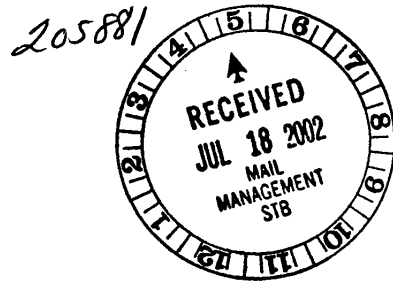


Before the
Surface Transportation Board
Washington, DC 20423



Iowa, Chicago & Eastern Railroad)
Corporation—Acquisition and Operation) Finance Docket No. 34177
Exemption—Lines of I&M Rail Link, LLC)

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PETITION TO REVOKE EXEMPTION AND
COMMENTS
OF
ARKANSAS ELECTRIC COOPERATIVE CORPORATION

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July 18, 2002

**PETITION TO REVOKE EXEMPTION AND
COMMENTS
OF
ARKANSAS ELECTRIC COOPERATIVE CORPORATION**

¹ AECC understands that the Board called for comments to be submitted by June 19, 2002. Decision, F.D. No. 34177, served June 12, 2002. Subsequently, however, the Board stayed the effective date of the exemption until July 26, 2002. Decision, F.D. No. 34177, served June 26, 2002. Moreover, comments and other pleadings have been submitted to the Board after June 19 by IC&E ("statements from various parties supporting the acquisition," and Motion to Life Housekeeping Stay, both on July 12, 2002; letter from counsel, July 16, 2002); Bank of Montreal (received July 2, 2002); Canadian Pacific Railway (on behalf of the current owners of IMRL, July 9, 2002), and others. Accordingly, AECC trusts the Board finds these comments to be timely filed before a decision is made and eligible for consideration.

I. INTRODUCTION

AECC is a membership based generation and transmission cooperative which provides wholesale electric power to electric cooperatives, which in turn serve approximately 400,000 customers located in each of the seventy-five counties in Arkansas. In order to serve its member distribution cooperatives, AECC has entered into arrangements with other utilities within the state to share generation and transmission facilities. The coal-fired generation facilities in which AECC holds an interest, consisting of the White Bluff plant at Redfield, the Independence plant at Newark, and the Flint Creek plant at Gentry, utilize in excess of fourteen million tons annually of Powder River Basin ("PRB") coal. AECC's share of this PRB coal is approximately 5,000,000 tons.

AECC assiduously has supported the development and maintenance of competitive rail service. To this end, AECC has supported the construction application of the Dakota, Minnesota & Eastern Railroad ("DM&E") for a new rail line into the PRB. AECC was a member of the Committee to Improve Coal Transportation ("IMPACT"), which filed extensive comments in the Board's review of its rail merger procedures (Ex Parte 582 (Sub-No. 1)). AECC also participated in the UP/SP oversight proceeding. AECC's interest in the acquisition of IMRL by IC&E and its parent DM&E arises out of its support for competitive rail options for the movement of PRB coal.²

² The potential impact on PRB coal movements from DM&E control of IMRL is discussed in the associated Verified Statement of Michael Nelson.

IC&E is a non-carrier subsidiary of DM&E,³ apparently formed for the sole purpose of acquisition of IMRL. As a non-carrier entity, IC&E maintains it is eligible for the exemption from Section 10901 of the ICC Termination Act of 1995 ("Act") adopted pursuant to Section 10502 of the Act, and that the transaction otherwise is not subject to Section 11323 of the Act, Consolidation, Merger and Acquisition of Control regarding rail carriers. Both IMRL and DM&E are Class II rail carriers, and it is intended that shortly after the conclusion of this exemption proceeding DM&E will acquire full operational control of IC&E.⁴

II. The Exemption Notice is Void *Ab Initio*

"If the notice [of exemption] contains false or misleading information, the exemption is void *ab initio*."⁵ A notice or other document or action which is void *ab initio* has no force and effect from the beginning, and therefore cannot be cured through subsequent supplementation⁶.

There is no question but that I&CE made material misrepresentations in its Verified Notice of Exemption. In its Verified Notice, I&CE stated, "IC&E also will acquire via assignment from IMRL approximately 275 miles of incidental trackage rights over line segments of other carriers. A detailed description of the rail lines and incidental trackage rights to be acquired by IC&E is attached hereto as Exhibit A."⁷ Exhibit A describes, *inter alia*, incidental

³ Verified Notice of Exemption at 2 (June 7, 2002) (hereinafter cited as "Verified Notice" or as "Exemption").

⁴ Exemption at 1, 2 and 4.

⁵ 49 C.F.R. §1150.35(f). See *Jefferson Terminal Railroad Company—Acquisition and Operation Exemption—Crown Enterprises, Inc.*, STB F.D. No. 33950 (served Mar. 19, 2001); *The Land Conservancy of Seattle and King County—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company*, STB F. D. No. 33389 (served Sept. 26, 1997).

⁶ Void means "Null; ineffectual; ...void in the strict sense means that an instrument or transaction is nugatory and ineffectual so that nothing can cure it; ..." "*Ab initio*" means "From the beginning; from the first act; from the inception. An agreement is said to be 'void ab initio' if it has at no time had any legal validity." Black's Law Dictionary, West Pub. Co. (St. Paul, MN 1990).

⁷ Exemption at 3.

trackage rights "Over the Commuter Rail Division of the Regional Transportation Authority of Northeast Illinois, d/b/a Metra... ." ⁸ The Verified Notice further stated, "IC&E will continue service on all of the IMRL Lines now operated by IMRL and generally will maintain existing service frequency levels... Any modifications or adjustments to service patterns and frequency will be made gradually, and only after IC&E has become familiar with the traffic and service requirement of the lines." ⁹

It is uncontested that IC&E did not acquire rights on all of the Metra lines. This is clear from the Comments of Metra, in which Metra, two weeks after the filing of the Exemption, informed the Board that "Discussions concerning Metra's consent to the assignment of these rights commenced only on June 12, 2002 ...," and further that "Pending resolution of its concerns, Metra has by letter, dated June 19, 2002, instructed the Canadian Pacific Railway ("CP") which dispatches the Line, not to admit IC&E trains on to the Line until Metra has notified CP that it has granted its consent to the assignment." ¹⁰

Only after Metra disclosed the lack of an agreement regarding the trackage rights, and the fact that discussions had not even begun until after the Verified Notice was filed, did IC&E concede there is a problem. In a letter to the Board dated June 22, 2002, counsel for IC&E stated, as follows:

As the board is aware, certain issues have arisen with respect to access to the Chicago terminal. IC&E has no intention of closing this transaction without adequate access for its shippers into the Chicago market. Indeed, it is a condition to the Asset Purchase Agreement that IMRL ensure such access prior to closing. IC&E expects this issue to be resolved in the near

⁸ *Id.* at Ex. A, p. 2.

⁹ *Id.* at 5.

