

STB FD 33388 (Sub 69) 10-21-97 A 182899 1/4

BEFORE THE
SURFACE TRANSPORTATION BOARD

THE STATE OF NEW YORK, BY AND
THROUGH ITS DEPARTMENT OF
TRANSPORTATION -- TRACKAGE RIGHTS
OVER LINES OF CONSOLIDATED
RAIL CORPORATION AND DECLARATION
CONCERNING TRACKAGE RIGHTS
RESTRICTIONS ON LINES OF METRO-
NORTH COMMUTER RAILROAD COMPANY

Finance Docket No. 33388
(Sub-No. 69) - 182899

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CSX Corporation and CSX
Transportation Inc., Norfolk
Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating
Leases/Agreements -- Conrail Inc.
and Consolidated Rail Corporation

Finance Docket No. 33388
(Sub-No. 54) - 182903

JOINT RESPONSIVE APPLICATION
OF THE
STATE OF NEW YORK
AND THE
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION



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Finance Docket No. 33388
(Sub-No. 54)

The State of New York, acting by and through its Department of Transportation ("New York"), and the New York City Economic Development Corporation ("NYCEDC") hereby submit their Joint Responsive Application for (1) Surface Transportation Board approval of unrestricted trackage rights over lines of Consolidated Rail Corporation ("Conrail") (i) between the point of connection with the Delaware & Hudson Railway ("D&H") at CP-160 near Schenectady, NY and CP-75 near Poughkeepsie, NY; (ii) between the point of connection with D&H at Selkirk Yard and CP-

75 near Poughkeepsie, NY; and (iii) between Mott Haven Junction ("MO"), NY and the point of connection with the lines of the Long Island Railroad near Fresh Pond ("MONT"), NY via Harlem River Yard; and (2) to the extent necessary to permit uninterrupted rail freight transportation between CP-160 and/or Selkirk Yard and Fresh Pond ("MONT"), NY, a Board declaration that pursuant to 49 U.S.C. §11321(a), Metro-North Commuter Railroad Company ("Metro-North")¹ may grant unrestricted trackage rights over the lines between CP-75 near Poughkeepsie, NY and Mott Haven Junction ("MO"), NY to a rail carrier other than Conrail or CSX, notwithstanding any provisions of any agreements which purport to limit or prohibit such a grant.

This Application is filed pursuant to 49 U.S.C. §11323, et seq. and 49 C.F.R. Part 1180, and the Board's Decision Nos. 29 and 33 served in the primary docket on September 11, 1997 and September 17, 1997, respectively². This Application is responsive to the Primary Application in Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and

¹Metro-North is a subsidiary of the Metropolitan Transportation Authority of the State of New York. See V.S. Nelson, at 1.

²On August 22, 1997, New York and NYCEDC each filed separate Notices of Intent to file responsive applications seeking the same pro-competitive relief. As their goals are the same and their public interest constituencies complementary, New York and NYCEDC have agreed to unite in support of a joint application for the rights and declaratory relief described herein. As to all other purposes relevant to the Primary Application and Finance Docket No. 33388, however, New York and NYCEDC remain independent parties.

Operating Leases/Agreements -- Conrail, Inc. and Consolidated Rail Corporation, as filed by CSX Corporation and CSX Transportation, Inc. ("CSX"), and Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS") (together with Conrail, CSX and NS are referred to collectively as the "Primary Applicants").

In accordance with applicable Board regulations and in support of this Application, Responsive Applicants submit the following information:

**A. Identification of Applicant and
Person To Whom Correspondence With
Respect to this Application Should
Be Addressed [49 C.F.R. Part 1180.6(a)]**

New York is a sovereign state, having entered the Union through ratification of the Constitution of the United States on July 26, 1788. The New York State Department of Transportation is the executive department charged with responsibility for the supervision and administration of state policies and interests with respect to transportation within or affecting New York, including rail transportation.

NYCEDC is a private non-profit corporation created by the City of New York. Its mission is to serve as a catalyst for public and private investment to promote the long-term viability of New York City, and to attract and provide opportunities to its businesses and citizens.

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B. Summary of Proposed Transaction
[49 C.F.R. Part 1180.6(a)(1)(i)]

If the Board approves the acquisition of control and division of operations of Conrail assets proposed in the Primary Application, shippers and other constituencies dependent on rail freight service to and from points in New York City, Long Island, and other areas of New York south of Albany and east of the Hudson River will be denied the demonstrable benefits of effective, competitive rail service that otherwise would be made available to their metropolitan New York/New Jersey and western Hudson Valley counterparts. New York and NYCEDC each have fully described these expected effects in their Comments (NYS-10 and NYC-9) filed concurrently with this Joint Responsive Application in the primary docket. See also the Verified Statement of Andrew

C. Robertson, attached hereto. To remedy this significant, adverse effect while otherwise fully preserving the benefits of the proposed transaction to the public and the Primary Applicants, Responsive Applicants request imposition of the following conditions:

1. Full service trackage rights in favor of a rail carrier other than Conrail or CSX, to be designated jointly by New York and NYCEDC, over the lines of Conrail between points of connection with D&H at CP-160 near Schenectady, NY and Selkirk Yard near Selkirk, NY, and CP-75 near Poughkeepsie, NY, together with sufficient rights on tracks within the Selkirk Yard to permit the efficient interchange of freight with D&H; and

2. Full service trackage rights in favor of a rail carrier other than Conrail or CSX, to be designated jointly by New York and NYCEDC, over the lines of Conrail between the point of Conrail ownership at Mott Haven Junction ("MO"), NY and the point of connection with the lines of the Long Island Railroad near Fresh Pond ("MONT"), NY, via the Harlem River Yard.

The requested trackage rights would serve the sole function of providing effective competition for rail freight service proposed under the Primary Application to be provided solely by CSX, to shippers and other freight rail users and dependent communities located east of the Hudson River and south of Albany, NY. To accomplish this, in addition to exercising the requested rights the new rail competitor will have to obtain and exercise trackage or other operating rights over lines leased and

controlled by Metro-North, between CP-75 near Poughkeepsie and Mott Haven Junction ("MO"). As explained by Metro-North President Donald Nelson in his Verified Statement attached hereto, Metro-North is prepared to negotiate the granting of such rights when and as necessary.

It is Metro-North's position that it is not prohibited or otherwise restricted from granting the necessary rights by the terms of any agreements now in effect between Metro-North and any other party, including Conrail. V.S. Nelson at 8-9. On information and belief, however, Conrail and/or CSX may challenge this position, and claim exclusive rights to conduct rail freight operations over the Metro-North line between CP-75 and Mott Haven Junction. As shown in New York's Comments and the Verified Statements of Witnesses Nelson and Walter Schuchmann, attached hereto, the subject lines can accommodate coordinated operations by two (2) rail freight carriers safely and efficiently, based on existing capacity and traffic projections. As such, and given that trackage rights over the Metro-North lines in favor of a second freight carrier are a necessary part of the overall transaction described by this Application, Responsive Applicants request that in addition to imposing the conditions described supra, the Board issue a declaration that pursuant to 49 U.S.C. §11321(a), Metro-North may enter into agreements to grant the necessary rights over the lines between CP-75 and Mott Haven Junction, notwithstanding any purported restrictions on such authority that may be claimed by the Primary Applicants or others. Cf. Primary Application, Volume 1, at 91-92.

