1978. In contrast, commercial air carriers, largely through the 8 percent excise tax on passenger tickets, covered their share of Federal Aviation Administration expenses. There is no comparable, up-to-date study of federal highway expenditures, although the Department of Transportation is currently conducting a major highway cost allocation study. Findings are not yet available from this study although studies completed in the 1960's indicated that the heaviest classes of trucks did not fully pay their way.

The summary of expenditures shown in Table 8 is necessarily more aggregated than that of the earlier tables because of data limitations. This aggregation may mask substantial variations among the segments of the industries shown. For example, the water mode includes several quite different submodes, including commercial inland waterway users, deep-draft vessels and recreational boating. The final two columns that compare federal expenditures to private expenditures and to total expenditures, represent averages. If reliable data were available by submode, the results for some segments of the industry could differ substantially from the reported value, with the inland waterway industry probably showing a ratio of federal expenditures to private about three times that shown for water transportation as a whole, and the other submodes showing ratios substantially less than the average. A similar problem arises when considering federal railroad expenditures. As shown in Table 8, federal expenditures for rail passenger service (Amtrak and the Northeast Corridor project) are 2½ times privates expenditures while federal expenditures for the rail freight industry are only about 4 percent the size of private expenditures. Even here, if freight expenditures were broken into aid to Conrail and other rail aid, the results would show a much lower ratio between federal and private expenditures for non-Conrail railroads—probably around 1 percent.

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[1] Federal Aviation Administration, *Financing the Airport and Airway System: Cost Allocation and Recovery,* November 1978.

TABLE 1.—HIGHWAY MODE EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures: [1]		
Passenger transportation:		
Automobiles and trucks	228,864	NA
School buses	2,760	NA
Intercity buses	1,189	NA
Taxi and other	2,224	NA
Subtotal, passenger	235,037	NA
Freight transportation:		
Intercity truck:		
ICC-regulated	36,500	NA
Non-ICC-regulated	43,069	NA
Local truck	67,630	NA
Bus	205	NA
Subtotal, freight	147,404	NA
Total, private	382,441	NA
State and local government: [2]		
Gross expenditures	22,743	NA
User fees	16,617	NA
Net expenditures	6,126	NA
Federal Government: [3]		
Federal Highway Administration (Department of Transportation):		
Federal-aid highways [4]	5,876	6,876
Other FHWA [5]	183	347
National Highway Traffic Safety Administration (Department of Transportation)	210	247
Bureau of Indian Affairs (Department of Interior):		
Road maintenance	11	13
Indian road system	76	70
Bureau of Land Management [6] (Department of Interior): Access roads	9	5
National Park Service (Department of Interior)	46	42
Forest Service (Department of Agriculture):		
Forest roads and trails	343	347
Less user fees [7]	228	246
Net expenditures	114	101
Economic Development Administration [8] (Department of Commerce)	695	393
Small Business Administration	14	57
Appalachian Region Commission	145	192
Tax expenditure—deduction of State and local gasoline tax as nonbusiness expense	920	350
Gross Federal expenditures	8,299	8,693
Highway trust fund receipts [9]	7,567	8,046
Net Federal expenditures	732	647

[1] Calendar year.

[2] Fiscal year. Excludes Federal expenditures except for about $850,000,000 in general revenue sharing. Estimate of user fees includes interest earned but exclude effect of bond proceeds and debt repayment.

[3] Fiscal year. In addition, for 1978, about $850,000,000 of general revenue sharing funds were used for highways. These funds are included in State and local expenditures. No estimate is available for 1979.

[4] Excludes use of Interstate transfers for highways (included in mass transit data) but includes use of urban system program funds for transit.

[5] Excludes Darien Gap and territorial highways since they are outside the continental United States, excludes miscellaneous trust funds supported by user fees, and rural highway public transportation demonstration program (included in transit). These programs totaled $16,800,000 and $15,600,000 in 1978 and 1979 respectively.

[6] Excludes roads built with revenues from Oregon and California grant lands and other grant lands.

[7] Includes 10 percent of National Forest receipts set aside as permanent appropriation for roads, and timber purchase roads and other roads built by the Forest Service but financed by private business.

[8] Includes $683,000,000 and $363,000,000 for 1978 and 1979 respectively for local public works program. Some of these funds may be included in State and local spending.

[9] Includes interest earned on cash balance in trust fund.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures form Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. State and local government expenditures from Federal Highway Administration, Highway Statistics 1978, table HF–10. Federal expenditures from The Budget of the United States Government for fiscal year 1980 and 1981 and from supporting documents.

TABLE 2.—AIR TRANSPORTATION EXPENDITURES FOR 1978 AND 1979

[In millions of dollars[

	1978	1979
Private expenditures: [1]		
Passenger transportation:		
General aviation:		
Aircraft	1,716	NA
Operating costs	3,917	NA
Commercial aviation:		
Domestic	17,098	NA
International	4,399	NA
Subtotal, passenger	27,130	NA
Freight transportation:		
Domestic	1,729	NA
International	925	NA
Subtotal, freight	2,654	NA
Total, private expenditures	29,784	NA
State and local government (1977):		
Gross expenditures	1,348	NA
User fees	1,250	NA
Net expenditures	98	NA
Federal expenditures: [2]		
Federal Aviation Administration (Department of Transportation):		
Capital	634	636
Operating [3]	1,657	1,733
Other	465	458
Civil Aeronautics Board:		
Operating subsidies	95	94
Other	7	6
National Aeronautics and Space Administration [4]	228	264
Department of Commerce [5]	34	38
Department of State: U.S. participation in International Civil Aviation Organizations [6]	7	8
Total, Federal expenditures	3,127	3,237
Airport and airway trust fund receipts [7]	1,545	1,809
Net Federal expenditures	1,582	1,428
New loan guarantees	41	8

[1] Calendar year.
[2] Fiscal year.
[3] Net of user-fees for operation and maintenance at Washington Metropolitan airports.
[4] Costs and obligations. In addition, part of the Department of Defense research and development expenditures has eventual benefits for civil aviation.
[5] Economic Development Administration ($13,000,000 and $10,000,000 in 1978 and 1979 respectively) and National Oceanic and Atmospheric Administration (for charts and weather service).
[6] Obligations.
[7] Includes interest earned on cash balance in trust fund.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. State and local government expenditures from Bureau of the Census, Government Finances in 1976–77. Federal expenditures from, The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

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TABLE 3.—WATER TRANSPORTATION EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures:[1]		
Passenger transportation:		
Recreational boating	6,690	NA
Commercial domestic	20	NA
Commercial international	281	NA
Total, passenger	6,991	NA
Freight transportation:		
International	7,303	NA
Coastal and intercoastal	1,512	NA
Inland waterways	1,316	NA
Great Lakes	493	NA
Total, freight	10,624	NA
Total, private	17,615	NA
State and local government (1977)	768	NA
Federal Government:[2]		
Coast Guard (Department of Transportation):[3]		
Operating expenses	657	726
Capital expenses[4]	132	192
Other[5]	46	45
Saint Lawrence Seaway (Department of Transportation)[6]	(3)	(3)
Corps of Engineers (Department of Defense):		
Construction[7]	446	573
Operations and maintenance	485	529
Maritime Administration (Department of Commerce):		
Ship construction subsidy	157	201
Operating differential subsidy	303	301
Other[8]	46	138
National Oceanic and Atmospheric Administration (Department of Commerce)	12	13
Economic Development Administration (Department of Commerce)	30	37
Small Business Administration	16	12
Tax expenditure—Deferral of tax on shipping companies	80	75
Total Federal expenditures	2,407	2,845
Loan guarantees (Maritime Administration)[9]	1,284	469