¹⁰ Comments of Metra at 2 (June 19, 2002).

future and, in any event, IC&E will not attempt to close this transaction until and unless it is resolved. After more than two months of attempting to arrange a meeting with one of the railroads involved (Metra), we have begun a constructive dialogue and hope to resolve the matter promptly.¹¹

In a Motion filed July 12, 2002, IC&E informed the Board:

Since the Board entered its housekeeping stay in this case, IC&E has had an opportunity to discuss this case with Metra and its counsel, and to review additional historic agreements. IC&E also is continuing business discussions with Metra. IC&E believes that it will be able to resolve issues with Metra regarding that assignment, although it is not clear that IC&E will be in a position to utilize the Metra trackage rights route into Chicago by the closing of the Asset Purchase Agreement between IMRL and IC&E. Regardless of the outcome of that issue, the alternative haulage arrangements entered into by IC&E assure timely, competitive rail service for IC&E shippers¹²

The lack of assurance of access to Chicago, conceded by IC&E in its June 22 submissions and again on July 12, is material. Indeed, it is sufficiently material to constitute a condition of closing on the acquisition. Consequently, it is evident that IC&E misrepresented its ability to access the Chicago terminal in its Verified Notice of Exemption.¹³ As such, under the Board's rules governing exemption proceedings, the Verified Notice of Exemption is void *ab initio*. Being void *ab initio*, the recent representations regarding alternative arrangements to serve the Chicago terminal are ineffectual to cure the initial misrepresentation.¹⁴

¹¹ Letter from William C. Sippel to Mr. Vernon A. Williams at 1 (June 22, 2002).

¹² Motion of Iowa, Chicago & Eastern Railroad Corporation To Lift Housekeeping Stay and Allow Transaction To Proceed at 2-3 (July 12, 2002) ("Motion").

¹³ IC&E also disclosed in its Reply to Petitions for Stay that it intended to cease intermodal service, notwithstanding its representation about maintaining existing IMRL service patterns and frequency. Reply of Iowa, Chicago & Eastern Railroad Corporation to Petitions for Stay at 7 (June 22, 2002) ("Reply") ("IC&E has never included continuing intermodal operations in its business plan for the IMRL Lines.").

¹⁴ For the Board to allow IC&E to cure its misleading and erroneous statements five (5) weeks after filing the Verified Notice, and to do so *nunc pro tunc*, not only stands 49 C.F.R. §1150.35(f) on its head, but also deprives interested parties of due process, by effectively foreclosing examination of and response to the facts alleged.

In addition, IC&E has portrayed IMRL as being in dire financial straits, with the closing of the transaction prior to the end of July being essential to provide for continuation of IMRL's service.¹⁵ Contrary to IC&E's description, Canadian Pacific Railway, on behalf of IMRL's current owners, advises that the latter also had extended a financing offer that would allow the IMRL to continue to operate without service disruptions and with a currently reduced debt.¹⁶ Additionally, a letter from IMRL's president and CEO to IMRL employees refutes IC&E's claims regarding the need to rescue IMRL.¹⁷ Although the financial condition of IMRL was not made an issue in the original Verified Notice, the prosecution of such a misleading argument in response to opposing pleadings in the IC&E Reply must be viewed as poisonous to the Exemption itself. The Board must be able to rely on the representations of applicants, whether in the original pleadings or in their ensuing supporting submissions, and not allow its processes to be misused in such a fashion.¹⁸

III. The Board Should Consider The DM&E Acquisition of IMRL Under Its Merger Processes

As set forth by IC&E in its Verified Notice, the ultimate objective of this transaction is for DM&E is to acquire control of IMRL. To this end, DM&E contemporaneously reserved successive finance docket numbers, one for the IC&E/IMRL exemption proceeding and one for the DM&E control of IC&E/IMRL. The Cooperating Labor Organizations made a substantial, and in the view of AECC a compelling,

¹⁵ Reply at 4-5; Motion at 7.

¹⁶ Letter from William D. Gantous and Helen B. Miller to The Honorable Vernon A. Williams (July 9, 2002).

¹⁷ See Ex. 1 to Supplement to Petition for Stay and Opposition to Motion to Lift Stay, Cooperating Labor Organizations (July 15, 2002).

¹⁸ See *Jefferson Terminal Railroad Company*, *supra*.

argument that the façade of the “non-carrier” acquisition of IMRL should be pierced and that the Board should look at the transaction as one of a Class II carrier acquiring another Class II carrier, requiring approval under Section 11323(a) of the Act.¹⁹ IC&E argues that the Board has rejected such arguments in the past.²⁰ Such precedent cited by IC&E, however, relates back to the period when the STB, and previously the ICC, viewed rail consolidations with a strong presumption favoring approval. In mid-2001, the Board substantially revised its policies regarding merger and consolidation within the railroad industry, including those which effect a closure of gateways.²¹ While the Board’s Major Rail Consolidation rules specifically apply to Class I railroads, there is no compelling reason why Board policy is or should be different with regard to consolidation involving Class II railroads.

In the accompanying Verified Statement of Michael Nelson, AECC sets forth its concerns regarding the effect of the acquisition of IMRL by DM&E, including potential foreclosure effects with regard to the future opportunity to obtain competitive rail service for the movement of coal from the PRB. Concerns such as these may be addressed in a proceeding under Section 11323; and the acquisition, if otherwise justified, may be appropriately conditioned to preserve neutral gateway connections.²² In contrast, the procedure chosen by DM&E for the acquisition of IMRL will make the control of IMRL *a fait accompli* if the exemption is allowed to stand, with the ensuing proceeding for

¹⁹ Petition of Cooperating Labor Organizations to Revoke Exemption (June 13, 2002).

²⁰ Reply at 20-23.

²¹ *Major Rail Consolidation Procedures*, STB Ex Parte No. 582 (Sub-No. 1) (June 11, 2001). See Decision at 25-26 (“Numerous parties ... stress that gateways must be kept open not just physically but economically. ... we agree ...”).

²² Pursuant to Section 11325(c) of the Act, the Board is required to expedite consolidation proceedings involving Class II railroads.

control of IC&E by DM&E merely *pro forma* in nature. To argue otherwise ignores the reality that it will be impossible to operate IC&E/IMRL truly independently from DM&E given the common ownership and the overlap in officers and other management personnel.²³

IV. The Rail Transportation Policy of Section 10101 of the Act Requires the Board to Consider the Substantive Effects of Control of IMRL by DM&E

The Board's exemption authority contemplates revocation of an exemption to the extent necessary to consider whether application of the Act to a transaction is necessary to carry out the transportation policy of Section 10101 of the Act.²⁴ As reflected in the Verified Notice, the combination of two major Class II railroads operating in the central region of the United States, with access to all Class I carriers and service authorized from the PRB to Minneapolis, Kansas City and Chicago, constitutes a significant railroad network. As such, the combination of DM&E and IMRL is a transaction of at least regional transportation significance, as that phrase is utilized in Section 11325(c) of the Act.²⁵ As such, the merger of two such railroads invokes substantial issues under the Rail Transportation policy, and further mandates that the exemption be denied or revoked, and that the transaction be considered under the Board's rail consolidation procedures.