C. Proposed Time Schedule for Consum-
mation of the Proposed Transaction
[49 C.F.R. Part 1180.6(a)(1)(ii)]

New York and NYCEDC request that the Board approve this Joint Responsive Application simultaneously with the approval, if any, of the Primary Application in Finance Docket No. 33388, supra. However, New York and NYCEDC recognize that since neither is an "applicant carrier" within the meaning of 49 C.F.R. Part 1180.3(b), any issues arising from their designation of a carrier to exercise the subject trackage rights as a result of this Joint Responsive Application necessarily will have to be resolved in a "follow-up proceeding." See, e.g., Finance Docket No. 33388, Decision No. 29, at 3.

D. Purposes Sought to be Accomplished
by the Proposed Transaction
[49 C.F.R. Part 1180.6(a)(1)(iii)]

The trackage rights and declaratory relief sought by New York and NYCEDC would extend to shippers in New York City, Long Island, and the eastern side of the Hudson River Valley the same benefits of intramodal rail competition that the Primary Applicants propose to confer on these shippers' western competitors and counterparts within the North Jersey Shared Assets Area. As discussed further in New York's and NYCEDC's separate Comments, if the Board approves the Primary Application then it also should approve this Joint Responsive Application, so that the rail transportation services balance which presently characterizes the New York Metropolitan Area and Hudson River Valley will be

preserved.

Currently, all rail freight traffic originating or terminating in the New York City/Long Island/Northern New Jersey area must be handled by Conrail, either after prior or for subsequent line-haul transportation. A shipper seeking access to line-haul transportation alternatives via CSX or NS either must route its traffic in interline service with Conrail as an origin, destination or bridge carrier, or use non-rail modes (e.g., motor carriage or vessel) to move the freight. A similar condition prevails in the Hudson Valley, with Conrail controlling the rail freight facility essential to the movement of traffic between the New York metropolitan area (and stations to the north) and Albany.

The transactions proposed in the Primary Application would alter this situation significantly. Under the Primary Applicants' plan, New York metropolitan area shippers and receivers west of the Hudson River in Northern New Jersey will have direct, competitive access to both CSX and NS by virtue of the North Jersey Shared Assets Area. Likewise, the new haulage arrangement between NS and the Canadian Pacific Railway for through service to the Albany gateway (see, e.g., Application, Vol. 3B, V.S. Mohan at 19-20) potentially gives rise to new options for west side shippers routing freight to and from CP. Shippers east of the Hudson, however, including those in New York City and on Long Island, will be left dependent on a single carrier -- CSX -- for rail shipments. Thus, for example, produce

distributors at Hunts Point, NY and merchandise shippers on Long Island will be limited to CSX service and route options for movements to and from western gateways, while their Northern New Jersey counterparts -- who compete to serve the same metropolitan consumer markets -- will enjoy both the price advantages and multiple routing options that come with dual line-haul rail access.

Introduction of service by a second rail freight operator from Albany south on the Hudson Line will bring competitive balance to rail transportation service in the New York metropolitan area, with clear and immediate public benefits in terms of rates and service options for east side shippers. The expanded presence of dual rail service likewise will promote economic growth and development, leading in turn to increased rail volumes and revenues. As shown by Witnesses Nelson and Schuchmann, the requested conditions are practicable, as the subject lines easily can accommodate the anticipated additional freight traffic (initially, 1-2 trains per day). Moreover, the introduction of competitive rail service east of the Hudson River will have positive impacts on regional transportation safety and infrastructure, as improved rail options will reduce shippers' reliance on motor carriage that already strains the limits of existing roads, tunnels and bridges.

The Board's regulations recognize the imposition of conditions to ameliorate adverse competitive impacts resulting from transactions such as that proposed by the Primary Appli-

cants, particularly where the conditions would not pose unreasonable operating problems or frustrate the anticipated public benefits of the basic transaction. See 49 C.F.R. Part 1180.1(c) and (d). As shown herein and in New York's and NYCEDC's separate Comments, the trackage rights and declaratory relief that are the subject of this Joint Responsive Application squarely meet these regulatory criteria.

**E. The Nature and Amount of New Securities
and Other Financial Arrangements
[49 C.F.R. Part 1180.6(a)(1)(iv)]**

Responsive Applicants do not anticipate that any new securities issuances or other financial arrangements contemplated by this regulation would be involved if this Joint Responsive Application is granted.

**F. A Description of Public Interest
Justifications in Support of the
Application [49 C.F.R. Part 1180.6(a)(2)]**

New York and NYCEDC hereby incorporate by reference their Comments filed contemporaneously herewith in the primary docket, which fully explain the public interest justifications in support of this Joint Responsive Application. In accordance with applicable regulations, New York and NYCEDC further state:

1. Pursuant to 49 C.F.R. Part 1180.6(a)(2)(i), the trackage rights and other relief proposed by New York and NYCEDC would have a positive effect on competition by extending the benefits of dual rail service which the Primary Applicants are proposing to introduce to Northern New Jersey and the western

environs of the New York metropolitan area and Hudson River Valley, to New York City proper, Long Island, and the eastern portion of the Hudson River Valley south of Albany. The addition of a second rail freight carrier to this region will foster increased intra- and intermodal competition, the latter of which in particular will promote public health and safety through reductions in inter-city truck traffic resulting from diversions.

A review of the Primary Application indicates that few of the quantifiable, anticipated benefits of the proposed division of Conrail expected to be realized by CSX -- and none of the claimed public benefits -- derive from that carrier holding a monopoly on rail freight service east of the Hudson River. Thus, the trackage rights proposed in this Joint Responsive Application not only would promote the statutory goals of effective competition and adequate transportation service to the public, but would do so without any detracting from the public benefits that the Primary Applicants claim they will achieve through their transaction.

2. Pursuant to the Board's Decision Nos. 29 and 33 in Finance Docket No. 33388, the following regulations have been waived with respect to this Joint Responsive Application: 49 C.F.R. Parts 1180.6(a)(2)(ii), 1180.6(a)(2)(iii), 1180.6(a)(2)(iv), 1180.6(a)(2)(v) and 1180.6(a)(2)(vi).

G. Other Supporting Materials
[49 C.F.R. Part 1180.6(a)(3)]

New York and NYCEDC incorporate herein by reference their Comments, filed contemporaneously herewith in the primary docket. New York and NYCEDC also direct the Board's attention to the Verified Statements of Witnesses Nelson and Schuchmann, attached hereto, which demonstrate the feasibility of the proposed trackage rights.

H. Opinion of Counsel
[49 C.F.R. §1180.6(a)(4)]

The Opinion of Counsel for New York is attached hereto as Exhibit A. The Opinion of Counsel for NYCEDC is attached hereto as Exhibit B.

I. States in which any Part of the Property
of Applicant Carrier is Situated
[49 C.F.R. §1180.6(a)(5)]

Pursuant to the Board's Decision Nos. 29 and 33 in Finance Docket No. 33388, this requirement has been waived as to New York and NYCEDC.

J. Map [49 C.F.R. §1180.6(a)(6)]

See the map attached hereto as Exhibit C.

K. Explanation of the Transaction
[49 C.F.R. §1180.6(a)(7)]

Pursuant to the Board's Decision Nos. 29 and 33 in Finance Docket No. 33388, this requirement has been waived as to New York and NYCEDC.