[1] Calendar year.
[2] Fiscal year.
[3] Excludes defense related activities such as retired pay and reserve training and also excludes operating expenses for enforcement of laws and treaties, marine science and polar ice operations, and military readiness.
[4] Includes acquisition, construction and improvements for all programs and alteration of bridges.
[5] Research, development, test and evaluation, State boating safety grants, and pollution fund. Excludes miscellaneous small trust funds.
[6] Includes revenues of $10,000,000 and $11,000,000 in 1978 and 1979 respectively. Excludes any interest on over $110,000,000 in Federal funds used in original construction of seaway.
[7] Does not include navigation share of multi-purpose power projects.
[8] Research and development, operations and training, and net outlays for Federal ship financing fund, and other smaller funds.
[9] At the end of 1979, there were $6,700,000,000 in loan guarantees and commitments outstanding.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. Recreational boating estimate from National Marine Manufacturers Association. State and local government expenditures from Bureau of the Census, Government Finances in 1976–1977. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 4.—RAILROAD EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures: [1]		
Rail freight	20,993	NA
Loading and unloading freight cars	1,531	NA
Rail passenger	368	NA
Total, private	22,892	NA
State and local government expenditures [2]	NA	NA
Federal Government expenditures: [3]		
Federal Railroad Administration (Department of Transportation):		
Amtrak	716	779
Northeast corridor	204	193
Rail freight [4]	120	155
Other [5]	87	92
United States Railway Association:		
ConRail and other railroads [6]	804	738
Administration	19	29
Railroad Retirement Board:		
"Windfall" payment to railroad retirement trust fund	250	313
Regional rail transportation protection (labor grants)	80	72
Economic Development Administration: Department of Commerce	10	10
Tax expenditures—5-year amortization on rolling stock	(40)	(40)
Total Federal expenditures	2,250	2,347
Loan guarantees [7]	160	323

[1] Calendar year.
[2] No comprehensive data available, Expenditures are believed to be small, about $100,000,000.
[3] Fiscal year.
[4] Rail service assistance, railroad rehabilitation and improvement financing (includes redeemable preference shares), and Alaska Railroad (net of revenues of $29,000,000 and $25,000,000 in 1978 and 1979 respectively).
[5] Administration, railroad safety and research and development.
[6] Off-budget loans represent $69,000,000 and $30,000,000 in 1978 and 1979 respectively. Some of these loans are to railroads other than ConRail.
[7] These represent new loan guarantees and have not been adjusted for any loan guarantees canceled during the year. At the end of 1979 a total of over $1,6,000,000 in loan guarantees were outstanding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends. Transportation Association of America, Quarterly Supplement, January 1980. Rail passenger expenditures from "Railroad Fact Book," Association of American Railroads. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 5.—TRANSIT EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures [1]	2,763	NA
State and local governments [2]	2,155	NA
Federal expenditures: [3]		
Urban Mass Transportation Administration: (Department of Transportation):		
Capital [4]	1,260	1,567
Operating	618	767
Other [5]	155	128
Washington Metropolitan Area Transportation Authority [6]	149	84
Total, Federal expenditures	2,182	2,546

[1] Calendar year.
[2] State and local operating assistance for 1978 as estimated by American Public Transit Association. Net State and local capital assistance for 1977 estimated by subtracting Federal capital outlays from total State and local capital expenditures as estimated by the Bureau of the Census.
[3] Fiscal year.
[4] Includes highway use of Interstate transfer grants but excludes transit use of urban system highway funds (included in highways).
[5] Research and development, planning, administration, and rural highway public transportation demonstration.
[6] $49,000,000 and $61,000,000 in 1978 and 1979 respectively represents federal share of debt service on $997,000,000 in bonds guaranteed by the Federal Government. Rest of expenditures are for capital.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from American Public Transit Association, includes commuter railroad and local portion of intercity bus. State and local expenditures see footnote [2]. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 6.—PIPELINE EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures: [1]		
Oil pipeline:		
Regulated	4,907	NA
Nonregulated	545	NA
Natural gas pipeline	2,560	NA
Total, private expenditures	8,012	NA
State and local government [2]	NA	NA
Federal Government: [3]		
Department of Transportation: Pipeline safety grants	2	2
Federal Energy Regulatory Commission [4]	15	20
Total, Federal expenditures	17	22

[1] Calendar year.
[2] Assumed to be zero.
[3] Fiscal year.
[4] Estimate based on obligations.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Oil pipeline expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. Natural gas pipeline expenditures are estimated by Interstate Natural Gas Association of America. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 7.—MULTIMODAL OR UNALLOCATED FEDERAL TRANSPORTATION EXPENDITURES FOR FISCAL YEARS 1978 AND 1979

[In millions of dollars]

	1978	1979
Department of Transportation:		
Office of the Secretary	42	53
Research and Special Projects Administration [1]	4	17
Other [2]	(4)	2
Interstate Commerce Commission	65	67
National Transportation Safety Board	16	15
National Transportation Policy Study Commission	2	2
Total	124	157

[1] Excludes grants for gas pipeline safety.
[2] Working fund for Transportation Systems Center and, for 1979 only, Office of the Inspector General.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 8.—COMPARISON OF FEDERAL, STATE, AND LOCAL GOVERNMENT, AND PRIVATE TRANSPORTATION EXPENDITURES FOR 1978

[In millions of dollars]

Mode	Expenditures				Federal as percent of private	Federal as percent of tota
	Federal [1]	State and local	Private	Total		
Highway:						
Gross	8,299	22,743	358,277	389,299	2.3	2.1
Net of user charges	732	6,126	382,441	389,299	.2	.2
Air:						
Gross	3,127	1,348	26,989	31,464	11.6	9.9
Net of user charges	1,582	98	29,784	31,464	5.3	5.0
Water	2,407	768	17,615	20,790	13.7	11.6
Railroads (total)[2]:	2,250	NA	22,892	25,142	9.7	8.8
Freight[2 3]	[4] 913	NA	22,524	23,437	4.1	3.9
Passenger[2 3]	[5] 920	NA	368	1,288	250.0	71.4
Mass transit	2,182	2,155	2,763	7,100	79.0	30.7
Pipeline	17	NA	8,012	8,029	.2	.2
Total:						
Gross[2 6]	18,406	27,014	436,548	481,948	4.2	3.8
Net of user charges[2 6]	9,294	9,147	463,507	481,948	2.0	1.9

[1] Does not include estimate of interest subsidy associated with direct loans and loan guarantees.
[2] Excludes State and local retail expenditures, believed to be small (about $100,000,000).
[3] Excludes unallocated Federal railroad expenditures of $417,000,000, primarily payments to the Railroad Retirement Board.
[4] All Federal expenditures (see table 4) except for passenger-related outlays, FRA railroad safety, research and development and administrative expenses and Federal payments to the Railroad Retirement Board.
[5] Federal Railroad Administration expenditures for Amtrak and the Northeast Corridor. Excludes interest subsidy provided by Federal loan guarantees.
[6] Includes unallocated Federal expenditures of $124,000,000 (See table 7).

Source: Congressional Budget Office from tables 1 through 7.

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Part 7—Employment Levels and Employee Protection in the Railroad Industry

GENERAL EMPLOYMENT LEVELS

Chart 7–A shows differences in levels of employment for the six major employee classifications as reported monthly to the Interstate Commerce Commission by Class I Line Haul Carriers. The "Percent Difference" column represents a change in the level of employment from a year earlier but does not measure unemployment.

CHART 7–A

TOTAL EMPLOYMENT—CLASS I LINE HAUL RAILROADS

Employee classification	February 1980	February 1979	Difference	Percent difference
I. Executives, officials, and staff assistants	17,582	17,003	+579	+3.41
II. Professional, clerical and general	94,452	94,558	−106	−.11
III. Maintenance of way and structures	74,765	76,386	−1,621	−2.12
IV. Maintenance of equipment and stores	104,285	107,319	−3,034	−2.83
V. Transportation (other than train, engine, and yard)	20,995	21,769	−774	−3.56
VI. Transportation (a) (yardmasters, switch tenders and hostlers)	8,383	8,452	−69	−.82
Transportation (b) (train and engine)	140,148	141,291	−1,143	−.81
Total, all employees	460,610	466,778	−6,168	−1.32

Chart 7–B shows railroad employment on a State by State basis.

RAILROAD EMPLOYMENT BY STATES—1977

The following tabulation of railroad employment by states for 1977 covers not only the 482,731 employees of Class 1 line-haul railroads but also the 48,470 employees of Class II roads and the switching and terminal companies. The 17,960 employees of Amtrak and the 698 Auto-Train employees are not included.

Total employment figures for 1978 are not yet available.

The total 1978 railroad payroll in each state may be approximated by multiplying the number of employees for 1977 by $20,314, the average annual earnings of railroad employees in the United States in 1978.