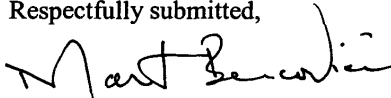
²³ See Petition of Cooperating Labor Organizations, *supra*, at 19.

²⁴ 49 U.S.C. §10502(d).

²⁵ Indeed, to the extent the potential foreclose effects adversely affect the viability of third-carrier PRB access, which according to the DM&E projections relied upon by the Board in F.D. No. 33407 potentially would move very substantial volumes of coal, the impact could be of national transportation significance.

WHEREFORE, THE PREMISES CONSIDERED, Arkansas Electric Cooperative Corporation respectfully requests the Surface Transportation Board to DENY or REVOKE any exemption allowing Iowa, Chicago & Eastern Railroad Corporation to acquire or operate the rail lines of I&M Rail Link, LLC, and to subject said transaction and the eventual control by DM&E to the Board's railroad consolidation procedures and policies.

Respectfully submitted,



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July 18, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of July, 2002, a copy of the foregoing Petition to Revoke Exemption and Comments of Arkansas Electric Cooperative Corporation were served by overnight delivery and by electronic mail upon:

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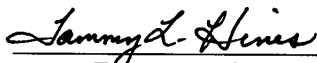
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Tammy L. Hines

**VERIFIED STATEMENT
OF
MICHAEL A. NELSON**

1. Qualifications

My name is Michael A. Nelson. I am an independent transportation systems analyst with over 20 years of experience advising clients on rail transportation issues. My office is in North Adams, Massachusetts. Prior to February 1984, I was a Senior Research Associate at Charles River Associates, an economic consulting firm in Boston, Massachusetts.

I have directed or participated in numerous consulting assignments and research projects in the general field of transportation. My work typically involves developing and applying methodologies based on operations research, microeconomics, statistics and/or econometrics to solve specialized analytical problems.

Of particular relevance to this statement, I provided testimony before this Board regarding the proposal of the Dakota, Minnesota & Eastern Railroad (DME) to construct a third rail access to the Powder River Basin (PRB) in Finance Docket No. 33407. Subsequently, I have assisted 10 major electric utilities and power producers in the analysis of rail transportation options for movement of PRB coal to over 30 large coal-fired generating stations. This work has included consideration of existing transportation options, as well as new options that prospectively could be created using route alignments other than that proposed by DME. In last year's UP/SP merger oversight proceedings, I provided testimony before this Board on behalf of the Cowboy Railroad Development Company (CRDC), a group of utilities pursuing development of a new PRB outlet via Kansas City. In addition, I have performed competitive and/or statistical analyses in several rail merger and acquisition cases, including the acquisition by Rio Grande Industries of authority to purchase a portion (the Kansas City to Chicago line) of what is now IMRL (Finance Docket No. 31505). I have also consulted to a number of shippers, railroads (U.S., Canadian and Mexican) and governmental bodies on various other railroad issues. This work has provided me with perspective on the current and potential roles of IMRL in domestic coal transportation, and the possible effects of the proposed transaction.

Outside of my rail experience, I have provided extensive testimony regarding methods for analyzing the cost structure of the U.S. Postal Service in five dockets before the Postal Rate Commission. In addition, I have assisted in the preparation of numerous other verified statements presented before various regulatory and legal bodies, and authored many technical reports and articles in transportation journals.

I received my bachelor's degree from the Massachusetts Institute of Technology in 1977. In 1978, I received two master's degrees from MIT, one in Civil Engineering (Transportation Systems) and one from the Alfred P. Sloan School of Management, with concentrations in economics, operations research, transportation systems analysis and public sector management. My curriculum vitae is attached as Exhibit A.

2. Subjects Covered in This Statement

I have been asked by Arkansas Electric Cooperative Corporation (AECC) to comment on the potential effects of the proposed ICE/IMRL transaction and the subsequent acquisition of ICE by DME on coal transportation options available to U.S. electric utilities and power producers. As the Board is undoubtedly aware, coal accounts for the majority (approximately 56 percent) of total U.S. electricity generation. Among the alternative available sources of coal, the southern (Wyoming) portion of the PRB has enjoyed sustained, robust growth for a period of decades. Across a broad portion of the central U.S., low-cost, low-sulfur Wyoming PRB coal plays a dominant role in power production.

Like many major PRB coal consumers, the coal-fired plants in which AECC has an ownership interest¹ would not obtain any direct improvements in their transportation options if the DME project were constructed, primarily due to the extreme circuitry that would be associated with any DME routes. However, AECC and other similarly situated utilities have supported the DME initiative, primarily on the basis of the perceived indirect benefits associated with expanding the overall capacity of the rail network serving the PRB. More specifically, construction of the DME line (or any other new PRB access that does not make use of the Joint Line) should increase the fluidity of UP and BNSF coal operations from the PRB, potentially reducing utility equipment and coal stockpile requirements.

At the same time, AECC and many other utilities have recognized the possibility that the DME project will not be constructed. Several such utilities have interest in the preservation and further development of prospectively viable options for creating a new PRB access (other than DME) that would provide them with improved transportation options.

This statement therefore addresses the effects of the proposed ICE/IMRL transactions on DME's proposed PRB access project, as well as on prospectively viable new PRB access options other than DME. Each of these is addressed below.

3. IMRL Transaction and DME Project

As disclosed and discussed in the initial filing by Ag Processing, Inc. (AGP), the planned acquisition of IMRL by ICE triggered a response by Canadian Pacific that threatened to undercut IMRL's current ability to reach various markets and interchange locations. Subsequently, ICE has reported that it has reached agreements with CCP (CN) and Iowa Interstate to provide access to Chicago for its northwestern and Kansas City lines, respectively.

Even if ICE has taken steps to address connectivity issues at Chicago, the proposed transaction raises several issues with respect to DME's PRB access project that do not appear to have been addressed. These include the following:

A. Capital Costs and Financial Fitness

DME's original plan for reaching Chicago did not include the costs of any capital improvements needed to enable IMRL to support the type of heavy-haul operation contemplated in the DME project. Indeed, DME's coal project market study, upon which the Board relied in granting its approval, did not even include IMRL in its list of feasible options for reaching Chicago.² The Board therefore cannot determine whether the additional costs associated with DME's planned reliance on IMRL will jeopardize the financial feasibility of the entire coal project.

B. Market Impacts and Competitiveness

As the Board is well aware, the competitiveness of alternative routes for volume coal movements is highly dependent upon such factors as route mileage and cost differentials. Even if ICE has made alternative arrangements with CCP to reach Chicago, or if it eventually reaches a settlement that would enable it to use its current line, there is currently no way to determine whether the financial terms associated with its access to Chicago will support the financial and competitive performance of the DME project as originally planned.³

¹ These plants are located in Arkansas, and include the Independence plant at Newark, the White Bluff plant at Redfield and the Flint Creek plant at Gentry. These plants burn a combined total of approximately 14.5 million tons annually, essentially all of which moves through the Kansas City gateway area. The AECC share is approximately 5 million tons annually.