L. Environmental and Historical Data
[49 C.F.R. Part 1180.6(a)(8)]

Pursuant to the Board's Decision Nos. 29 and 33 in Finance Docket No. 33388, on October 1, 1997 New York submitted the Verified Statement of James A. Utermark, and NYCEDC submitted the Verified Statement of Shirley Jaffe, each certifying that the relief sought herein meet the criteria for exemption set forth at 49 C.F.R. Part 1105.6(c)(2).

M. Information Regarding Responsive Applicants
49 C.F.R. Part 1180.6(b)(7)]

While the trackage rights proposed herein involve more than one rail carrier, the rights themselves do not involve the control or merger of two (2) or more Class I railroads. Moreover, the sole purpose and effect of the rights will be to enhance intramodal transportation competition by giving shippers in the affected region access to alternative rail carriers similar to that which the Primary Applicants would afford shippers in the North Jersey Shared Asset Area. As further demonstrated in New York's and NYCEDC's separate Comments, the requested trackage rights clearly will not have any anticompetitive effects. As such, the transaction that is the subject of this

Joint Responsive Application should be deemed "minor" in accordance with 49 C.F.R. Part 1180.2(a)-(c). See also Decision No. 33, at 3; Decision No. 40, at 3-4. Consistent with the transaction's status, the captioned regulation is not applicable.

N. Market Analyses
[49 C.F.R. Part 1180.7]

Because the subject transaction is neither "major" nor "significant" as defined in 49 C.F.R. Part 1180.2 (a) and (b), this regulation is not applicable.

O. Operational Data
[49 C.F.R. Part 1180.8]

Because the subject transaction is neither "major" nor "significant," this regulation is not applicable.

P. Financial Information
[49 C.F.R. Part 1180.9]

Because the subject transaction is not "major," this regulation is not applicable.

PRAYER FOR RELIEF

For the reasons set forth herein and in New York's and NYCEDC's separate Comments submitted contemporaneously herewith, New York and NYCEDC respectfully request that the Board accept this Joint Responsive Application for filing, and if the Board approves the Primary Application in Finance Docket No. 33388, then (1) impose, as a condition to its approval, the trackage

rights described in Part B, supra; and (2) issue the declaration respecting Metro-North's rights to negotiate the grant of track-age rights described in said Part B. New York and NYCEDC submit that the terms to govern the subject trackage rights, including compensation, initially should be subject to negotiation between New York/NYCEDC and CSX, subject to prescription by the Board if the parties are unable to agree within ninety (90) days after service of the Board's order.

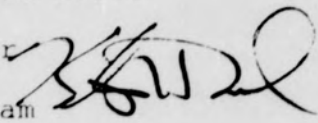
Respectfully submitted,

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Dated: October 21, 1997

Attorneys for the State of New York

EXHIBIT A

Opinion of Counsel

As one of the counsel for Responsive Applicant the State of New York, acting by and through its Department of Transportation, I am familiar with the transaction described in the foregoing Responsive Application. I am of the opinion that the transaction meets all requirements of law and will be legally authorized and valid if approved by the Board.

Because New York is a sovereign state and a non-carrier, no opinion is being furnished with respect to by-laws and/or articles of incorporation.

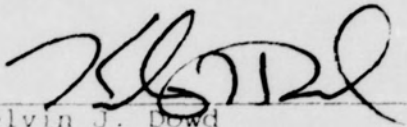

Kelvin J. Dowd

EXHIBIT B

Opinion of Counsel

As one of the counsel for Responsive Applicant New York City Economic Development Corporation, acting on behalf of the City of New York, I am familiar with the transaction described in the foregoing Responsive Application. I am of the opinion that the transaction meets all requirements of law and will be legally authorized and valid if approved by the Board.

Because New York Economic Development Corporation is a non-profit corporation and a non-carrier, no opinion is being furnished with respect to by-laws and/or articles of incorporation.

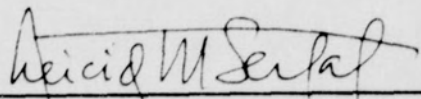
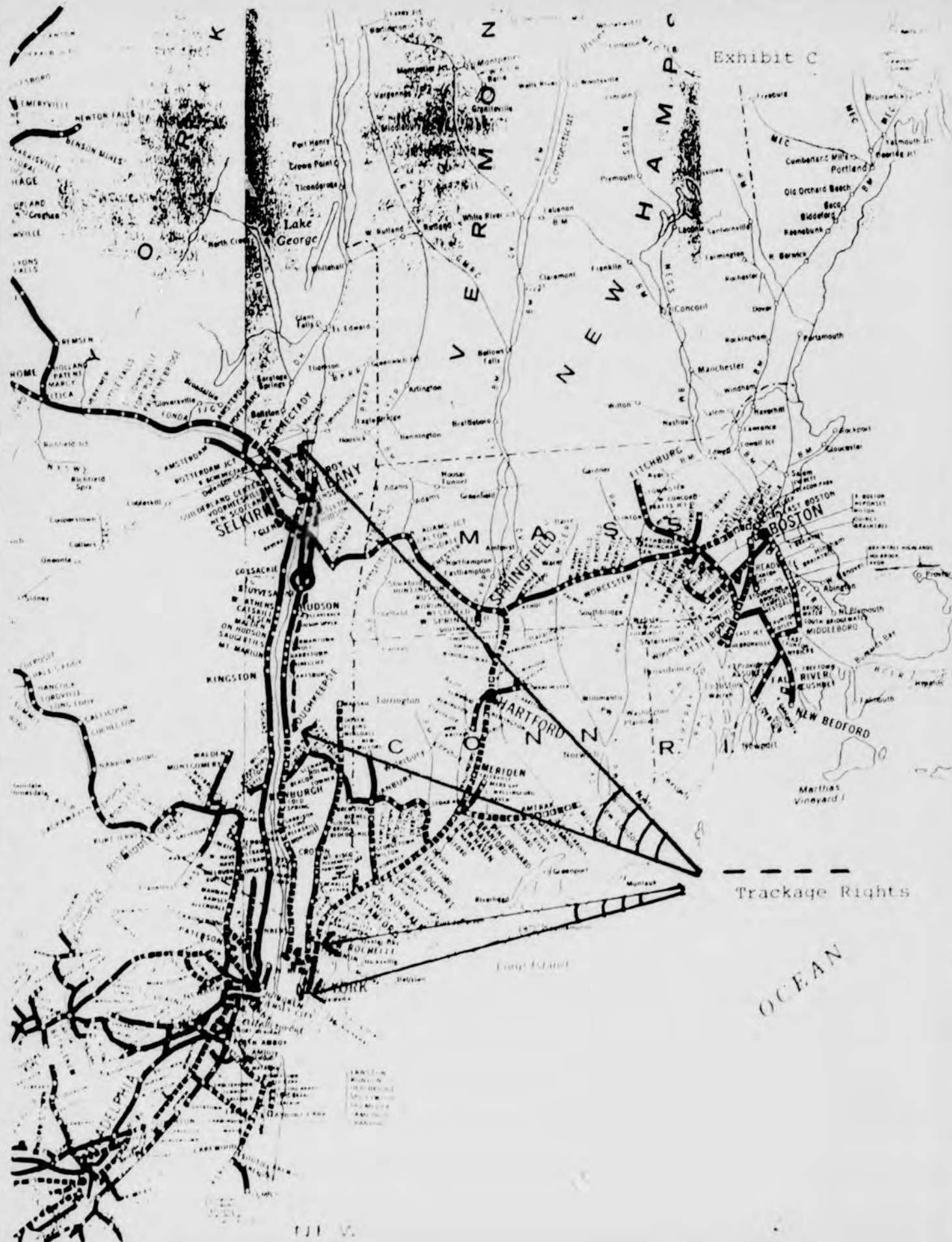