CHART 7–B

Alabama	8,000	Florida	11,500
Alaska	1,000	Georgia	12,200
Arizona	3,300	Hawaii	—
Arkansas	6,800	Idaho	3,600
California	31,500	Illinois	47,000
Colorado	6,300	Indiana	15,900
Connecticut	3,400	Iowa	9,000
Delaware	1,900	Kansas	14,100
Dist. of Col	3,700	Kentucky	15,200

CHART 7–B—Continued

Louisiana	7,600	Oklahoma	4,000
Maine	2,300	Oregon	7,600
Maryland	8,900	Pennsylvania	44,500
Massachusetts	5,100	Rhode Island	700
Michigan	16,500	South Carolina	4,100
Minnesota	15,300	South Dakota	1,300
Mississippi	4,300	Tennessee	10,500
Missouri	17,400	Texas	29,100
Montana	6,600	Utah	4,600
Nebraska	13,900	Vermont	800
Nevada	1,600	Virginia	15,000
New Hampshire	400	Washington	10,200
New Jersey	8,100	West Virginia	8,100
New Mexico	2,800	Wisconsin	9,900
New York	29,000	Wyoming	3,600
North Carolina	6,900		
North Dakota	3,100	Total	531,200
Ohio	33,000		

Chart 7–C shows employment, payroll, and earnings in the rail industry from 1929 through 1978.

EMPLOYMENT, PAYROLL AND EARNINGS

The average number of employees for all Class I railroads decreased by 2 percent from 1977, mainly reflecting the reclassification of 14 roads, layoffs due to coal strikes and an extended railroad strike involving the Norfolk & Western.

Amtrak employment continued to climb, increasing by 10 percent over 1977. Most of these workers were formerly employed by Conrail and its predecessor companies in the operation of the Northeast Corridor properties which Amtrak has assumed.

Excluding Amtrak and Auto-Train, employment has declined 20.1 percent over the past decade while earnings per employee increased by 135 percent resulting in an 87.4 percent increase in annual payrolls.

CHART 7–C

	Number of employees (1)	Number of employees (2)	Compensation[2] (thousands)	Earnings per employee[2] Per year	Earnings per employee[2] Per hour
1929		1,660,850	$2,896,566	$1,743	$0.67
1939		987,943	1,863,503	1,886	.75
1944		1,413,672	3,853,345	2,726	.96
1947		1,351,961	4,350,229	3,218	1.20
1951		1,276,000	5,336,198	4,182	1.79
1955		1,058,216	4,993,662	4,719	1.99
1963		680,039	4,629,566	6,808	2.82
1964		665,034	4,697,884	7,064	2.90
1965		639,961	4,793,066	7,490	3.06
1966		630,895	4,879,273	7,734	3.17
1967		610,191	4,933,663	8,085	3.36
1968		590,536	5,110,336	8,654	3.54
1969		578,277	5,362,754	9,274	3.79
1970[3]		566,282	5,711,280	10,086	4.14
1971[3]	544,497	544,333	5,999,968	11,023	4.60
1972	527,235	526,061	6,424,920	12,213	5.03
1973	524,422	520,153	7,088,383	13,627	5.54
1974	533,277	525,177	7,475,834	14,235	5.84
1975	494,348	487,789	7,474,750	15,324	6.39
1976[3]	496,491	482,882	8,278,413	17,144	7.09
1977	501,389	482,731	8,939,411	18,518	7.66
1978[4]	491,251	471,516	9,578,331	20,314	8.40

[1] Includes employees of Amtrak beginning in 1971; Auto-Train for years 1972–77.
[2] Excludes Amtrak and Auto-Train.
[3] Adjusted to include retroactive wage increases.
[4] Preliminary figures. Compensation includes estimates of retroactive wage increases not paid until 1979.

Chart 7–D shows employment and annual income by Class for 1978.

EMPLOYMENT AND ANNUAL WAGES BY CLASSES—1978

Wages of train and engine service employees accounted for 35 cents of the average wage dollar paid in 1978 by Class I railroads, excluding Amtrak and Auto-Train. Wages of maintenance workers also took 35 cents, office and general personnel got 18 cents, off-train transportation employees received 7 cents, while salaries of executives, officials and staff assistants amounted to 5 cents of the payroll dollar.

CHART 7–D

Employee group	Average number of employees	Total payroll (thousands)	Average annual earnings
Executive, officials and staff	16,491	$508,675	$30,846
Professional, clerical and general	94,474	1,708,663	18,086
Maintenance of way and structures	86,233	1,488,587	17,262
Maintenance of equipment and stores	102,406	1,869,809	18,259
Transportation, other than train, engine and yard	22,428	431,318	19,231
Yardmasters, switch-tenders and hostlers	8,264	178,530	21,603
Train and engine service	141,220	3,392,749	24,025
Total	471,516	9,578,331	20,314

Note: Preliminary figures. Compensation includes estimates of retroactive wage increases not paid until 1979.

EMPLOYEES PROTECTION

The Transportation Act of 1920 gave the Interstate Commerce Commission jurisdiction over railroad acquisitions, mergers, consolidations, and abandonments. In passing upon applications, the Commission was required to modify the terms and conditions of the applications to promote the public interest. In the same Act, the Commission was given the mandate to develop a rationalized and efficient railroad system. For a variety of reasons that mandate was never fully implemented and in the 1930's the national depression again focused attention on the need for rationalization of the railroad system. However, there was great concern that the nation could not take any more unemployment than it already had. Therefore, the Emergency Transportation Act of 1933, in essence placed a moratorium on job reductions resulting from railroads trying to economize during the depression by consolidating operations. In effect, all railroad jobs were protected and railroads had to fill those jobs even if they became vacant because of death, resignation, or retirement of an employee. No consolidations of operations took place under the 1933 Act, and more and more railroads hovered on the brink of bankruptcy or in fact went bankrupt.

WASHINGTON JOB PROTECTION AGREEMENT

In order to allow implementation of consolidations, mergers, or pooling of equipment or facilities, most railroad carriers and the rail unions signed the Washington Job Protection Agreement on May 21, 1936. Its premise was a simple one: the carriers' actions would result in reduced labor costs. These savings should be shared with labor to ameliorate the effects of those actions. Certain levels of protection for

affected employees were agreed upon including seven major areas of protection:

1. A requirement that any railroad contemplating coordination, which is defined as joint action by two or more carriers to unify, consolidate, merge or pool total or portions of railroad facilities owned or operated by those railroads, post a notice to employees ninety days in advance, containing a full statement of the proposed coordination action including an estimate of the number of employees of each class that would be affected by the intended change.

2. A five-year protective period for employees involved in a particular coordination who are continued in service.

3. Wage protection during the protected period in the form of displacement allowances based upon test period earnings.[1]

4. Coordination allowances for those deprived of employment equaling sixty percent of average monthly compensation for a period of six months to five years depending on length of service.[2]

5. An option to elect separation pay in lieu of the coordination allowance.[3]

6. Maintenance of benefits.

7. Reimbursement for relocation expenses, including losses from home sale.

There were two important limitations contained in the Washington Job Protection Agreement. First, eligibility for benefits was expressly "restricted to those changes in employment in the railroad industry solely due to and resulting from such coordination". Second, coordination was defined to mean "joint action by two or more carriers whereby they unify, consolidate, merge, or pool in whole or in part their separate railroad facilities or any of the operations or services previously performed by them through such separate facilities."

The Washington Job Protection Agreement soon became the standard for the Commission to use in approving mergers or consolidations. By 1939, the Supreme Court upheld the imposition of labor protection

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[1] Displacement Allowance—Washington Agreement: Each displacement allowance will be based on an average monthly allowance derived by computing the average monthly compensation and time paid over the last 12 months that the services of the employees were provided, immediately preceding the date of displacement. In determining a month's applicability, any service provided in a month makes that month eligible for inclusion in calculation. The monthly average calculated will be considered the minimum pay that the displaced employee shall earn. If any smaller amount is earned, the difference in displacement allowance will be paid. The maximum length of time for a displacement allowance is 5 years.

[2] Coordination Allowance—Washington Agreement: The coordination allowance will be based on 60 percent of the average monthly income the employee earned in the immediately preceeding 12 months. The length of time for payment of the coordination allowance is determined and limited by the following schedule.