² See page 26 of the Verified Statement of Charles E. Mann, contained in Volume 2 of DME's application (dated February 20, 1998) in Finance Docket No. 33407 (hereafter, "VS Mann").

³ Ironically, ICE proposes to rely on haulage agreements with CCP and IAIS to ensure its ability to reach Chicago after demonstrating some of the operational and financial problems that can arise under such agreements. See page 4 of the Verified Statement of Robert Brownell dated June 22, 2002, which discusses IMRL's experiences in providing haulage service (to UP).

C. *Access to Major Markets*

In its opening comments, AGP identified Northfield, MN as one of the locations where interchange agreements between IMRL and CP were being terminated as a result of the ICE/IMRL transaction. While ICE's reply dismisses this loss due to the absence of current interchange at this point, it does not address the fact that such interchange would be a critical component of DME's ability to serve substantial portions of the core markets for its coal project. DME's market study specifically relies on the proposition that a DME-IMRL-CP route (via Northfield) will offer a large mileage advantage in comparison with the incumbent carriers for movements to and through Minneapolis/St. Paul.⁴ This mileage advantage, in turn, supports the premise that DME will capture over 60% of the "Upper Midwest Rail" market.⁵ Similarly, the DME market study relies in part on the availability of interchange between IMRL and WC at Minneapolis/St. Paul (via Northfield) to reach Wisconsin docks for service to the "Great Lakes" market,⁶ again supporting the premise of a DME market share of over 60%. These two markets alone account for almost 60% of DME's projected total tonnage. If this issue is not addressed, there can be no assurance that DME will be able to serve its core markets in the manner it, and the Board, have projected.

D. *Alignment*

To some extent, use of IMRL to reach Chicago calls into question the entire rationale for using the DME mainline to reach the PRB. More specifically, one of IMRL's lines extends west as far as Sheldon, IA, part of a former Milwaukee Road right-of-way that extends all the way to Rapid City. DME's planned new construction crosses this line in the vicinity of Creston, SD. From that point, using the former Milwaukee route to reach Charles City, IA (and thence to Chicago) would be approximately 70 miles shorter than the DME route (via Owatonna). The Board has not considered and does not have the information necessary to consider this (potentially more efficient and competitive) alternative alignment.

Overall, DME's new plan to use IMRL to reach Chicago creates the appearance of conflict with several aspects of DME's recently-approved PRB project. The Board, AECC and other utilities have not yet been provided with sufficient information to determine whether these conflicts undermine or eliminate the prospect of achieving direct or indirect benefits from DME's proposed project.

4. **IMRL Transaction and Other PRB Access Possibilities**

Even without the proposed IMRL transaction, a number of developments since the Board's initial approval have raised the level of uncertainty about the financial viability of the DME coal project. These include the following:

- Competitive rate level. In the DME construction case, DME (and the Board) assumed that UP and BNSF would have variable costs of about 7.9-8.0 mills per ton-mile, and therefore would not compete below a rate level of 8.25mills/ton-mile. However, in its decision served May 14, 2001 in NOR 42051, the STB determined that as of early 2000, the variable cost floor for UP's movements of PRB coal to the Edgewater⁷ generating station in Sheboygan, WI was \$7.25/ton from the Antelope mine, and \$7.59/ton from Black Thunder. Based on the mileage calculator on the UP website⁸, this equates to a variable cost of 5.93 mills per ton-mile for the Antelope move, and 6.09 mills per ton-mile for Black Thunder. These costs are approximately 2 mills below the UP/BNSF cost level of 7.9-8.0 mills per ton-mile that DME (and the Board) relied on in establishing the assumed "competitive" rate level of 8.25

⁴ For example, the DME-IMRL-CP route to the Xcel/Northern States Power High Bridge plant is estimated to be 223 miles shorter than the UP-CP route, while the DME-IMRL-WC (which assumes unfettered access by IMRL to Minneapolis/St. Paul) route to the Wisconsin Public Service Pulliam plant is estimated to be 220 miles shorter than the UP-WC route. See VS Mann at 20.

⁵ VS Mann, Table 4 at 32.

⁶ VS Mann at 26.

⁷ Included in VS Mann, Table 2 at 23.

⁸ This shows that the UP mileage from the Antelope mine to Sheboygan is 1223 miles, and from Black Thunder it is 1247 miles.

mills per ton-mile. Because variable costs and competitive rates are lower than had been assumed, DME's revenues would be significantly lower than originally projected.

- Service differential. DME's revenue projections also incorporated a rate premium based on DME's purported cycle time advantage. This alleged advantage rested upon the assumption that BNSF and UP coal trains average 15 mph. The railroad performance monitoring program established by the Board in the wake of the UP service meltdown reveals that UP and BNSF coal trains routinely average 20-24 mph, which equates to cycle times that are equivalent to (and sometimes better than) those projected for DME. Again, the new information downgrades the level of likely DME revenues.
- Volume levels. The volume projections relied on by DME (and the Board), which entail an initial volume of 40 million tons annually increasing to 100 million tons, have been publicly repudiated by DME's own financial advisors. DME financial consultant Schroder has concluded that those numbers are overly optimistic, suggesting a maximum volume level of approximately 70 million tons.⁹ More recently, as reported in the trade press¹⁰, DME investment advisor Morgan Stanley expects the traffic volume would be more like 25 million tons annually. Again, the new information downgrades the level of likely DME revenues.

Because of the growing body of evidence that calls into question the financial viability of the DME proposal, it is becoming increasingly important that the Board, the utility industry and other affected parties recognize and give careful consideration to new PRB access opportunities other than the one proposed by DME.

As the Board is aware (based on the filing by CRDC in last year's final round of UP/SP merger oversight), there is at least one group of utilities that has been exploring the development of a new PRB outlet via Kansas City. Given the geographical distribution of actual and prospective PRB coal movements, an outlet at Kansas City is far more valuable for many utilities than any outlet that relies on the DME main line (with or without involvement of IMRL). The availability of neutral rail connections at Kansas City, such as IMRL, is therefore intrinsically of interest to the large group of utilities (such as AECC) that prospectively would benefit from the creation of a new Kansas City outlet.

Unfortunately, the proposed ICE/IMRL transactions threaten both the availability and the neutrality of the IMRL connection at Kansas City. As documented in the initial filing by AGP, the availability of an IMRL connection at Kansas City has been explicitly threatened by CP as a result of the proposed acquisition by ICE. Absent further investigation, there appears to be no way for the Board to ensure that IMRL will continue to have its current degree of connectivity at Kansas City after the proposed transactions.

Compounding this problem is the manner in which DME control would eliminate IMRL's current neutrality with respect to new PRB entrants other than DME. From the perspective of its own coal project, DME has no real use for the IMRL's ability to reach Kansas City. The DME route from the PRB to Kansas City (via Owatonna) would be on the order of 1350 miles, over 500 miles longer than existing UP and BNSF routes. For this reason, IMRL's involvement with DME would produce few if any direct benefits for PRB customers who can be reached via Kansas City, including a number of large plants in Iowa that can be reached from the IMRL's Kansas City line

Conversely, a new PRB outlet through Kansas City could prospectively make productive use of the IMRL connection, and offer viable new transportation options for the Iowa plants referenced above. Furthermore, IMRL could potentially provide a new PRB outlet with a useful route from Kansas City to Mississippi River dock facilities.