Alicia M. Serfaty

Exhibit C



Trackage Rights

OCEAN

Before The
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 33388 (Sub-Nos. 54 and 69)

CSX Corporation and CSX Transportation Inc.,
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation

VERIFIED STATEMENT OF ANDREW C. ROBERTSON

My name is Andrew C. Robertson. I am President of Atlantic Systems Inc. ("ASI"), a transportation consulting firm located at 370 Lexington Avenue, New York, NY 10017. I earned a Bachelor of Arts degree from Princeton University and a Masters of Business Administration degree from Columbia University, with a concentration in transportation and finance. With ASI and my previous employer, Reebie Associates, I have been involved with most of the major rail merger cases at the Interstate Commerce Commission ("ICC") and the Surface Transportation Board ("STB") since 1977. In these proceedings, which include the Union Pacific-MoPac, the Milwaukee Road, the Union Pacific-Chicago & North Western, the Burlington Northern-Santa Fe and the Union Pacific-Southern Pacific, I either prepared my own testimony or supported testimony provided by other witnesses. In 1985 while with Reebie Associates, I was engaged by several carriers to evaluate the competitive impacts of the proposed Norfolk Southern Railway Company ("NS") acquisition of Conrail. I prepared analyses and expert testimony for the Department of Justice, the

US Senate and the ICC in that matter. In 1996, ASI was engaged by the Canadian National Railway Company ("CN") to evaluate the implications of the proposed CSX Transportation ("CSX") merger with Conrail. Our study of the potential market impacts of the NS-CSX acquisition of Conrail continued until this past summer when CN reached a settlement with CSX. Consequently, I am very familiar with the potential market impacts of the NS-CSX division of Conrail especially on the rail markets in the Northeast. I am also very familiar with the New York/New Jersey freight transportation market. While with Reebie Associates, I led a project for the NYSDOT to evaluate the feasibility of intermodal service to New York. For NJDOT, I was project manager in the creation of a statewide freight traffic flow data base.

In this proceeding, I have been asked by counsel for the New York City Economic Development Corporation ("NYCEDC") to (i) study the potential impacts of the proposed acquisition and division of Conrail by NS and CSX on the shippers and receivers of rail freight traffic in New York City and Long Island; and (ii) evaluate the market potential for a new rail competitor on the line east of the Hudson between Albany and New York/Long Island to support the request by NYCEDC, along with the State of New York, for trackage rights that would allow a third party operator to compete for service along the line. As shown below, my review of the proposed plan, coupled with my knowledge of the region's transportation system and my research, leads me to conclude that shippers and receivers in New York City and on Long Island will be disadvantaged relative to their counterparts on the west side of the Hudson by virtue of the proposed transaction. Furthermore, because CSX has a much different market orientation than Conrail, it will have fewer incentives to serve the New York City/Long Island market. My analysis of the potential market for a

competing carrier on the east side of the Hudson also leads me to conclude that the relief NYCEDC and the State of New York seek is a viable and appropriate remedy to compensate for the harm suffered by New York City and Long Island shippers and receivers.

I. The Transaction and Its Impact

Prior to the Penn Central merger, New York City shippers had several competing rail carriers including the New York Central, Erie and Pennsylvania. However since 1976, New York rail shippers have had only one choice for rail service, Conrail. A review of the U.S. map identifies very few major cities, such as San Francisco and Tampa, with a similar lack of rail competition. The CSX-NS plan for the division of Conrail will not change the competitive situation for New York City/Long Island rail shippers. As currently envisioned, NS and CSX will divide Conrail in such a way that most Conrail shippers at points now served only by Conrail will be served exclusively by either NS or CSX. In what the Applicants have called Shared Assets areas, which include parts of Northern New Jersey, Philadelphia and Detroit, NS and CSX will jointly own and operate a quasi-independent entity to handle terminal and short haul operations. While Applicants have trumpeted the new competition in the Shared Assets area of North Jersey, New York City and Long Island shippers and receivers will find themselves disadvantaged by the fact that the Applicants have chosen not to bring competition to New York City. New industrial and distribution facilities wishing to locate in the New York area will naturally gravitate to New Jersey sites where CSX and NS will provide competing rail service.

As currently proposed, Conrail points in New York City and the counties of New York east of the Hudson River will be acquired by CSX. CSX indicates in its Operating Plan that it will make no changes to the minimal service presently offered by Conrail on the line east of the Hudson into New York City; apparently it will continue to offer only one train a day service for carload traffic on the line. Application, Vol. 3A, at 447. While we can surmise that CSX service will differ from Conrail's, there is no assurance that it will improve. One thing remains unchanged, CSX will be as unconstrained by vigorous intramodal competition as Conrail is today. There may, in fact, be some new disadvantages for the new CSX service.

Conrail now serves as the terminal railroad for the Northeastern United States where it terminates much more traffic than it originates. Because so much traffic originates outside its territory, Conrail can be neutral towards its interchange railroads (and their shippers) from the South, West, Midwest, Canada and New England. Unlike Conrail, CSX originates many of the commodities consumed by rail users in the Northeast such as coal, lumber and paper. Following industry practice and consistent with their desire to maximize single system routing, CSX can be expected to favor its system longhaul when it acquires its portion of Conrail. New York receivers who can now choose from a variety of off-line carriers will likely be "encouraged" to use only CSX where CSX can provide single line service. This single line service, touted as one of the major benefits from the merger, will have obvious and immediate negative effects on those New England, Canadian and Midwestern shippers served by Guilford, CN, Canadian Pacific, Union Pacific, Burlington Northern Santa Fe, Illinois Central, Kansas City Southern and Wisconsin Central. Even Conrail shippers now acquired by NS will be at a similar

**Highly Confidential
Material Redacted**

disadvantage. CSX may share the cost savings from single line service through lower rates; or it may elect to retain those benefits to pay for the costs of the merger. In New York, unlike New Jersey, rail competition will not factor in CSX's decision.

I have examined the traffic patterns of the New York area using the 1995 Conrail Waybill file provided by Applicants in this proceeding. For the New York part of the region (BEA 12), CSX does not seem to be a natural choice as the primary rail carrier. Indeed CSX originated or terminated only [] of the traffic to or from Conrail's line east of the Hudson. Other carriers with greater "natural trading flows" to New York are NS, UP and CN. Traffic to/from other Conrail points comprises the most important share of New York traffic. By our calculations, most of these Conrail points important to New York will be inherited by NS. Therefore unless CSX can divert a great deal of traffic, very few single system advantages of the transaction will be enjoyed by New York shippers.

A more important problem facing New York City rail shippers is that CSX may have neither the desire nor the ability to provide a level of rail service to the region that will ensure its competitiveness as a location for manufacturing and distribution. CSX has three choices: improve upon the rail service now offered by Conrail, maintain the minimal levels now provided by Conrail or downgrade the line east of the Hudson to focus resources on larger markets closer to CSX's locus of operations. Although it is conceivable that CSX might elect to maintain Conrail's current levels of service or even make improvements, there would be no intramodal competitive check on CSX. Most troubling, and in my opinion likely, would be a

decision by CSX to "demarket" the line because New York City is too distant and underdeveloped to warrant the effort. CSX could drain resources and effort from the east side line to concentrate on its other rail assets in New Jersey or elsewhere in the country. If New York City and Long Island continue to receive rail service at or below the levels now provided by Conrail, it will be at a serious competitive disadvantage vis a vis most major cities in the US (including Northern New Jersey) that now - or soon will --benefit from intramodal rail competition.