Less than 1 year: One lump sum payment equivalent to 60 days pay at the straight time daily rate of the last position held by the employee.
1. year and less than 2: 6 months.
2 years and less than 3: 12 months.
3 years and less than 5: 18 months.
5 years and less than 10: 36 months.
10 years and less than 15: 48 months.
15 years and over: 60 months.

[3] Separation Allowance—Washington Agreement: If the separation allowance is chosen, lump sum payments will be paid according to the following schedule:

Less than 1 year: Five days pay at rate of last position occupied for each month in which services were performed.
1 year and less than 2: 3 months pay.
2 years and less than 3: 6 months pay.
3 years and less than 5: 9 months pay.
5 years and less than 10: 12 months pay.
10 years and less than 15: 12 months pay.
15 years and over: 12 months pay.

by the Interstate Commerce Commission using its "public interest standard" contained in the 1920 Transportation Act for a lease application between two bankrupt railroads. (*United States* v. *Lowden, Trustee of the Estate of the Chicago, Rock Island and Pacific Railway Company*, 308 U.S. 225, 1939.) Shortly thereafter the Supreme Court upheld the imposition of "public interest" protective conditions in abandonments in *ICC* v. *Railway Labor Association*, 315 U.S. 357 (1942).

Meanwhile, Congress in the Transportation Act of 1940 added section 5(2)(f) to the Interstate Commerce Act.[4] It required as a condition to the grant of a merger, consolidation or acquisition, that labor protection be imposed for a period of four years from the effective date of the transaction. In the *Railway Labor Association Case*, the Supreme Court noted that the effect of the 1940 amendments was to make mandatory the protection of workers, which had been discretionary under the Washington Job Protection Agreement. Thereafter, the ICC utilizing the Washington Job Protection Agreement as a basis, developed a series of "standard" employee protections which were more or less routinely adopted.

THE OKLAHOMA CONDITIONS

In May of 1944, the Interstate Commerce Commission issued an order that is referred to as the "Oklahoma Conditions". The *Oklahoma Railway Trustees Abandonment*, 257 ICC 177 (1944), was the first "standard" set of protective conditions. It included:

1. A monthly displacement allowance, if the employee was displaced into a worse position with the carrier as a result of the approved transaction, which generally insured the employee of monthly compensation no less than his average monthly compensation during the twelve months prior to his displacement;

2. A monthly dismissal allowance, if the employee was deprived of all employment by the carrier as a result of the transaction, which generally insured the employee a monthly compensation (after allowing for compensation from other sources) no less than his average monthly compensation during the twelve months prior to such deprivation of employment;

3. Protection of fringe benefits;

4. Reimbursement of certain moving expenses and wage loss if the employee is required to change his place of employment as a result of the transaction;

5. Arbitration of disputes; and

6. Reimbursement of certain losses on sale of his home by an employee forced to move to a new residence as a result of the transaction.

The protective period during which those protections could apply was limited to four years from the effective date of the Commission's order approving the transaction, but not to exceed the period for which the particular employee was employed by the carrier prior to that date.

Two features of the Washington Job Protection Agreement were not included in the *Oklahoma Conditions*: (1) Ninety day notice of

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[4] See amended text of section 5(2)(f) as contained in the discussion of The 4–R Act Amendments.

an intended coordination, and, if the plan of coordination would result in the displacement of employees or a rearrangement of forces, the assignment of employees would be settled by an implementing agreement between the carriers and unions involved, or by arbitration if they could not agree; and (2) an authorization to dismiss employees who elect to receive a lump sum payment in lieu of all other protections.

The *Oklahoma Conditions* were imposed as recently as 1978 in trackage rights and lease cases: *Mendocino Coast Railway, —Lease Operate*, 354 ICC 732 (1978); *Norfolk and Western Railway Company—Trackage Rights—BN*, 354 ICC 605 (1978).

THE NEW ORLEANS PASSENGER TERMINAL CASE

The next important case putting forth "standard" conditions arose in *New Orleans Union Passenger Terminal Case*, 282 JCC 271 (1952). The conditions were a blend of the *Oklahoma Conditions* and the Washington Job Protection Agreement with minor changes. In particular a provision was added requiring any income derived from employment in other than the railroad industry shall be offset against the coordination allowance being paid by a specified proportion. Thereafter in the *Southern Railway Company—Control—Central of Georgia Railway Company*, 317 ICC 577 (1962), clarified 317 ICC 729 (1963) and 331 ICC 151, 164 (1967), minor changes were made to the *New Orleans Conditions* and to the *Oklahoma Conditions*.

Abandonments, while not covered by section 5(2)(f), received labor protection conditions first adopted in *Chicago, B&O Railroad Company. Abandonment*, 257 ICC 700 (1944). These conditions were in substance identical to the *Oklahoma Conditions*.

THE 4–R ACT AMENDMENTS

Congress by a 4–R Act amendment added a sentence to section 5(2)(f). The amended 5(2)(f) read as follows:

"As a condition of its approval, under this paragraph (2), of any transaction involving a carrier or carriers subject to the provisions of this part, the Commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected. In its order of approval the Commission shall include terms and conditions providing that during the period of four years from the effective date of such order such transaction will not result in employees of the carrier or carrier by railroads affected by such order being in a worse position with respect to their employment, except that the protection afforded to any employee pursuant to this sentence shall not be required to continue for a longer period, following the effective date of such order, than the period during which such employee was in the employ of such carrier or carriers prior to the effective date of such order. *Such arrangement shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subdivision and those established pursuant to Section 405 of the Rail Passenger Service Act (45 U.S.C. 565)*. Notwithstanding any other provision of this Act, an agreement pertaining to protection of

the interests of said employees may hereafter be entered into by any carrier or carriers by railroad and the duly authorized representative or representatives of its or their employees." (New 4R Act material underscored)

Abandonments were given similar treatment by section 802 of the 4–R Act. Both were recodified as 49 USC 11347.

The Rail Passenger Service Act of 1970, referred to by the 4–R Act Amendments, had in section 405 provided a statutory outline for protective employee conditions. Benefits could be no less than those provided by section 5(2)(f) of the Interstate Commerce Act. The Secretary of Labor was required to certify that Amtrak's labor protection agreements met this standard. In fact, the conditions Amtrak negotiated went far beyond those that the ICC had opposed in four significant aspects:

1. The maximum protective period was extended from four to six years from the date on which a protected employee was displaced.

2. Monthly compensation guarantees created by displacement and dismissal allowances were escalated with general wages increases.

3. Once an employee came forward alleging that he had been affected by a transaction, the burden was on the carrier to show the employee had not been affected.

4. Priority rights to employment in other crafts or classes in training or retraining rights were established.

The Amtrak Conditions also provided that twenty days notice of an intended transaction was required but that implementation could take place even without an agreement. Duplication or pyramiding of benefits were prohibited.

The ICC first considered the effect of the 4–R Act Amendments in *MoPac-Merger-T&P, C&EI*, 348 ICC 414 (1976). It concluded, "that Congress did not intend to have the Commission significantly change its policy in this area." (At page 427). It conditioned approval upon the *New Orleans Conditions* as modified by the *Amtrak Conditions*.

NEW YORK DOCK CONDITIONS

New York Dock Railways' application to acquire the Brooklyn Eastern District Terminal was a small merger case, yet the ICC chose this as the vehicle to address the minimum labor protective conditions required in mergers, consolidations, and acquisitions. New York Dock Railway—Control—Brooklyn Eastern District, 360 ICC 60 (1979). Labor organizations had petitioned that the labor protective conditions imposed in this case become the minimum standard in all subsequent mergers, acquisitions, or controls. The determination that New York Dock's protective conditions were a matter of general transportation importance occurred after the initial decision approving the application had imposed the New Orleans Conditions as modified by the Amtrak Conditions. In reviewing the newly fashioned New York Dock Conditions, the Court of Appeals used these words to describe them: "In overall effect, the single 'New York Dock Conditions' can be fairly characterized as significantly more protective of the interests of railway labor than any previously imposed single set of employee protective conditions." *New York Dock Railway Company* v. *U.S.*, F. 2d, (Second Cir. 1979).