However, under DME control, IMRL would tend not to cooperate with a new PRB entrant other than DME, even if DME's own coal project still lacked funding. This tendency likely would be amplified

⁹ DME has posted this Schroder finding on its website, apparently embracing it.

¹⁰ See Coal Week, 11/12/01.

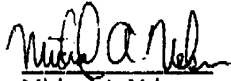
by the effects of traffic and/or financial losses resulting from the cancellations of CP marketing and divisions agreements, TOFC/COFC services and UP haulage. While estimation of the likely magnitude of such losses is beyond the scope of this statement, the connectivity and/or foreclosure effects of the planned transactions would clearly undercut the current role(s) IMRL could play with respect to a new PRB entrant.

For a new PRB outlet at Kansas City, the proposed transactions produce a clear degradation in the existing ability to reach significant markets. This is a competitive issue that should not be overlooked on the basis of unsubstantiated "failing firm" claims. If IMRL cannot survive in its current form, orderly consideration should be given to various possibilities, including the divestiture of individual lines, before such anti-competitive consequences are accepted.

5. Conclusions

The Board needs to ensure that the interactions between the DME project and the IMRL acquisition are properly and thoroughly examined. Also, careful consideration should be given to the detrimental impacts of the proposed transaction on other prospective PRB entrants.

I certify under penalty of perjury the foregoing to be true and correct, based on my knowledge and information.


Michael A. Nelson

July 18, 2002

MICHAEL A. NELSON

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EDUCATION

M.S. Civil Engineering, Massachusetts Institute of Technology

M.S. Management, Alfred P. Sloan School of Management, Massachusetts Institute of Technology

B.S. Management, Massachusetts Institute of Technology

Concentrations in transportation systems, economics and operations research.

EXPERIENCE

Mr. Nelson is an independent transportation systems analyst. He provides management and economic consulting and litigation support. His work typically involves developing and applying methodologies based on operations research, microeconomics, statistics and/or econometrics to solve specialized analytical problems, as illustrated by the following examples of his experience:

A. Railroad

For the Mexican railroad TFM, Mr. Nelson provided guidance regarding the identification of different types of competitive and efficiency issues raised by the proposed merger of the other two principal Mexican railroads, Ferromex and Ferrosur. The merger was denied by both the national transportation and antitrust authorities.

For the Cowboy Railroad Development Company (CRDC), a group of major electric utilities, Mr. Nelson directed the identification and evaluation of alternative routes and strategies for creating a new railroad access across Nebraska to coal mines in the Powder River Basin (PRB) area of Wyoming.

As part of the work for CRDC, Mr. Nelson analyzed the degree to which the merger of the Union Pacific (UP) and Southern Pacific (SP) railroads foreclosed competitive routes that could be offered by a new PRB rail carrier. The results of this analysis were submitted to the Surface Transportation Board (STB) in Finance Docket 32760 (Sub-No.21), which provided oversight of the UP/SP merger and its impacts.

For a major electric utility, Mr. Nelson performed a detailed analysis of rail transportation options for PRB coal movements to the Sunflower Electric generating station at Holcomb, KS. The results of this analysis were used by the utility in assessing the merits of investing in a planned expansion of that facility.

For an assortment of major electric utilities and power producers, Mr. Nelson has performed detailed analyses of rail transportation options, including build-outs, for a total of over 30 large coal-fired generating stations. The results of these analyses have served as the basis for management decisions that are projected to save many millions of dollars in fuel costs.

On behalf of the Town of Easton (MA), Mr. Nelson performed an evaluation of a report issued by the Massachusetts Bay Transportation Authority (MBTA) describing its analysis of the "Attleboro Bypass" option for providing new commuter rail service to New Bedford/Fall River. Mr. Nelson identified and documented a series of significant errors made in the development of the MBTA's conclusions regarding the alleged infeasibility of the Attleboro route. Mr. Nelson also identified and made preliminary assessments of other alignment and operational possibilities that had been inappropriately omitted from consideration.

On behalf of Arkansas Electric Cooperative Corporation (AECC), Mr. Nelson submitted a statement to the STB in Finance Docket 32760 (Sub-No.21). This statement addressed competitive issues resulting from the UP/SP railroad merger, with a particular focus on the effect of trackage rights compensation levels.

On behalf of the Committee to Improve American Coal Transportation (IMPACT), Mr. Nelson submitted a statement to the STB in Ex Parte 582 (Sub-No. 1). This statement

addressed a wide range of issues related to rail merger policy.

For a major Class 1 railroad, Mr. Nelson assisted senior management staff in the design and evaluation of a potential construction project.

For the Mid-States Coalition for Progress (a group of landowners), Mr. Nelson analyzed the proposal by the Dakota, Minnesota and Eastern Railroad (DM&E) to construct an extension of its line into the PRB. Mr. Nelson developed estimates of DM&E's volumes and unit revenue levels on the basis of a plant-by-plant analysis, taking into account likely future market conditions and the competitive capabilities of the UP and Burlington Northern Santa Fe (BNSF). Mr. Nelson's analysis was filed at the STB (Finance Docket No. 33407).

For the National Railroad Passenger Corporation (AMTRAK), Mr. Nelson investigated issues related to the definition of "express" traffic that AMTRAK is permitted to carry (STB Finance Docket No. 33469). Mr. Nelson analyzed relevant data from the STB Rail Waybill Sample and the Census of Transportation, and investigated the factors affecting use of Amtrak by the U.S. Postal Service. The definition of "express" eventually adopted by the STB was consistent with Mr. Nelson's findings.

For the Moffat Tunnel Commission (Colorado), Mr. Nelson analyzed the factors affecting future railroad use of that tunnel, which traverses the Continental Divide and serves the principal Colorado coal fields on the UP line that formerly was the Denver and Rio Grande Western Railroad (DRGW) main line west of Denver. The tunnel had historically been owned by the Commission (and leased to the railroad), but under sunset legislation was being offered for public sale. Mr. Nelson's analysis included study of the utilization of Colorado/Utah vs. PRB coals in the context of the central corridor conditions imposed by the STB in the UP/SP merger.

For Canadian Pacific Railway (CP), Mr. Nelson performed detailed studies of competitive and traffic issues associated with the acquisition and break-up of Conrail by Norfolk Southern and CSX (Finance Docket No. 33388). These studies included analyses of competitive issues in the area served by the former Delaware and Hudson (a CP subsidiary)

and in the midwest, competitive issues involving coal traffic throughout the Conrail service area, and traffic impacts associated with potential remedial conditions. CP relied upon the results of Mr. Nelson's studies in reaching its settlements with Applicants in that case.