Exclusive service by CSX on the east side of the Hudson could also disrupt the prevailing trade flows of New York City and Long Island. New York City rail traffic developed along the patterns of Conrail's predecessor carriers - the New York Central and the Pennsylvania. Consequently, much of the New York area's traffic is originated in New England, Canada, the Upper Midwest and the West. Applicants have stated that one of the principal benefits of the transaction is the opportunity to develop North-South traffic flows bridging CSX and NS territories with Conrail territory. This benefit comports with railroads' traditional bias to favor their system long haul. In practice, this means that shippers in the South will be favored over those in places such as Maine, Wisconsin or Quebec. Whether there are public benefits from this diversion is dubious especially if established sources suffer discrimination. The clearest example of this is the rail market for paper. Currently Conrail receivers in the Midwest and Northeast source paper from a broad range of off-line origins such as Maine, Quebec, Georgia, Louisiana and Wisconsin. In contrast, NS and CSX receivers source most of their paper from Southern points on NS or CSX. Even in the Midwest, most paper moving to CSX and NS receivers in states such as Ohio comes from Southern points. Importantly, Conrail receivers in

the Midwest enjoy a much wider choice of origins. Even if CSX chooses to maintain adequate service standards on the east side, it is probable that it will attempt to source traffic from its own origins. Whether this outcome serves the public interest is debatable; again New York City and Long Island shippers will not have a semblance of intramodal competition to check CSX. While CSX may successfully close out rail carriers from New England, Canada and the Midwest, it is likely that their shippers will attempt to use truck transport to remain in the New York City/Long Island market. The traffic may continue to flow by truck, but with greatly increased congestion on New York City highways and bridges.

Shippers and receivers in New York City and Long Island will thus be directly harmed by this transaction for two reasons. First, because within the region only parts of Northern New Jersey will have effective intramodal competition, New York City and Long Island shippers and receivers will be competitively disadvantaged in the marketplace. For these businesses, this could mean higher rates and less reliable service than that available in Northern New Jersey where competition should force lower rates and better service. For New York City, this means another impediment to its efforts to maintain and attract manufacturing and distribution facilities. Second, CSX's market orientation gives it even less incentive to promote traffic along the east side of the Hudson than Conrail has. When combined, this change in the competitive structure of the region will mean a serious adverse impact on the consumers of rail transportation service in New York City and Long Island. This impact is great enough to warrant significant protective conditions.

II. Viability Of The Relief Sought By NYCEDC And The State of New York

NYCEDC and the State of New York are asking the STB to grant trackage rights so that they can secure alternative competitive rail service between Albany and New York City and Long Island on the east side of the Hudson river. I was asked by counsel for NYCEDC to evaluate the market potential for a new rail competitor on that line east of the Hudson to determine if there is adequate existing and potential demand for rail freight services to support two rail carriers on the line. My assumption is that CSX will remain a carrier on that line. The new carrier might be one of the carriers that interchanges traffic at Albany such as the Delaware & Hudson ("D&H") or Guilford. A shortline operator such as New York & Atlantic Railway, the current freight operator on the Long Island Railroad, also might be selected to move New York freight to Albany for connections beyond. Conceivably, NS using its haulage rights on the D&H line from Binghamton to Albany might also serve as a new competitor. Each carrier has strengths and weaknesses as a potential competitor with CSX on the east side. The market potential of the new service will depend on which carrier is ultimately selected. CSX's competitive response will be an important factor and will vary depending on the new carrier's identity. Given these variables, I had to evaluate the market using fairly broad assumptions. However, while there may be a question about which single carrier might provide the most serious competitive threat to CSX, there is no doubt that the total existing and potential traffic base for a new east of Hudson carrier is large enough to support a new competitor to CSX and NS service in New Jersey.

To quantify the existing traffic that could move on this new east side service, I reviewed the 1995 Conrail Waybill Files submitted by Applicants in their filings.

**Highly Confidential
Material Redacted**

The focus of my inquiry was the New York regional market, which, for this purpose, I defined as the New York Business Economic Area (BEA12). The New York BEA includes New York City, Long Island, most of the Hudson Valley, northern New Jersey and a few counties in Connecticut and Pennsylvania. I first examined Conrail's carload traffic to/from the New York part of the BEA that is east of the Hudson River. This region stretching from Dutchess County in the north to Suffolk County on Long Island is the primary market for this new service. From the Conrail file, I selected all traffic moving via Conrail's east side line which also includes overhead traffic to/from the Long Island Railroad. In 1995, a large movement of General Motors auto traffic moved to and from Tarrytown. As this plant has closed, I eliminated this flow from the traffic base. The remainder should represent the traffic available to CSX when it acquires the line from Conrail. The new competitor should be able to compete for most of this traffic. Clearly traffic moving to and from CSX points and those Conrail stations inherited by CSX will almost surely remain on CSX. With this CSX-Conrail traffic excluded, the remaining traffic base available to the new carrier is approximately [] cars southbound/inbound and [] cars northbound/outbound. Southbound/inbound traffic is largely processed food, paper and produce principally originated by NS, Conrail, CN, CP and UP. Waste destined for Conrail and NS points is the most important northbound/outbound commodity.

The market for a new carrier on the east side line need not be confined to existing New York traffic. A significant amount of the carload traffic moving to New

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Material Redacted**

Jersey is transloaded for ultimate delivery to receivers in New York City and Long Island. A January, 1997 study by Mercer Management Consulting, Inc. (the "Mercer Study"), which looked at options for developing intermodal traffic in New York City, estimated that [

] (Mercer Study at Task 1 Report, p. V-2.)

Some of this traffic can be converted to direct New York carload service via the new carrier. Conversely the new carrier with direct service to New York could penetrate the New Jersey market. Thus some traffic now moving to New Jersey might be rerouted over the east side line. To evaluate this source of traffic, I identified Conrail traffic in the New Jersey portion of the New York BEA. Given that NS and CSX will have mainline service to New Jersey, I excluded all carload traffic to/from Conrail, NS and CSX stations and the states they dominate in the South and Midwest. I also excluded several commodities such as chemicals, hazardous materials, waste, auto and coal traffic because I believe there is little likelihood of diverting that traffic. The remaining traffic base includes traffic from New England, Canadian, Midwestern, and Western carriers such as CN, CP, UP, IC, KCS and BNSF. According to Applicants own traffic diversion study and testimony, these carriers are vulnerable to diversion by NS-Conrail or CSX-Conrail. (See Volume 2B Williams at 61 and 2A Rosen at 154.) These railroads should be willing to cooperate with the new carrier if it helps them preserve their presence in the New York-New Jersey market. The inbound New Jersey carload traffic totaled over ! ! cars with about

**Highly Confidential
Material Redacted**

[] cars outbound. I did not make any specific assumptions about the divertibility of existing intermodal traffic in New Jersey.

As mentioned previously, the ultimate success of the new carrier on the east side will depend on which carrier is chosen and CSX's competitive response. To provide an order of magnitude estimate of the existing traffic potential for a new carrier, I assumed that the new competitor could capture 50% of the non-CSX traffic on the east side. Attracting New Jersey traffic to the New York service will be more difficult. I assumed a 10% diversion for the New Jersey traffic that would be either rerouted to New York or transloaded for ultimate delivery to New Jersey. [

]

Combining both New York and New Jersey diversions, I determined that the new carrier could attract [] cars southbound on the line east of the Hudson with [] carloads moving northbound. Assuming the equipment cannot be reloaded in New York, this will generate over [] loaded and empty carloads per year.