The ICC imposed the most beneficial protective conditions of both *New Orleans* and *Amtrak* and made three major changes not contained in either:

1. It accepted the Railway Labor Executives Associations substitute definition of "transaction" for the Washington Job Protection Agreement's "coordination". Transaction was defined to mean: "any action taken pursuant to authorizations of the Commission on which the protective provisions were imposed."

2. It required that no change in operations, services, facilities or equipment shall occur "until after notice, negotiations, agreement or binding arbitration.

3. It deleted the Amtrak provision that prevented an employee from selecting only the best portions of *New York Dock* and the best portions contained in other contractual agreements. Duplication of benefits was no longer clearly prohibited.

These three changes raise issues of interpretation and application that have not yet been resolved.

Appeals were rejected in *New York Dock Railway* v. *U.S.*, F. 2d (Second Cir. 1979). The Court held the ICC acted within its discretion in fashioning protective benefits beyond the minimum required by law. The Court, however, noted problems arose because of the definition of transaction as well as the language concerning benefit selection.

As recently as December 14, 1979, the ICC has held that these are minimum protective conditions it will impose and chose not to clarify the language mentioned by the Court. On that occasion it reopened the *Missouri Pacific Railroad Company—Merger—T&P, C&EI*, Financial Docket Number 27773, reversed itself and imposed *New York Dock Conditions*. Similar conditions were required in abandonments: *Oregon Shortline Railroad Company—Abandonment—Goshen*, 360 ICC 91 (1979).

THE MILWAUKEE AND ROCK ISLAND CONDITIONS

Failing railroads and the resulting effect on employment which would not necessarily be covered by either existing collective bargaining agreements or the Interstate Commerce Act focused more attention on job protection for railroad employees. The first example was the law granting almost complete income protection for Conrail's employees with an alternative of severance pay. Since the 250 million dollars appropriated for Conrail's employees proved inadequate, a more tailored approach was developed for the Milwaukee employees. This is set forth in the Milwaukee Railroad Restructuring Act of 1979. It provided federal assistance to pay benefits to Milwaukee employees who were adversely affected by the restructuring in the following areas:

1. 80 percent of base income protection for up to 3 years
2. Supplemental unemployment benefits
3. Moving expenses and sale-of-home benefits
4. Separation allowance
5. Preferential hiring within the industry
6. Retraining

The basic protection plan of the law was spelled out in an agreement between the Milwaukee Road and the labor organizations representing its employees on December 14, 1979.

The circumstances of the Rock Island bankruptcy were different from those of the Milwaukee, but the impact on employees was similar, and an agreement was reached on March 4, 1980, between various railroads and the labor organizations representing Rock Island employees to provide for preferential hiring of Rock Island employees and monetary protection patterned after the Milwaukee Act with certain exceptions. The agreement also covers Milwaukee employees hired by carriers acquiring segments of its lines. The following describes the major components of the agreement:

1. Carriers acquiring Rock Island or Milwaukee trackage will give preference in hiring to employees of those lines to fill its needs.
2. Employees so hired will have monetary protection of 80 percent of base income for up to 3 years.
3. The labor agreements of the acquiring carrier will apply to the acquired lines.
4. Issues involving seniority of new hires will be resolved by agreement or if necessary by arbitration.
5. Moving expenses are not provided.
6. Separation pay is not an option.
7. Employees not hired have no protection provided by the acquiring carrier.
8. The protection of the agreement is the total protection available to the hired employees. It satisfies the requirements of the Interstate Commerce Act.

Legislation to provide protection similar to that in the Milwaukee law for employees of Rock Island who are not hired by a purchasing carrier is pending. The March 4, 1980, hiring agreement is already being carried out on several carriers which have been granted temporary operating authority on Rock Island lines by the ICC.

Part 8—Profile of Class I Railroads

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

General Office: 80 East Jackson Boulevard, Chicago, IL 60604 (312) 427–4900
States Served: Illinois, Iowa, Missouri, Kansas, Nebraska, Oklahoma, Texas, Louisiana, Colorado, New Mexico, Arizona, California
Miles of Line Operated*:* 12,230 (Third largest U.S. railroad)
Total Operating Revenues: $1.5 billion
Net Investment: $2.2 billion
Net Railway Operating Income: $110.9 million
Rate of Return: 5.12 percent
Revenue Ton-Miles: $66.2 billion
Principal Commodities: Grain, grain mill products; food and kinderd products; chemicals and allied products
Employment: 33,289
Top Officers:
John S. Reed, Chairman and Chief Executive Officer of Industries and Railway
Lawrence Cena, President
Gus Svolos, General Counsel
R. W. Harper, Vice President—Finance and Treasurer

BALTIMORE AND OHIO RAILWAY

General Office: 2 North Charles Street, Baltimore, MD 21201 (301) 237–2000
Executive Office: The Terminal Tower, Cleveland, OH 44101 (216) 623–2200
States Served: New York, Delaware, Pennsylvania, Maryland, District of Columbia, Virginia, Ohio, Indiana, Illinois, Kentucky and Missouri
Miles of Line Operated: 5,283
Total Operating Revenues: $830.7 million
Net Investment: $1.3 billion
Net Railway Operating Income: $60.4 million
Rate of Return: 4.79 percent
Revenue Ton-Miles: 25.4 billion
Principal Commodities: Coal; motor vehicles and equipment; metals and products; and metallic ores
Employment: 16,098
Top Officers:
H. T. Watkins, Chairman and Chief Executive Officer
R. W. Donnem, Senior Vice President, Law and General Counsel
R. L. Hintz, Senior Vice President, Finance

BESSEMER AND LAKE ERIE RAILROAD COMPANY

General Office: 600 Grant Street, P.O. Box 536, Pittsburgh, PA 15230.
States Served: Pennsylvania, Ohio
Miles of Line Operated: 221
Total Operating Revenues: $84.6 million
Net Investment: $140.5 million
Net Railway Operating Income: $12.0 million
Rate of Return: 9.48 percent
Revenue Ton-Miles: 2.4 billion
Principal Commodities: Metallic ores; coal, nonmetallic minerals; petroleum products; and primary metal products
Employment: 1,445
Top Officers:
M. S. Toon, President
J. D. Morrison, General Counsel and Secretary
V. W. Kraetsch, Vice President-Finance

BOSTON AND MAINE RAILROAD COMPANY

General Office: 150 Causeway Street, Boston, MA 02114 (617) 667–8100
States Served: Massachusetts, Maine, New Hampshire, New York and Vermont.
Miles of Line Operated: 1,416
Total Operating Revenues: $91.5 million
Net Investment: $126.4 million
Net Railway Operating Income: deficit $1.0 million
Rate of Return: deficit
Revenue Ton-Miles: 2.5 billion
Principal Commodities: Pulp; paper and allied products; crushed stone; sand and gravel
Employment: 3,086
Top Officers:
Alan G. Dustin, President and Chief Executive Officer
J. J. Nee, Vice President and General Counsel
P. W. Carr, Vice President and Comptroller

BURLINGTON NORTHERN, INC.