For SP, Mr. Nelson provided expert testimony before the Interstate Commerce Commission (ICC) in Finance Docket No. 32133 (the proposed control of C&NW by UP). This testimony was based primarily on Mr. Nelson's analyses of data from the Rail Waybill Sample, which identified substantial numbers of specific flows for which the proposed transaction created different types of potential competitive problems (including losses of point-to-point competition, source competition, competition in grain originations, and shipper leverage). In addition, Mr. Nelson's testimony utilized Rail Waybill Sample data to demonstrate the occurrence of merger-related foreclosure from previous UP acquisitions, and provided statistical support for SP's traffic study. Mr. Nelson also conducted a detailed investigation of the impact of the merger on source competition for western coal.

For Rio Grande Industries (RGI), Mr. Nelson provided expert testimony before the ICC in Finance Docket No.'s 31505 (the proposed acquisition by RGI of Soo's Kansas City - Chicago line) and 31522 (the proposed acquisition by RGI of the Chicago, Missouri and Western line between St. Louis and Chicago) based on his analysis of Rail Waybill Sample data. This testimony involved analysis of potential cumulative anti-competitive effects from the proposed transactions, development of time-series estimates of rail traffic volumes and carrier shares in different flows, and assessment of the statistical reliability of the portions of the testimony of other RGI witnesses that were based on Rail Waybill Sample data.

Also for RGI, Mr. Nelson provided expert testimony before the ICC in Finance Docket No. 32000, the consolidation of SP and DRGW. This testimony involved analysis of Rail Waybill Sample data to determine rail traffic volumes in different flows, the statistical reliability of studies conducted by other RGI witnesses, and potential competitive problem flows associated with a consolidation of SP and KCS.

For DRGW, Mr. Nelson provided expert testimony before the ICC in Finance Docket No. 30800 (the acquisition of MKT by UP) based on his analysis of Rail Waybill Sample data. This testimony involved examination of intramodal competition in the central corridor, development of traffic flow databases utilized by other witnesses, assessment of the statistical reliability of other witnesses' studies, and analysis of issues related to use of market share data from waybill samples to evaluate the competitive impact of the proposed merger.

Also for DRGW, Mr. Nelson provided extensive expert testimony before the ICC regarding a number of issues raised by the proposed merger of SP with ATSF (Finance Docket No. 30400):

- * Mr. Nelson provided a detailed comparison of the economic and operating characteristics of the intercity trucking and railroad industries, with a particular focus on long-haul markets. Mr. Nelson's analysis of the trucking industry utilized the National Motor Transport Data Base (NMTDB). For this study, Mr. Nelson developed and implemented analytical techniques that compensate for the non-random sampling procedures employed in the gathering of the NMTDB, making it possible to use this source to reliably conduct studies at the industry and corridor level. The Commission adopted the results of Mr. Nelson's study verbatim in its analysis of the anti-competitive consequences of the proposed merger.

- * Using the NMTDB and the Rail Waybill Sample, Mr. Nelson analyzed the extent to which rail pricing and services on selected traffic are determined by competing intercity trucking alternatives available to shippers. This analysis was conducted at a highly detailed level, and included explicit accounting for the handling characteristics of each rail commodity and the operating economics of the corresponding truck equipment needed.

- * Mr. Nelson analyzed the tests applied by various economists in the proceedings, including those of the U.S. Departments of Justice and Transportation, to identify rail traffic that would most likely be subject to anti-competitive effects in the wake of the proposed merger. Mr. Nelson identified circumstances under which these tests systematically yield invalid results, and provided guidelines for their proper application.

* Mr. Nelson identified improvements needed in the merger applicants' initial methodology for estimating the rail traffic diversions that likely would result from the proposed merger.

* In addition to this expert testimony, Mr. Nelson served as principal investigator for several studies underlying testimony offered by other witnesses, addressing issues related to intramodal (rail) competition, product and source competition, shipper benefits and leverage and trackage rights compensation. Mr. Nelson also conducted a number of special studies on request for other witnesses and counsel.

For a private client, Mr. Nelson participated in a study of the purchase and utilization of jumbo covered hopper cars by shippers and railroads. This study involved extensive analysis of the Rail Waybill Sample and other data sources, and included a detailed examination of historical car shortages in light of economic and traffic conditions, and other related factors. The results of Mr. Nelson's work were incorporated in testimony before the ICC.

As a subcontractor to consulting firms, Mr. Nelson has participated in a number of other rail-related studies. These include (1) analysis of Rail Waybill Sample data to address issues stemming from traffic protective conditions at the Jacksonville (FL) gateway between FEC and CSX, and (2) analysis of CN's Port Huron-Sarnia tunnel project and the alternative of a tunnel at Detroit-Windsor.

B. Postal Service

For Magazine Publishers of America (MPA) acting on behalf of a coalition of periodicals mailers, Mr. Nelson analyzed several issues related to the purchased transportation costs incurred by the Postal Service. This included identification of feasible cost reductions and efficiency improvements, as well as development of needed refinements in the methods used by the Postal Service to analyze transportation costs. The results of this analysis were presented to the Postal Rate Commission (PRC) in the R2000-1 omnibus rate case. A portion of the identified costing refinements has been adopted by the Postal Service.

Mr. Nelson identified and developed opportunities for a major publisher to create more efficient and desirable price/service options by avoiding selected costs in its mailings of periodicals. This work included consideration of transportation, delivery and unfunded retirement liability costs.

For Foster Associates (under contract to the Postal Service), Mr. Nelson worked in the following areas:

* Delivery costing - Mr. Nelson developed a series of refinements in delivery cost analysis procedures. These refinements included analysis of driving time on motorized letter routes, collection costing and extensive revision of costing for special purpose routes and special delivery messengers. In support of the new methodologies, Mr. Nelson developed data collection plans and assisted in the development of survey instruments and innovative procedures to gather new field data from carrier and messenger operations. He conducted extensive analysis of the new data, including development of data cleaning and weighting procedures, analysis program logic, and specifications for new econometric models. He also identified an overlap in costing systems that produced a "double-count" of delivery activity performed by personnel other than special delivery messengers but charged to LDC 24 (Cost Segment 9). He developed spreadsheet modifications needed to incorporate the costing refinements and new data, and eliminate the "double-count" problem. The results of Mr. Nelson's delivery costing work were presented before the PRC in the R97-1 omnibus rate case. The PRC adopted 9 out of 10 of Mr. Nelson's recommended methodological changes, 2 with commendations.

* New products - Mr. Nelson identified the cost basis for a number of potential new product offerings involving Express Mail and Priority Mail, and developed the analytical framework and information needed to support their implementation. This included design and analysis of a new field study of relevant Express Mail piece characteristics, which was also presented by Mr. Nelson in the R97-1 rate case.

* Litigation support - In Docket No. R94-1, Mr. Nelson reviewed intervenor testimony regarding city delivery carrier and transportation issues, and developed discovery and cross-examination topics for Postal Service counsel.