Assuming service 260 days per year, this volume allows a train a day service for carload traffic on the east side line. This figure represents only the starting point for a second carrier on the line because it identifies only existing Conrail carload traffic. It does not include a substantial intermodal and truck traffic potential that exists in the region.

As detailed in the recent Mercer study, the potential for rail service in New York has not been realized. By providing vigorous competition in New York, CSX and the new carrier, can be expected to develop that new rail traffic. The new carrier will have an advantage in New York because unlike CSX, which will have substantial intermodal operations in North Jersey, the new carrier's only outlet for intermodal service for the region will be New York. In his verified statement, Mr. Riccio, operator of the Harlem River Yard, discusses containerize waste, fresh produce and other commodities as likely sources for a the new intermodal facility to be located at the Yard. The Mercer study identified a substantial untapped intermodal market in New York beyond those commodities. Therefore, it is likely that the new carrier could operate both daily carload and intermodal service in New York. While some of the new carrier's carload traffic and much of the intermodal traffic will be captured from trucks, CSX and to a lesser extent NS will suffer some diversions. I am certain that the diversions will have little impact on those carriers' primary operations in New Jersey. Clearly, CSX's existing and potential traffic base in New York will be shared with a new carrier. I do not believe that the success of the new carrier will result in CSX's departure from the line on the east side of the Hudson.

In their Application, CSX and NS extolled the unalloyed benefits of competition in the Northern New Jersey Shared Assets area. New competition in New York should produce similar benefits. Furthermore, as CSX will receive trackage rights charges from the new carrier, the viability of the line east of the Hudson should not be jeopardized. Without trackage rights and a viable competitive alternative, New York City and Long Island shippers and receivers will face two

unacceptable and competitively harmful situations: (i) their counterparts in New Jersey will receive better rates and service due to competition there; and (ii) CSX, in the face of competition on the west side, may choose to demarket the line or the east side of the river.

Verification

State of New York

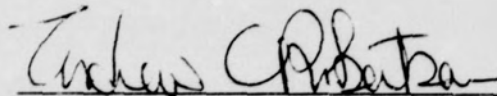
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ss:

City of New York

)

Andrew C. Robertson, being duly sworn, deposes and says that he is qualified and authorized to file this Verified Statement, and that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.

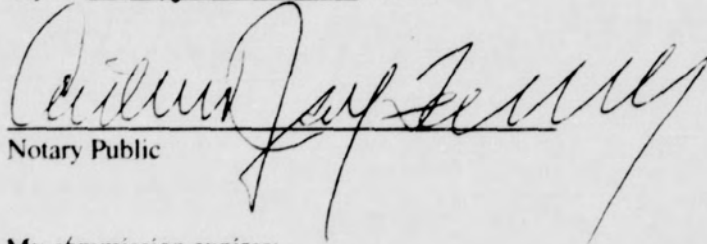


Andrew C. Robertson

Subscribed and sworn to

before me this 16

day of October, 1997.



Notary Public

My commission expires:

June 30, 1998

ARTHUR JAY TEICHBERG
Notary Public, State of New York
No. 9299300
Qualified in Nassau County
Commission Expires June 30, 1998

Nelson

VERIFIED STATEMENT
OF
DONALD N. NELSON

My name is Donald N. Nelson, and my business address is 347 Madison Avenue, New York, New York 10017. I am President of Metro-North Commuter Railroad Company ("Metro-North"), a public benefit corporation subsidiary of the Metropolitan Transportation Authority of the State of New York ("MTA"). I have held my current position since April, 1991.

I began my railroad career in 1954 as a brakeman with the Great Northern Railway. After earning a Bachelor of Arts degree in Economics from the University of Washington in 1957, I left the Great Northern and joined the U.S. Marine Corps. My railroad career resumed in 1964 when I served as a brakeman on the Central Railroad Company of New Jersey, eventually rising through the ranks to Manager-Transportation, Superintendent and ultimately, General Manager. In 1974 I joined the United States Railway Association as a Regional Manager, and participated in the process that led to the creation of Consolidated Rail Corporation. In 1976 I became Conrail's General Superintendent of Transportation Planning, moving later to Regional Superintendent-Operation Improvement and, in 1979, General Manager of the Indiana Harbor Belt Railroad.

In 1981, I was appointed General Manager of Conrail's Eastern Region, a 10,700 route mile territory extending from Alexandria, VA to Selkirk and Buffalo, NY. I held this position until 1983, when I became Vice President-Operations for Metro-North. I was named Executive Vice President in 1989, and

President of Metro-North two years later.

Metro-North was incorporated by MTA in September, 1982 to assume operation of commuter rail service which previously had been provided by Conrail on the Harlem, Hudson and New Haven Lines, which radiate out from Grand Central Terminal in New York City. Metro-North also is responsible for the commuter service operated on the New York State sections of New Jersey Transit's Port Jervis Line and Pascack Valley Line in Orange and Rockland Counties, on the west side of the Hudson River.

Metro-North controls and operates commuter passenger service over the portion of the so-called Hudson Line between Poughkeepsie (C.P. 75) and Mott Haven Junction (MO), New York. Presently, rail freight service over this line is provided by Conrail, pursuant to a trackage rights agreement with Metro-North. The balance of the Hudson Line consists of two segments owned by Conrail: a northern portion from Albany/Selkirk/Schenectady to C.P. 75 at Poughkeepsie, and a southern segment from Mott Haven Junction through Oak Point to Fresh Pond, New York, where the line connects with the Long Island Railroad.

In the transaction now before the Board for approval, CSX proposes to assume Conrail's rights and responsibilities with respect to freight operations over the Hudson Line, including Conrail's trackage rights over the Poughkeepsie-Mott Haven Junction line. In response, the State of New York and the New York City Economic Development Corporation have applied for trackage rights over the Hudson Line in favor of a third party

rail freight carrier, for the purpose of providing competition for CSX service to and from points in New York City, Long Island, and the eastern Hudson River Valley. If the relief sought by New York and NYCEDC is granted by the Board, it will be necessary for the new carrier to negotiate an agreement with Metro-North, covering operating rights over the Poughkeepsie-Mott Haven Junction segment. The purpose of my Statement is to confirm that (1) the Poughkeepsie-Mott Haven Junction line has sufficient available capacity to safely handle the traffic projected to move; and (2) Metro-North is both able and willing to negotiate reasonable terms for a second freight carrier to exercise trackage rights over the subject line.

Background

MTA acquired control of the Hudson Line and the Harlem Line under a long-term lease from the trustees of the Penn Central Transportation Company. The original lease, a copy of which is attached to my Statement as Exhibit ____ (DNN-01), was effective as of June 1, 1972. In 1994 it was reformed by the parties, and now has a term that extends to the year 2274. The lease enabled MTA to expend public funds for the substantial capital improvements necessary to preserve and enhance inter-city and commuter passenger service.

Contemporaneous with the 1972 lease, MTA entered into a service contract under which Penn Central operated commuter trains for the account of MTA. At the same time, Penn Central

operated inter-city passenger trains for the account of Amtrak, and freight trains over the Hudson Line for its own account. Subsequently, Amtrak assumed direct responsibility for inter-city passenger operations.