General Office: 176 East Fifth Street, St. Paul, MN 55101 (612) 298–2121
States Served: California, Colorado, Idaho, Illinois, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wisconsin, Wyoming and Canada (British Columbia, Manitoba)
Miles of Line Operated: 22,729 (largest in U.S.)
Total Operating Revenues: $2.0 billion
Net investment: $3.0 billion
Net Railway Operating Income: $86.9 million
Rate of Return: 3.01 percent
Revenue Ton-Miles: 108.1 billion

Principal Commodities: Coal; grain; metallic ores; lumber and wood products
Employment: 46,684
Top Officers:
Louis W. Menk, Chairman
N. M. Lorentzsen, President and Chief Executive Officer
J. R. Walker, General Counsel
Frank H. Coyne, Executive Vice President, Finance and Administration

CHESAPEAKE AND OHIO RAILWAY

General Office: 2 North Charles Street, Baltimore, MD 21201 (301) 237–2000
Executive Office: The Terminal Tower, Cleveland, OH 44101, (216) 623–2200
States Served: Virginia, West Virginia, Kentucky, Ohio, Indiana, Illinois, Michigan, New York, District of Columbia and Canada (Ontario)
Miles of Line Operated: 4,771
Total Operating Revenues: $672.1 million
Net Investment: $1.0 billion
Net Railway Operating Income: $21.7 million
Rate of Return: 2.15 percent
Revenue Ton-Miles: 23.9 billion
Principal Commodities: Coal; motor vehicles and equipment; crushed stone, sand and gravel
Emplyment: 19,236
Top Officers:
H. H. Watkins, Chairman of the Board and President
R. W. Donnem, Senior Vice President, Law and General Counsel
R. L. Hintz, Senior Vice President, Finance

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

General Office: 400 West Madison Street, Chicago, IL 60606 (312) 454–6000
States Served: Illinois, Iowa, Wisconsin, Michigan, Nebraska, Minnesota, South Dakota, North Dakota, Wyoming, Missouri and Kansas
Miles of Line Operated: 9,140
Total Operating Revenues: $652.6 million
Net Investment: $438.0 million
Net Railway Operating Income: $2.2 million
Rate of Return: 0.51 percent
Revenue Ton-Miles: 24.3 billion
Principal Commodities: Metallic ores; grain; grain mill products; pulp, paper and allied products
Employment: 13,523
Top Officers:
James R. Wolfe, President and Chief Executive Officer
J.M. Butler, Vice President—Law
R. M. Freeman, Vice President—Law

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROADS

General Office: Union Station, 516 West Jackson Boulevard, Chicago, IL 60606 (312) 648–3000
States Served: Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, and Wisconsin
Miles of Line Operated: 9,826
Total Operating Revenues: $439.2 million
Net Investment: $585.2 million
Net Railway Operating Income: deficit $74.4 million
Rate of return: deficit
Revenue Ton-Miles: 17.8 billion
Principal Commodities: Grain; coal; primary frest products; pulp, paper and allied products
Employment: 10,833
Top Officers:
Worthington L. Smith, President and Chief Executive Officer
R. V. Nugent, Jr., Vice President—Finance
J. J. Nagle, General Counsel

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

General Office: 335 South Michigan Avenue, Chicago, IL 60604, (312) 435–7520
States Served: Illinois, Iowa, Missouri, Minnesota, Nebraska, Kansas, Colorado, Oklahoma, New Mexico, Arkansas, Louisiana, Tennessee, and Texas
Miles of Line Operated: 7,025
Total Operating Revenues: $391.6 million
Net Investment: $421.2 million
Net Railway Operating Income: deficit $12.7 million
Rate of Return: deficit
Revenue Ton-Miles: 14.6 billion
Principal Commodities: Grain; grain mill products; crushed stone, gravel and sand
Employment: 8,280
Top Officers:
Martin L. Cassell, General Counsel
Burton M. Strauss, Jr., Chief Financial Officer, Secretary and Treasurer

CLINCHFIELD RAILROAD COMPANY (SEE SCL)

General Office: Erwin, TN 37650, (615) 743–9161
States Served: Kentucky, Virginia, Tennessee, North Carolina and South Carolina
Miles of Line Operated: 296
Total Operating Revenues: $62.2 million
Net Investment: $112.1 million
Net Railway Operating Income: $11.5 million
Rate of Return: 10.67 percent
Revenue Ton-Miles: 3.3 billion

Principal Commodities: [1] Coal; primary metal products; chemicals and allied products; stone, clay and glass products; transportation equipment
Employment: 744
Top Officers:
John W. Thomas, General Manager
T. J. Seeley, Jr., General Counsel
D. L. Morris, Vice President and Comptroller

COLORADO AND SOUTHERN RAILWAY COMPANY

General Office: 2000 Executive Tower, 1405 Curtis Street, Denver, CO 80202, (303) 458–7200
States Served: Wyoming, Colorado, and New Mexico
Miles of Line Operated: 678
Total Operating Revenues: $64.5 million
Net Investment: $83.6 million
Net Railway Operating Income: deficit $2.7 million
Rate of Return: deficit
Revenue Ton-Miles: 4.2 billion
Principal Commodities: Food and kindred products; grain; grain mill products
Employment: 652
Top Officers:
L. W. Menk, Chairman
G. F. Defiel, President and Chief Executive Officer
W. L. Peck, General Counsel
D. A. Rainey, Assistant Vice President and Controller

CONSOLIDATED RAIL CORPORATION [1]

General Office: Transportation Center, Six Penn Center Plaza, Philadelphia, PA 19104. (215) 594–1000
States Served: Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Canada (Ontario, Quebec), Pennsylvania, Rhode Island, Virginia and West Virginia
Miles of Line Operated: 19,222 (second largest in U.S.)
Total Operating Revenues: $3.3 billion
Net Investment: $1.6 billion
Net Railway Operating Income: deficit $678.0 million (ICC basis)
Net Railway Operating Income: deficit $351.3 million (GAAP basis)
Rate of Return: deficit
Revenue Ton-Miles: 92.4 billion
Principal Commodities: Coal; metallic ores; motor vehicles and equipment; metals and products; grain mill products
Employment: 94,605
Top Officers:
E. G. Jordan, Chairman and Chief Executive Officer
Stuart Reed, President and Chief Operative Officer
R. H. Platt, Executive Vice President Finance & Administration
Charles P. Northrop, Vice President—Law

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[1] Source: ICC Individual Freight Commodity Statistics Report, 1977.
[1] ICC figure is one used throughout. Generally Accepted Accounting Practices (GAAP) is the method Conrail uses in figuring up their statistics.

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DELAWARE AND HUDSON RAILWAY COMPANY

General Office: Delaware & Hudson Building, Albany, NY 12207, (518) 471–5400
States Served: New York, Vermont, Pennsylvania, New Jersey, Maryland, District of Columbia and Virginia
Miles of Line Operated: 1,673
Total Operating Revenues: $84.9 million
Net Investment: $81.6 million
Net Railway Operating Income: deficit $8.4 million
Rate of Return: deficit
Revenue Ton-Miles: 3.4 billion
Principal Commodities: Pulp, paper and allied products; motor vehicles and equipment; stone, clay and glass products
Employment: 1,928
Top Officers:
K. P. Shoemaker, President and Chief Executive Officer
D. D. Muir, Vice President—Finance
G. H. Kleinberger, General Attorney

DENVER & RIO GRANDE WESTERN RAILROAD COMPANY

General Office: Park Central Plaza, 1515 Arapahoe Street, Denver, CO 80217, (303) 629–5533
States Served: Colorado and Utah
Miles of Line Operated: 1,848
Total Operating Revenues: $218.0 million
Net Investment: $312.5 million
Net Railway Operating Income: $25.5 million
Rate of Return: 8.31 percent
Revenue Ton-Miles: 10.2 billion
Principal Commodities: Coal; crushed stone, gravel and sand; metals and products
Employment: 3,525
Top Officers:
G. B. Aydelott, Chairman of the Board
W. J. Holtman, President and Chief Executive Officer
H. W. Bushacher, Vice President—Finance
S. R. Freeman, Vice President and General Counsel

DETROIT, TOLEDO AND IRONTON RAILROAD COMPANY

General Office: One Parklane Boulevard, Dearborn, MI 48126 (313) 336–9600
States Served: Michigan, Ohio, Canada (Ontario)
Miles of Line Operated: 551
Total Operating Revenues: $71.0 million
Net Investment: $66.2 million
Net Railway Operating Income: $3.8 million
Rate of Return: 5.73 percent
Revenue Ton-Miles: 1.5 billion
Principal Commodities: Motor vehicles and equipment, food and kindred products, metals and products

Employment: 1,436
Top Officers:
R. A. Sharp, President
R. Guregian, Vice President—Finance

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

General Office: 500 Missabe Building, Duluth, MN 55802 (218) 723–2115
States Served: Minnesota and Wisconsin
Miles of Line Operated: 443
Total Operating Revenues: $82.7 million
Net Investment: $115.0 million
Net Railway Operating Income: $5.3 million
Rate of Return: 4.7 percent
Principal Commodities: metallic ores
Employment: 1,672
Top Officers:
M. S. Toon, President
V. W. Kraetsch, Vice President—Finance
D. H. Core, Jr., Resident General Counsel

