

RAIL ABANDONMENT AND DISCONTINUANCE OF SERVICE
REPORT

Pub. L. 94-210, title IX, §904, Feb. 5, 1976, 90 Stat. 148, directed Secretary to submit to Congress, within ninety days of Feb. 5, 1976, a report on anticipated effect of any abandonment of lines of railroad and any discontinuances of rail service in States outside the region as defined in section 702 of this title, prior to repeal by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.

§ 746. Certificates of value

(a) General

On the date when the Corporation is required to deposit securities with the special court pursuant to section 743(a)(1) of this title, the Association shall deposit with the special court the certificates of value of the Association required by this section. The Secretary shall guarantee the payment of all certificates of value delivered in accordance with this subchapter. All guarantees entered by the Secretary under this section shall constitute general obligations of the United States of America for the payment or redemption of which its full faith and credit are pledged. Such guarantees shall be valid and incontestable except as to mutual mistake of fact or as to fraud or material misrepresentation by the holder of such certificates or the transferor of rail properties to which certificates of value of any series so guaranteed are issued.

(b) Number and distribution

A separate series of certificates of value shall be issued to each railroad in reorganization in the region and each person leased, operated, or controlled by such a railroad that transfers rail properties to the Corporation or a subsidiary thereof. The number of certificates of value of each series to be deposited pursuant to subsection (a) shall be equal to the number of shares of series B preferred stock of the Corporation which are required to be deposited by the Corporation with the special court, pursuant to section 743(a)(1) of this title in exchange for the rail properties transferred to the Corporation or a subsidiary thereof by such transferor. Certificates of value of the appropriate series shall be distributed by the special court, pursuant to section 743(c)(4) of this title, at the same time to the same transferors, and in the same numbers of units as shares of such series B preferred stock are distributed to such transferor.

(c) Redemption

(1) Certificates of value, of any series, shall be redeemed by the Association on December 31, 1987, or on such earlier date as the Board of Directors of the Association and the Finance Committee jointly may determine and specify.

(2) Each certificate of value of each series shall be redeemable for an amount, payable in cash, equal to its base value on the redemption date, minus—

(A) the sum of the fair market value of the series B preferred stock applicable to such certificate, the fair market value of the common stock applicable to such certificate, and all cash dividends theretofore paid on any such series B preferred stock and on any such common stock; and

(B) any sums paid to a transferor of rail properties to whom such series of certificates

of value was issued resulting from sales or leases by the Corporation of properties transferred to it by such transferor divided by the number of certificates of value distributed to such transferor.

(3) The number of shares of series B preferred stock and common stock applicable to each certificate of value of any series, pursuant to paragraph (2) of this subsection, shall be—

(A) one share of series B preferred stock (adjusted to reflect any stock splits, stock combinations, reclassifications or similar transactions affecting the number of shares of outstanding series B preferred stock following the date of distribution pursuant to section 743(c)(4) of this title); and

(B) the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 743(c)(4) of this title to the transferor receiving such series of certificates of value (adjusted to reflect any stock splits, stock combinations, reclassifications, or similar transactions affecting the number of shares of outstanding common stock following the date of distribution pursuant to section 743(c)(4) of this title) by the total number of certificates of value in the series so distributed to such transferor.

(4) The base value of each certificate of value of any series shall be the value obtained by (A) taking the net liquidation value, as determined by the special court, to which the transferor to whom such series of certificates of value is issued is entitled by virtue of transfers of rail properties, under section 743(b)(1) of this title to the Corporation or a subsidiary thereof; (B) subtracting the value of other benefits provided under this chapter, as determined by the special court; (C) adding such amount, if any, as the special court may determine shall be required after taking into consideration compensable unconstitutional erosion, if any, in the estate of a railroad in reorganization, or of a railroad leased, operated, or controlled by such a railroad, which the special court finds to have occurred during any bankruptcy proceeding with respect to such railroad; (D) adding interest from the transfer date to the redemption date to be compounded annually at a rate of 8 percent per annum; and (E) dividing the resulting value by the number of certificates of value of such series distributed to such transferor. In determining such base value, the special court shall give due weight and consideration to the finding of the Association as to the net liquidation value to which each transferor is entitled by virtue of conveyances of rail properties under section 743(b)(1) of this title. For purposes of this paragraph, the term "rail properties" includes all rights with respect to employee benefit plans transferred and assigned to the Corporation pursuant to section 743(b)(6) of this title. Net liquidation value with respect to such rights shall be determined after taking into account all obligations finally transferred or assigned to the Corporation pursuant to such section.