Conrail began operations on April 1, 1976 pursuant to the Final System Plan of the United States Railway Association. Effective that date, the commuter services which had been operated by Penn Central for MTA and the Connecticut Department of Transportation were transferred to and assumed by Conrail, pursuant to §303(b)(2) of the Regional Rail Reorganization Act of 1973. Conrail continued to operate these services for MTA and CDOT until Congress mandated (in §1136 of the Northeast Rail Service Act of 1981), that Conrail be relieved of all obligations to operate commuter rail service. As a result, MTA created Metro-North to take over from Conrail the maintenance of the Harlem, Hudson and New Haven Railroad lines, as well as the operation of commuter service on those lines. As successor to MTA under the Penn Central lease, Metro-North also succeeded to MTA's authority to grant and set the operating rules for freight trackage rights over the lines. Currently, Conrail's freight service over the lines is governed by a written agreement effective as of January 1, 1983, a copy of which is attached to my Statement as Exhibit ____ (DNN-02).

Current Operations

The portion of the Hudson Line controlled by Metro-North is in excellent condition, with no deferred maintenance. Several sections of the line are maintained to FRA Class 6 standards, and trains are operable at speeds up to 95 miles per hour.

A total of 180 trains operate over the double, triple and quadruple-tracked Hudson Line each weekday, including Metro-North revenue and deadhead commuter trains, 18 Amtrak trains, and 2-4 Conrail freight trains. The highest traffic densities occur over the electrified territory between Croton-Harmon Station and Grand Central Terminal. During the morning peak period (up until 10:00 a.m.), the Hudson Line handles 29 southbound commuter passenger trains, of which 8 are en route from the northern end of the line near Poughkeepsie. The evening peak sees 27 northbound trains, of which 7 are bound for Poughkeepsie. Off-peak, the traffic pattern is hourly local service between Grand Central Terminal and Croton-Harmon, and hourly express service between Grand Central Terminal and Poughkeepsie. Thus, during off-peak hours there are 2 Metro-North trains per hour north of Croton-Harmon, and 4 trains per hour south of that point.

The greatest potential for congestion arises at Mott Haven Junction in the Bronx, where the Hudson Line joins the Harlem Line. Because trains originating or terminating on the New Haven Line also operate over the Harlem Line at this location, a total of 670 trains per day operate through this

territory (mostly during morning and evening peak hours).

Conrail freight trains operate over the Metro-North portion of the Hudson Line from C.P. 75 to Mott Haven Junction, thence across a WYE connection from the Hudson Line to the Harlem Line, crossing four main tracks at grade. North of that point, freight trains move east to Oak Point Yard. Because of curves and associated speed restrictions, a 100-car freight train takes 10 to 12 minutes to traverse the interlocking trackage at Mott Haven Junction. For this reason, Metro-North maintains restrictions on freight operations during peak hours, as follows:

- no southbound trains south of C.P. 35 (Croton-North) between 4:00 a.m. and 9:00 a.m.
- no freight trains out of Oak Point Yard between 4:00 a.m. and 7:00 a.m. and between 2:30 p.m. and 8:10 p.m.
- no freight trains south of C.P. 25 (Tarrytown) between 3:40 p.m. and 7:15 p.m.
- maximum 60 car train lengths between C.P. 35 and C.P. 106, Monday through Friday 9:00 a.m. to 2:30 p.m.
- maximum 125 car train lengths between C.P. 35 and C.P. 106, all other times

Certain ancillary restrictions regarding sidings, etc., also apply. Even within these rules, however, ample opportunities exist for scheduled freight train operations (e.g., there are no restrictions between 8:30 p.m. and 3:30 a.m.).

The Oak Point Link

As part of a plan to enhance freight service to the New York City area, the New York State Department of Transportation has constructed a track on a trestle in the Harlem River, in order to avoid the congestion at Mott Haven Junction. This track, known as the Oak Point Link, begins at Metro-North's High Bridge Yard near our C.P.7 on the Hudson Line. Subject to the installation of approximately 600 feet of connecting track, it will end at the Oak Point Yard, thereby allowing freight trains to avoid Mott Haven Junction, the WYE to the Harlem Line, and the at-grade crossing of four commuter rail tracks. Once completed, later this year or early next, the Oak Point Link will eliminate the most serious potential conflict between co-existent freight and passenger service, and greatly enhance the freight capability of the Hudson Line.

Capacity for Increased Freight Traffic on the Hudson Line

At present, Conrail operates one round trip freight train each day between Selkirk, New York and Oak Point Yard. A second daily train operates in local service from Oak Point Yard as far north as Hastings-on-Hudson. Finally, another local operates between Poughkeepsie and Peekskill, running 2 or 3 days per week. According to the operating plan put forward by CSX in this proceeding, no changes in freight traffic levels are projected following completion of the subject transactions. See Application, Vol. 3A, page 447.

Freight utilization at the levels described above represents an all-time low for the Hudson Line. The line is quadruple-tracked between C.P. 12 and C.P. 35, and triple-tracked between Mott Haven Junction and C.P. 10, and between C.P. 35 and C.P. 40. Double-track facilities are in place between C.P. 40 and Poughkeepsie, as well as from C.P. 10 to C.P. 12. Although freight operations cannot be accommodated during peak hours of commuter travel, there is ample capacity during the night hours as well as some additional capacity during off-peak daytime hours. Particularly in light of the imminent availability of the Oak Point Link, I estimate that Metro-North's portion of the Hudson Line easily and safely could handle a second freight operator moving an additional 6 to 8 scheduled freight trains each day, over existing facilities and consistent with the needs of commuter and inter-city passenger service. Indeed, even if we meet or exceed projected passenger growth through 2007 (estimated at 2% per year, culminating in an additional 6-10 peak hour trains), the bi-directional signalling and other track facilities already in place will be adequate to accommodate the additional freight traffic (initially only 1-2 trains per day) projected by New York and NYCEDC.

Trackage Rights for a
Second Freight Carrier

Metro-North's trackage rights agreement with Conrail vests in Metro-North the right to establish overall policies governing the management and operational control of all rail


service over the Hudson Line between Poughkeepsie and Mott Haven Junction. While Conrail is protected from unreasonable interference with the exercise of its trackage rights, those rights are not exclusive and Metro-North remains the ultimate arbiter as to freight use of the line.

Metro-North endorses the goal of New York and NYCEDC to bring competitive line haul rail service to shippers and receivers east of the Hudson River, and supports their responsive application. If that application is granted by the Board, Metro-North is prepared to negotiate an appropriate trackage rights agreement with a second freight carrier to facilitate dual line-haul rail access in the affected area, including New York City and Long Island. The portion of the Hudson Line controlled by Metro-North is fully capable of absorbing the additional freight traffic projected by New York and NYCEDC, and I am confident that an acceptable agreement could be reached regarding scheduling, crew qualifications, equipment clearances, and trackage rights compensation.

Verification

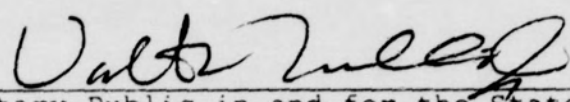
State of New York)
)
) ss:
)
County of New York)

Donald N. Nelson, being duly sworn, deposes and says that he has read the foregoing Statement, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.