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY

General Office: 600 Grant Street, P.O. Box 536, Pittsburgh, PA 15230 (412) 566–6420
States Served: Illinois, Indiana.
Miles of Line Operated: 201
Total Operating Revenues: $126.2 million
Net Investment: $105.6 million
Net Railway Operating Income: $17.7 million
Rate of Return: 16.86 percent
Revenue Ton-Miles: 883.3 million
Principal Commodities: Metals and products; stone, clay and glass products; waste and scrap materials.
Employment: 3,082
Top Officers:
M. S. Toon, President
V. W. Kraetsch, Vice President—Finance
J. D. Morrison, General Counsel and Secretary

FLORIDA EAST COAST RAILWAY COMPANY

General Office: One Malaga Street, St. Augustine, FL 32084 (904) 829–3421
States Served: Florida
Miles of Line Operated: 499
Total Operating Revenues: $68.6 million
Net Investment: $112.4 million
Net Railway Operating Income: $9.2 million
Rate of Return: 8.06 percent
Revenue Ton-Miles: 2.4 billion
Principal Commodities: Crushed stone, gravel and sand; forwarder and shipper association traffic

Employment: 1,054
Top Officers:
E. Ball, Chairman of the Board
W. L. Thornton, President
C. B. Evans, General Counsel
J. R. Yastryzemski, Comptroller

FORT WORTH AND DENVER RAILWAY COMPANY

General Office: Fort Worth Club Building, P.O. Box 943, Fort Worth, TX 76101 (817) 322–8131
States Served: Texas
Miles of Line Operated: 1,166
Total Operating Revenues: $63.5 million
Net Investment: $57.2 million
Net Railway Operating Income: $6.0 million
Rate of Return: 10.94 percent
Revenue Ton-Miles: 4.0 billion
Principal Commodities: Food and kindred products, farm products, coal
Employment: 1,151
Top Officers:
G.F. Defiel, President and Chief Executive Officer
D. A. Rainey, Assistant Vice President and Controller
F. S. Farrell. Vice President—Law

GRAND TRUNK WESTERN RAILROAD

General Office: 131 West Lafayette Boulevard, Detroit, MI 48226 (313) 962–2260
States Served: Michigan, Indiana and Illinois
Miles of Line Operated: 981
Total Operating Revenues: $189.5 million
Net Investment: $212.7 million
Net Railway Operating Income: $4.0 million
Rate of Return: 1.96 percent
Principal Commodities: Motor vehicles and equipment; grain mill products; pulp and paper products, chemicals
Employment: 4,506
Top Officers:
R. A. Bandeen, Chairman of the Board
J. H. Burdakin, President
E. C. Opperthauser, General Counsel
P.E. Tatro, Vice President—Finance

ILLINOIS CENTRAL GULF RAILROAD COMPANY

General Office: 233 North Michigan Avenue, Chicago, IL 60601 (312) 565–1600
States Served: Illinois, Indiana, Wisconsin, Iowa, Minnesota, South Dakota, Nebraska, Missouri, Kentucky, Tennessee, Mississippi, Louisiana, and Alabama

Miles of Line Operated: 8,866
Total Operating Revenues: $748.7 million
Net Investment: $1.2 billion
Net Railway Operating Income: $3.2 million
Rate of Return: 0.27 percent
Revenue Ton-Miles: 32.9 billion
Principal Commodities: Coal; primary forest products; chemicals and allied products; grain
Employment: 17,094
Top Officers:
W. J. Taylor, President and Chief Executive Officer
G. E. Konker, Senior Vice President and Chief Financial Officer
H. D. Koontz, Senior General Solicitor
P. W. Johnson, Vice President—Law

KANSAS CITY SOUTHERN RAILWAY COMPANY

General Office: 114 West 11th Street, Kansas City, MO 64105 (816) 556–0303
States Served: Missouri, Kansas, Oklahoma, Arkansas, Louisiana and Texas
Miles of Line Operated: 1,669
Total Operating Revenues: $192.2 million
Net Investment: $270.8 million
Net Railway Operating Income: $18.1 million
Rate of Return: 7.11 percent
Revenue Ton-Miles: 9.5 billion
Principal Commodities: Primary forest products; pulp, paper and allied products; chemicals and allied products; coke
Top Officers:
W. N. Deramus, III, Chairman
T. S. Carter, President
R. P. Bruening, General Counsel
T. A. Giltner, Vice President and Comptroller

LONG ISLAND RAIL ROAD

General Office: Jamaica, New York 11435 (212) 526–0900
States Served: New York
Miles of Line Operated: 326
Total Operating Revenues: $255.5 million
Net Investment: $216.6 million
Net Railway Operating Income: deficit $44.3 million
Rate of Return: deficit
Revenue Ton-Miles: 42.7 million
Principal Commodities: Basically a passenger road—hauls very little freight
Employment: 6,537
Top Officers:
F. S. Gabreski, President and General Manager
T. M. Taranto, Vice President—General Counsel and Secretary
T. P. Moore, Senior Executive—Administration

LOUISVILLE AND NASHVILLE RAILROAD

General Office: 908 West Broadway, P.O. Box 32290, Louisville, KY 40232 (502) 587–5000
States Served: Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, Tennessee, and Virginia
Miles of Line Operated: 6,617
Total Operating Revenues: $824.4 million
Net Investment: $1.3 billion
Net Railway Operating Income: $23.8 million
Rate of Return: 1.89 percent
Revenue Ton-Miles: 38.0 billion
Principal Commodities: Coal, chemicals and allied products; stone, clay and glass products
Employment: 14,994
Top Officers:
P. F. Osborn, Chairman and Chief Executive Officer
R. D. Spence, President
J. L. Lenihan, Vice President and General Counsel
D. L. Morris, Vice President and Comptroller

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

General Office: Katy Building, 701 Commerce Street, Dallas, TX 75202 (214) 651–6706
States Served: Missouri, Kansas, Oklahoma and Texas
Miles of Line Operated: 2,168
Total Operating Revenues: $135.7 million
Net Investment: $146.8 million
Net Railway Operating Income: $7.0 million
Rate of Return: 4.98 percent
Revenue Ton-Miles: 5.8 billion
Principal Commodities: Grain; coal; stone, clay and glass products
Employment: 2,440
Top Officers:
B. N. Whitman, Chairman of the Board and Chief Executive Officer
W. A. Thie, General Counsel
R. A. Douglas, Comptroller

MISSOURI PACIFIC RAILROAD COMPANY

General Office: Missouri Pacific Building, 210 North 13th Street, St. Louis, MO 63103 (314) 622–0123
States Served: Arkansas, Colorado, Illinois, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee and Texas
Miles of Line Operated: 11,500 (3rd largest in U.S.)
Total Operating Revenues: $1.2 billion
Net Investment: $1.7 billion
Net Railway Operating Income: $135.7 million
Rate of Return: 8.42 percent

Revenue Ton-Miles: 52.2 billion
Principal Commodities: Coal; grain; chemical and allied products; food and kindred products
Employment: 19,812
Top Officers:
D. B. Jenks, Chairman of the Board
J. H. Lloyd, Vice Chairman of the Board
J. W. Gessner, President and Chief Executive Officer
M. M. Hennelly, Senior Vice President and General Counsel
E. F. Becktame, Controller

NORFOLK AND WESTERN RAILWAY COMPANY

General Office: 8 North Jefferson Street, Roanoke, VA 24042 (703) 981–4000
States Served: Virginia, West Virginia, Maryland, North Carolina, Kentucky, Ohio, Pennsylvania, New York, Indiana, Illinois, Michigan, Missouri, Iowa, Nebraska, and Canada (Ontario)
Miles of Line Operated: 7,481
Total Operating Revenues: $996.5 million
Net Investment: $2.0 billion
Net Railway Operating Income: $86.0 million
Rate of Return: 4.30 percent
Revenue Ton-Miles: 37.7 billion
Principal Commodities: Coal; motor vehicles and equipment; grain; metals and products
Employment: 18,984
Top Officers:
J. P. Fishwick, President and Chief Executive Officer
R. B. Claytor, Executive Vice President
J. S. Shannon, Vice President—Law
J. R. Turbyfill, Vice President—Finance