(5) The fair market value of series B preferred stock and of common stock of the Corporation shall be determined in accordance with regula-

tions prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20 nor more than 40 trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value thereof as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the two first selected.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.

(Pub. L. 93-236, title III, §306, as added Pub. L. 94-210, title VI, §610(b), Feb. 5, 1976, 90 Stat. 104; amended Pub. L. 94-248, §§2, 3, Mar. 25, 1976, 90 Stat. 286.)

Editorial Notes

AMENDMENTS

1976—Subsec. (c)(3)(A). Pub. L. 94-248, §2, substituted “adjusted to reflect” for “without regard to”.

Subsec. (c)(3)(B). Pub. L. 94-248, §3, inserted provisions relating to adjustment of number of shares of common stock to reflect any stock splits, stock combinations, etc.

Statutory Notes and Related Subsidiaries

ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of this title.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

§ 747. Protection of Federal funds

(a) Audit

(1) The Comptroller General of the United States is authorized to audit the programs, activities, and financial operations of the Corporation for any period during which (A) Federal funds provided pursuant to this chapter are being used to finance any portion of its operations, or (B) Federal funds have been invested therein pursuant to this chapter. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the security of such Federal funds and guarantees and, to the extent appropriate,

make recommendations for achieving greater economy, efficiency, and effectiveness in such programs, activities, and operations.

(2) For the purpose of any audit conducted pursuant to subsection (a) of this section, the Comptroller General, or a designated representative of the Comptroller General, shall have access to and the right to examine all books, accounts, records, reports, files, and other papers, items, or property belonging to or in use by the Corporation.

(b) Report

The Association shall prepare and submit an annual report to Congress on the performance of the Corporation in order to keep the Congress informed as to matters which may affect the quality of rail services in the region and which may affect the security of Federal funds referred to in subsection (a) of this section. Each such report shall be submitted within 150 days after the end of the fiscal year of the Corporation. Each such report shall include an evaluation of—

(1) the degree to which the goals of section 716(a) of this title are being met;

(2) the amounts and causes of deviations, if any, from the financial projections of the final system plan;

(3) the amount of Federal funds made available to the Corporation and a clear description of the uses of such funds;

(4) the projected financial needs of the Corporation;

(5) the projected sources from which such financial needs are likely to be met; and

(6) the ability of the Corporation to become financially self-sustaining without requiring Federal funds in excess of those authorized by section 716(f) of this title.

(c) Monitoring of Corporation

(1) The Association shall also report to the Congress, in accordance with this subsection, on the policies of the Corporation and the results of such policies with respect to operations, cost containment, and marketing.

(2) Within 90 days after November 1, 1978, the Association shall (A) subdivide each such policy area into constituent parts or groups of parts which are specific and significant, (B) identify the most appropriate indicia to reflect accurately such parts or groups of parts, and (C)(i) determine any and all deficiencies in data used to compute the values of such indicia including consistency and clarity of definitions, timeliness of data entry, editing and validation of input data, and processing, and (ii) outline the efforts of the Association and Corporation to correct the deficiencies and the results of such efforts. On or before the end of such 90-day period, the Association shall submit to the Congress such methodological information and additional information which the Association deems necessary or appropriate to further the purpose of this subchapter.

(3) Using such indicia, the Association shall report on (A) the relationship of each constituent part or groups of parts to the Corporation's revenue and capital and operating expenses, (B) the extent to which such parts or group of parts contributes to profits or losses, (C) the efforts of management to contain or re-