* IOCS - Mr. Nelson developed refinements in IOCS data gathering procedures to improve the validity and precision of available information regarding Express Mail activities. Mr. Nelson then interpreted the initial results from the new data and provided suggestions for improvements in Express Mail costing procedures.

* Postal AMR - Mr. Nelson developed a plan for analyzing the street time costs associated with a proposal to have postal vehicles perform automated meter reading for utility companies.

* Eagle Network - Mr. Nelson developed a potential methodology for attributing the costs of dedicated air transportation services procured by the Postal Service.

For United Parcel Service (UPS), Mr. Nelson provided extensive expert testimony before the PRC in Docket No. R90-1. This testimony presented Mr. Nelson's studies of cost causality and/or elasticity within the city delivery carrier, special delivery messenger, vehicle service driver, purchased highway transportation and expedited air network operations of the Postal Service. These studies, which involved application of operations research techniques and development of econometric models and other statistical analyses based on postal data, were referenced and relied upon extensively by the PRC in its Opinion and Recommended Decision. To a considerable degree, these studies represented extensions and refinements of Mr. Nelson's previous studies, which were presented before the PRC in Mr. Nelson's testimony in Docket No. R87-1, and in Docket No. RM86-2B, a rulemaking proceeding established in part to explore issues raised in testimony before the PRC in Docket No. R84-1 for which Mr. Nelson served as principal investigator.

C. Other

Mr. Nelson participated in an airport master planning study for Sydney, Australia. For this study, he developed a comprehensive set of site selection criteria and evaluation measures.

Until February 1984, Mr. Nelson was a Senior Research Associate at Charles River Associates (CRA), an economic

research and consulting firm, where his work experience included the following:

Freight Transportation

Mr. Nelson served as Manager of Consulting Services for the National Motor Transport Data Base (described above), which at the time was sponsored by CRA. In this position, he was responsible for handling client requests for information from the database, including problem definition, sampling issues, conduct of analyses and reporting of results. He conducted specific analyses for a number of public and private clients.

Mr. Nelson served as principal investigator for a study of motor carrier safety and traffic characteristics. This study involved extensive analysis of a number of databases, including the FHWA "Loadometer" Study, the 1977 Census of Transportation, the ICC "Empty/Loaded" Survey, and the NMTDB. The results of his work were incorporated in testimony before the U.S. District Court on behalf of a private client engaged in litigation with a state over the use of twin trailers.

Mr. Nelson participated in several other projects providing support for motor carriers involved in litigation cases. For these clients he performed detailed financial analyses of motor carrier operations and traffic in different settings, and assisted in the preparation of testimony and briefs. Mr. Nelson also served as an internal consultant on a number of CRA's other motor carrier, railroad, and freight transportation studies.

For the U.S. Department of Transportation (DOT), Mr. Nelson was principal investigator of a study to develop a conceptual framework and data collection strategy for analyzing the impacts of the motor carrier regulatory reforms implemented under the Motor Carrier Act of 1980. For this project, Mr. Nelson was responsible for identifying and selecting specific research issues, data requirements, data sources and analytical techniques.

In a study for the Office of the Secretary of Transportation, Mr. Nelson made extensive use of probabilistic modeling techniques to develop quantitative estimates of potential fuel conservation resulting from

selected aspects of proposed motor carrier regulatory reforms.

For DOT, Mr. Nelson was principal investigator for a study of the merits of alternative approaches that could be utilized by the ICC to implement the inflation-based index for allowable rate adjustments by railroads mandated by the Staggers Rail Act of 1980. For this study he analyzed the ICC's proposed approach and developed specific conclusions and recommendation in a number of issue areas, including selection of the basic index, productivity adjustments, treatment of profit and non-recurring expenses, frequency of index adjustment, rate averaging, regional differences, collective ratemaking and fuel surcharges. The results of this study were used by DOT in formulating its response to the ICC's proposed approach.

For a private client, Mr. Nelson analyzed the logistical considerations involved in siting a plant to process imported high-value mineral ores. This study, which was part of a larger study to assess the overall economic feasibility of plant construction and operation, involved comparisons of costs and other attributes of a variety of modes and modal combinations, including rail, inland waterway, motor carrier and TOFC.

In a study of urban freight consolidation alternatives conducted for the U.S. Department of Energy (DOE), Mr. Nelson utilized principles of network analysis, simulation and queuing theory to evaluate and critique the merits of previous studies, and recommend research approaches for analysis of route and terminal consolidation strategies.

Also for DOE, Mr. Nelson was a major contributor to a study of potential fuel-use changes that could occur in response to dramatic fuel price increases. Mr. Nelson's work focused on the freight and intercity passenger transportation sectors and included analyses of opportunities for improvements in fuel efficiency by each mode under different fuel price increase scenarios, as well as modal shifts and net traffic reductions caused by resulting cost (and rate) increases.

Passenger Transportation

Mr. Nelson served as principal investigator for a series of Service and Management Demonstration Evaluations conducted

for DOT. For three parallel assessments of the feasibility of user-side subsidies, and one demonstration of taxicab regulatory reforms and paratransit service innovations, he developed instruments for and implemented several surveys, conducted data analysis and prepared Final Evaluation Reports. For an assessment of alternative transit transfer policies, he developed research issues and data requirements, selected and supervised interviews of over 40 transit properties, and wrote or was responsible for all major deliverables. He assisted DOT in the development of research issues to be addressed in demonstrations of innovative checkpoint paratransit services and in the review of a proposed paratransit policy.

Also for DOT, Mr. Nelson was principal investigator of a study of methods to improve transit productivity and cost-effectiveness. This study involved the identification and documentation of 146 distinct productivity-enhancement measures that have been implemented at U.S. transit properties, assessment of the transferability of each measure to different settings, and development of impact magnitude estimates. Prior to this project, Mr. Nelson developed over two dozen ideas for possible innovations to improve transit productivity and cost effectiveness.

Mr. Nelson participated in a financing study of the New York Metropolitan Transportation Authority's proposed multi-billion dollar capital improvement program. Mr. Nelson's responsibilities in this project involved econometric analysis of operating costs, with a particular emphasis on identifying the variability of different cost components with alternative future levels of rapid rail, bus, and commuter rail activity. The results of his work were incorporated in the MTA's Official Statement for the successful initial offering of \$250 million in transit revenue bonds.

For DOT, Mr. Nelson participated in a study to develop technical guidelines for use by local planners to satisfy alternatives analysis requirements. For this study he developed a matrix-based method for determining data requirements in different scenarios, and played a major role in the development of a method for generating locally responsive alternatives to high-capital transit investments using multicriteria decision techniques.

For the Massachusetts Port Authority, Mr. Nelson participated in a study to forecast future levels of passenger and air cargo activity at Logan International Airport. For this study, Mr. Nelson supervised data collection efforts, developed methods for synthesizing data from diverse sources (FAA, CAB, Port Authority records, etc.) to yield relevant market segment size estimates, and analyzed seasonality and short-term peaking phenomena.

Mr. Nelson also participated in a quantitative assessment of the market penetration potential and associated impacts of electric vehicles for the Electric Power Research Institute (EPRI).