PITTSBURGH AND LAKE ERIE RAILROAD

General Office: P&LE Terminal, Pittsburgh, PA 15219 (412) 261–3201
States Served: Pennsylvania, Ohio
Miles of Line Operated: 274
Total Operating Revenues: 65.9 million
Net Investment: $242.6 million
Net Railway Operating Income: $12.2 million
Rate of Return: 5.21 percent
Revenue Ton-Miles: 1.2 billion
Principal Commodities: Metallic ores; coal; metals and products
Employment: 1,170
Top Officers:
G. G. Garland, Chairman of the Board
H. G. Allyn, Jr., Chief Executive Officer and President
G. E. Neuenschwander, Executive Vice President and General Counsel
R. P. McConnell, Comptroller

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

General Office: Frisco Building, 906 Olive Street, St. Louis, MO 63101 (314) 342–8400
States Served: Alabama, Arkansas, Florida, Kansas, Mississippi, Missouri, Oklahoma, Tennessee and Texas
Miles of Line Operated: 4,538
Total Operating Revenues: $388.2 million
Net Investment: $569.7 million
Net Railway Operating Income: $38.0 million
Rate of Return: 6.80 percent
Revenue Ton-Miles: 16.5 billion
Principal Commodities: Coal; food and kindred products; grain; grain mill products; pulp, paper and allied products
Employment: 8,270
Top Officers:
R. C. Grayson, Chairman of the Board and President
H. B. Parker, Vice President, Finance and Treasurer
D. E. Engle, Vice President—Law and Secretary

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY (COTTON BELT)

General Office: One Market Plaza, San Francisco, CA 94105 (415) 362–1212
States Served: Illinois, Missouri, Arkansas, Tennessee, Louisiana, Texas
Miles of Line Operated: 1,441
Total Operating Revenues: $226.8 million
Net Investment: $445.4 million
Net Railway Operating Income: $32.7 million
Rate of Return: 7.47 percent
Principal Commodities: Grain mill products; pulp, paper and allied products; food and kindred products
Employment: 4,200
Top Officers:
B. F. Biaggini, Chairman of the Board
D. K. McNear, President
N.F. Jeffers, Manager of Accounting
Harry B. LaTourette, General Solicitor

SEABOARD COAST LINE RAILROAD

General Office: 500 Water Street, Jacksonville, FL 32202 (904) 353–2011
States Served: Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama
Miles of Line Operated: 8,906
Total Operating Revenues: $910.5 million
Net Investment: $1.4 billion
Net Railway Operating Income: $105.5 million
Rate of Return: 7.85 percent
Revneue Ton-Miles: 34.7 billion
Principal Commodities: Nonmetallic minerals; primary forest products; chemicals and allied products; stone, clay and glass products

Employment: 19,500
Top Officers:
P. F. Osborn, Chairman and Chief Executive Officer
A. P. Funkhouser, President
J. W. Weldon, Vice President—Law
D. L. Morris, Vice President and Comptroller

SOO LINE RAILROAD COMPANY

General Office: Soo Line Building, Box 530, Minneapolis, MN 55440 (612) 332–1261
States Served: Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Montana and Illinois
Miles of Line Operated: 4,562
Total Operating Revenues: $251.3 million
Net Investment: $338.2 million
Net Railway Operating Income: $25.8 million
Rate of Return: 7.81 percent
Revenue Ton-Miles: 10.9 billion
Principal Commodities: Grain; food and kindred products; pulp, paper and allied products
Employment: 4,688
Top Officers:
Thomas M. Beckley, President and Chief Executive Officer
Charles H. Clay, Executive Vice President
Richard L. Murlowski, Vice President Accounting
Robert G. Gehrz, Vice President and General Counsel
Harold J. Ness, Treasurer

SOUTHERN PACIFIC TRANSPORTATION COMPANY

General Office: One Market Plaza, San Francisco, CA 94105 (415) 362–1212
States Served: Arizona, California, Louisiana, Nevada, New Mexico, Oregon, Texas and Utah
Miles of Line Operated: 11,294 (4th largest U.S. railroad)
Total Operating Revenues: $1.7 billion
Net Investment: $2.2 billion
Net Railway Operating Income: $36.0 million
Rate of Return: 1.74 percent
Principal Commodities: Metallic ores; lumber and wood products; chemicals and allied products; crushed stone, gravel and sand
Employment: 34,643.
Top Officers:
B. F. Biaggini, Chairman
D. K. McNear, President
R. J. McLean, Executive Vice President—Finance
H. D. Waterman, Vice President and General Council

SOUTHERN RAILWAY SYSTEM

General Office: 920—15th Street, NW, P.O. Box 1808, Washington, DC 20013 (202) 628–4460

States Served: District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Tennessee, Kentucky, Indiana, Illinois, Louisiana, and Ohio
Miles of Line Operated: 10,248 (5th largest in U.S.)
Total Operating Revenues: $1.3 billion
Net Investment: $2.1 billion
Net Railway Operating Income: $167.3 million
Rate of Return: 8.05 percent
Revenue Ton-Miles: 51.3 billion
Principal Commodities: Coal; pulp, paper and allied products; chemicals and allied products; stone, clay and glass and concrete products; and lumber and wood products
Employment: 21,431
Top Officers:
L. S. Crane, Chairman of the Board and Chief Executive Officer
H. H. Hall, President
J. L. Tapley, Vice President—Law
D. R. McArdle, Vice President and Comptroller—Accounting

UNION PACIFIC RAILROAD

General Office: Union Pacific Building, 1416 Dodge Street, Omaha, NE 63179
States Served: Iowa, Nebraska, Wyoming, Idaho, Oregon, Washington, Missouri, Kansas, Colorado, Montana, Utah, Nevada and California
Miles of Line Operated: 9,412
Total Operating Revenues: $1.5 billion
Net Investment: $2.4 billion
Net Railway Operating Income: $179.8 million
Rate of Return: 7.77 percent
Revenue Ton-Miles: 67.8 billion
Principal Commodities: Coal, grain, chemicals and allied products, nonmetallic minerals
Employment: 26,579
Top Officers:
J. C. Kenefick, President
T. B. Graves, Jr., Vice President—Finance and Administration
C.B. Schaefer, Vice President—Law

WESTERN MARYLAND RAILWAY

General Office: Two North Charles Street, Baltimore, MD 21201 (301) 237–2000
Executive Office: The Terminal Tower, Cleveland, OH 44101 (216) 623–2200
States Served: Maryland, Pennsylvania and West Virgina
Miles of Line Operated: 940
Total Operating Revenues: $65.2 million
Net Investment: $138.1 million
Net Railway Operating Income: $6.4 million
Rate of Return: 4.92 percent
Revenue Ton-Miles: 1.9 billion

Principal Commodities: Coal; crushed stone, gravel and sand; stone, clay and glass products
Employment: 1,170
Top Officers:
W. P. Coliton, President
R. W. Donnem, Senior Vice President—Law and General Counsel
R. L. Hintz, Senior Vice President—Finance

WESTERN PACIFIC RAILROAD COMPANY

General Office: 526 Mission Street, San Francisco, CA 94105 (415) 982–2100
States Served: California, Nevada and Utah
Miles of Line Operated: 1,482
Total Operating Revenues: $144.2 million
Net Investment: 198.7 million
Net Railway Operating Income: $8.3 million
Rate of Return: 4.35 percent
Revenue Ton-Miles: 5.1 billion
Principal Commodities: Food and kindred products, nonmetallic minerals
Employment: 2,683
Top Officers:
R. G. Flannery, President and Chief Executive Officer
R. W. Stumbo, Jr., Senior Vice President—Finance and Treasurer
W. G. Treanor, Senior Vice President—Law

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(Revised January 2, 1980)

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SOURCES OF DATA USED IN PROFILE

History: *Moody's Transportation Manual*, Moody's Investors Service, Inc., 1978.

States Served: Individual Railroad's Anual Reports R–1, Schedule 702, Column H, "Mileage Operated," 1978.

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Principal Commodities: *Revenue Freight Loaded and Total Loads Received from Connections*, Statement CS–54A, Car Service Division, AAR, 1978.

Address, Officers: *The Official Railway Guide*, National Railway Publication Company, Sept./Oct. 1978.

Employment: Individual Railroad's *Wage Statistics*, form A, Calendar Year 1978.

Revenue Ton-Miles: *Operating and Traffic Statistics*, E&F Dept., AAR, 1978.

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