Thesis

In his graduate thesis at M.I.T., which fulfilled the thesis requirements for two Master's degrees, Mr. Nelson developed a comprehensive review of the theoretical and practical shortcomings encountered in the use of linear programming in a real time multiple vehicle routing and scheduling system (dial-a-ride). Based on network analysis techniques, he then developed a set of heuristic algorithms that avoided the shortcomings inherent in the linear programming (LP) approach. The performance of these algorithms was simulated by computer and found to meet or exceed the LP's performance in a variety of scenarios drawn from actual operating data.

TESTIMONY

Surface Transportation Board, Finance Docket No. 32760
(Sub-No. 21)

- Verified Statement, 8-17-01

Surface Transportation Board, Finance Docket No. 32760
(Sub-No. 21)

- Verified Statement, 8-18-00

Postal Rate Commission, Docket No. R2000-1

- Direct Testimony, MPA-T-3, 5-22-00

Surface Transportation Board, Ex Parte 582 (Sub-No. 1)

- Statement, 5-16-00

Surface Transportation Board, Finance Docket No. 33407

- Verified Statement, 8-31-98
- Supplemental Verified Statement, 10-28-98

Surface Transportation Board, Finance Docket No. 33469

- Verified Statement, 11-10-97
- Reply Verified Statement, 11-25-97

Postal Rate Commission, Docket No. R97-1

- Direct Testimony, USPS-T-19, 7-10-97

Interstate Commerce Commission, Finance Docket No. 32133

- Verified Statement, SP-20 (Volume 2), 11-29-93
- Rebuttal Verified Statement, SP-41 (Volume 2), 7-28-94

Postal Rate Commission, Docket No. R90-1

- Direct Testimony, UPS-T-1, 7-16-90
- Rebuttal Testimony, UPS-RT-1, 10-1-90

Interstate Commerce Commission, Finance Docket No. 31505

- Verified Statement, RGI-14/SOO-14 (Volume 2), 9-15-89
- Rebuttal Verified Statement, RGI-55/SOO-55, 2-15-90

Interstate Commerce Commission, Finance Docket No. 31522

- Verified Statement, RGI-7/CMW-7 (Volume 2), 8-25-89

Interstate Commerce Commission, Finance Docket No. 32000

- Verified Statement, RGII-10, 2-22-88
- Verified Opposition and Rebuttal Statement, RGII-59, 6-1-88

Postal Rate Commission, Docket No. R87-1

- Direct Testimony Concerning Special Delivery Messenger and City Delivery Carrier Street Time Costs, UPS-T-1, 9-14-87
- Rebuttal Testimony, UPS-RT-5, 11-23-87
- Statement Regarding SDWAFS Analyses, 12-1-87

Interstate Commerce Commission, Finance Docket No. 30800

- Verified Statement, DRGW-13, 4-7-87
- Verified Statement, DRGW-24, 7-13-87

Postal Rate Commission, Docket No. RM86-2B

- Direct Testimony Concerning City Delivery Carrier Street Time Costs, UPS-T-1, 12-1-86

Interstate Commerce Commission, Finance Docket No. 30400

- Verified Opposition Statement, DRGW-20, 11-21-84
- Verified Opposition Statement, DRGW-23, 12-10-84 (with Paul H. Banner)
- Verified Rebuttal Statement, DRGW-33, 5-29-85

SELECTED PUBLICATIONS

Reports Prepared for Charles River Associates

User-Side Subsidy Demonstration Project: Lawrence, Massachusetts. Final Evaluation Report. Prepared for U.S. Department of Transportation. October, 1983.

Analysis of Labor Conditions and Union Status in the Intercity Trucking Industry. Final Report. Prepared for U.S. Department of Transportation. August, 1983.

Actions Being Taken by Transit Operators to Improve Performance. Final Report. Prepared for U.S. Department of Transportation. April, 1983.

User-Side Subsidy Demonstration Project: Montgomery, Alabama. Final Evaluation Report. Prepared for U.S. Department of Transportation. December, 1982.

Plan for Monitoring the Impacts of Regulatory Reforms Implemented Under the Motor Carrier Act of 1980. Final Report. Prepared for U.S. Department of Transportation. October, 1982.

New York City Transit Authority Revenue Feasibility Study: Economic Analyses and Projections. Final Report. Prepared for Metropolitan Transportation Authority, New York, NY. In part. October, 1982.

Taxi Regulatory Revisions in Dade County, Florida. Data Collection Plan. Prepared for U.S. Department of Transportation. April, 1981.

Analysis of Rail Cost-Plus Pricing Systems. Prepared for U.S. Department of Transportation. March, 1981.

Net Demand for Oil Imports: Preliminary Estimates of Short-Run Price Elasticities. Prepared for the U.S. Department of Energy. In part. December, 1980.

User-Side Subsidy Demonstration Project: Kinston, North Carolina. Final Evaluation Report. Prepared for U.S. Department of Transportation. October, 1980. Executive Summary reprinted in Taxicab Management November/December, 1981.

Potential Fuel Conservation from Regulatory Reform of the Trucking Industry. Prepared for Office of the Secretary of Transportation. July, 1980.

Operator Guidelines for Transfer Policy Design. Prepared for U.S. Department of Transportation. June, 1980.

State of the Art of Current Practices for Transit Transfers. Prepared for U.S. Department of Transportation. June, 1980.

"Generation of Transportation Alternatives." Technical Monograph prepared for U.S. Department of Transportation. January, 1979.

"Definition of Transportation Alternatives." Technical Monograph prepared for U.S. Department of Transportation. November, 1978.

Preliminary Analysis of Alternative Proposals to Encourage Efficient Service Concepts in Urban Freight Movement. Prepared for U.S. Department of Energy. In part. October, 1978.

Other Publications

Nelson, Michael and Daniel Brand. 1982. "Methods for Identifying Transportation Alternatives." Transportation Research Record 867.

Nelson, Michael, Daniel Brand and Michael Mandel. 1982. "State of the Art Current Bus Transfer Practices." Transportation Research Record 854.

Nelson, Michael and Jane Piro. March, 1982. "Implementation and Impacts of the Kinston, North Carolina User-Side Subsidy Demonstration Project." Specialized Transportation Planning and Practice.

Nelson, Michael and Paul H. Banner. 1981. "Analysis of Alternative Railroad Cost Recovery Procedures." Proceedings - Twenty-Second Annual Meeting of the Transportation Research Forum.

Nelson, Michael, Daniel Brand and Michael Mandel. 1981. "Use and Consequences of Timed Transfers on U.S. Transit Properties." Transportation Research Record 798.

Mellman, Robert, Michael Nelson and Jane Piro. 1980. "Forecasts of Passenger and Air Cargo Activity at Logan International Airport." Transportation Research Record 768.

Nelson, Michael. 1978. "Evaluation of Potential Replacements for Failing Conventional Transit Services."

M.S. Thesis, Massachusetts Institute of Technology,
Department of Civil Engineering and Alfred P. Sloan School
of Management.