Donald N. Nelson

Subscribed and sworn to before
me this 11th day of October,
1997:



Notary Public in and for the State
of New York

WALTER E. ZULLIG, JR.
Notary Public, State of New York
No 60-9820426
Qualified in Westchester County
Commission Expires Sept. 30, 1998

HARLEM-HUDSON LEASE

LEASE, dated May 26, 1972, by and between George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz jointly as they are Trustees of the property of Penn Central Transportation Company, Debtor, a railroad corporation of the Commonwealth of Pennsylvania, in reorganization under Section 77 of the Bankruptcy Act, 11 U.S.C. Section 205, having an office at Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, and not individually, hereinafter referred to as the Lessor, and Metropolitan Transportation Authority, a public benefit corporation of the State of New York, having its principal office at 1700 Broadway, New York, New York, hereinafter referred to as the Lessee, pursuant to the terms of the Harlem-Hudson Lease Agreement, a copy of which is attached and made a part hereof.

For and in consideration of the covenants and agreements herein-after contained, Lessor does hereby lease to Lessee, and Lessee does hereby hire from Lessor (a) the Grand Central Terminal station building in New York City (which shall include the arcades and passageways shown on the Grand Central Terminal Main Station Building Existing Conditions Maps identified in Schedule A hereto delivered to each other by the parties hereto upon the execution and delivery of this instrument) and the land on which it is situate, (b) all Lessor's transportation properties (which includes land upon which they are constructed but excludes land above the same) used in whole or in part in its suburban passenger service from and including Grand Central Terminal, New York City, to and including the Harlem River lift bridge, and (c) the property north of said bridge to Poughkeepsie, New York, on the Hudson division and Dover Plains, New York on the Harlem division, shown on the Lessor's valuation plans identified in Schedule A hereto delivered to each other by the parties hereto upon the execution and delivery of this instrument; and including all easements and rights held by Lessor in passenger stations and facilities and all riparian rights in land under water and all rights in structures and buildings of every kind and nature whatsoever located within the leased premises, and also all lands under water, water courses, water rights, riparian rights, franchises, licenses and permits, and all other lands, premises, rights,

easements and property held for or in connection with the construction, maintenance, operation or use of the said leased premises forming part thereof or thereunto belonging or in any wise appertaining.

Together with all and singular the tracks, sidings, turnouts, bridges, culverts, fences, station houses, tool houses, shops, turntables, stations, pole lines and wires, overhead conductors, third-rail systems, substations, switch gear, power and control cables, buildings, fixtures and all other structures, improvements and facilities of every kind and nature whatsoever located within the said leased premises.

All without warranty and subject to existing leases, licenses, liens, agreements and encumbrances of record or otherwise, including but not limited to the National Railroad Passenger Corporation Agreement dated as of April 16, 1971, between Lessor and National Railroad Passenger Corporation (the "Amtrak Agreement"), and the following mortgage indentures:

The New York & Harlem Railroad Company Mortgage dated June 1, 1897 to Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee;

The New York & Harlem Railroad Company Mortgage dated July 1, 1943 to J. P. Morgan & Co. Incorporated (now Morgan Guaranty Trust Company of New York), Trustee;

The New York Central and Hudson River Railroad Company Gold Bond Mortgage dated June 1, 1897 to Central Trust Company of New York (now Manufacturers Hanover Trust Company), Trustee;

The New York Central and Hudson River Railroad Company Consolidation Mortgage dated June 20, 1913 to Bankers Trust Company, Trustee; and

The New York Central and Hudson River Railroad Company Refunding and Improvement Mortgage dated October 1, 1913 to Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee, and

Excluding from the said leased premises: (i) all air-rights, including all buildings and structures therein other than the GCT station building, and land immediately above said transportation properties northward to 96th Street, (ii) all air-rights above the GCT station

building, (iii) all space within any structure hereafter built in the area generally from the north line of the Express Concourse ticket windows of the GCT station building south to the north building line of 42nd Street, provided that such structure is built either (a) pursuant to the Agreement of Lease, dated as of January 22, 1968, between The 51st St. Realty Corporation and UGP Properties, Inc. and Agreement of Sublease, dated as of January 22, 1968, between UGP Properties, Inc. and The New York Central Railroad Company or (b) a successor development plan limited to such area, (iv) subject to the first sentence in the second unnumbered sub-paragraph of paragraph 5 hereof, the right to transfer air-rights (or rights to build floor area) from the parcel occupied by the GCT station building to other parcels, and (v) subject to existing railroad improvements and replacements thereof, all air-rights, including all buildings and structures therein, over the remainder of the leased premises north of 96th Street, Manhattan, above a plane established at 22 feet from top-of-rail or, where rail is not present, 23 feet from existing grade (except that the plane shall be 15 feet 9 inches from top of rail or, where rail is not present, 16 feet 9 inches from existing grade with respect to the following parcel of land: Putnam Division Valuation Section 56, Map Number 2, from a line 20 feet easterly of and parallel with the common boundary line of the Hudson and Putnam Divisions, easterly to the westerly property line of the Major Deegan Expressway, and extending from the southerly boundary line of Tremont Avenue southerly for a distance of 450 feet along the said common boundary line); and excluding from the said leased premises existing poles, towers, columns, footings, foundations and facilities supporting or serving structures presently located within the space encompassed by the said air-rights; and excluding the subsurface of the said leased premises and all non-transportation structures and facilities therein.

Reserving, however, from the leased premises all rights necessary to enable Lessor to perform its obligations, and National Railroad Passenger Corporation to exercise its rights, under the Amtrak Agreement; and

Reserving further from the leased premises, the right, which continues to remain with Lessor (A) to operate upon the leased premises (the "Trackage") a railroad common carrier service to the extent (i) authorized under the Interstate Commerce Act, or any future law of like import, or (ii) otherwise permitted by law, including the right:

(a) to operate over the Trackage freight trains, cars and locomotives; (b) to provide through and local freight service (including mail and express) at any point (exclusive of passenger station areas other than Grand Central Terminal) along the Trackage; (c) to operate long-haul (through) passenger trains, cars and locomotives (including baggage, mail and express), to and from points north of Poughkeepsie or Dover Plains, New York, through or via Poughkeepsie or Dover Plains, over the Trackage, provided, however, that except temporarily in an emergency, all such long-haul passenger trains, cars and locomotives (including baggage, mail and express) may receive and discharge passengers only at the following stations within the Harlem-Hudson Area (as that term is defined in the Harlem-Hudson Service Agreement): Grand Central Terminal, Croton-Harmon, Poughkeepsie and Dover Plains, and provided further, that tickets honored on such passenger trains and cars shall read to or from stations outside of the said Harlem-Hudson Area, and provided further, that the schedules of such passenger trains and cars may not be altered in a manner as to unduly interfere with either the Harlem-Hudson Service or the New Haven Service as they are then constituted; (d) to operate over the Trackage suburban railroad passenger services, as they may from time to time be constituted; (e) to use any portion of the Trackage for switching, storage of cars and locomotives and the making, breaking and servicing of trains; (f) to operate work equipment upon the Trackage; and (g) subject to paragraph 5 hereof, to occupy and use such portions of stations, buildings, shops and other facilities within the leased premises which are reasonably necessary or legally required for providing railroad passenger or freight service, except that Harmon Shops may not be so occupied or used if and to the extent that it unduly interferes with the servicing, maintenance or repair of equipment used either in the Harlem-Hudson Service or in the New Haven Service, and (B) (i) to modify at any time that portion of the GCT station building consisting of the area generally from the north line of the Express Concourse ticket windows south to the north building line of 42nd Street for the purpose of implementing the proposed Breuer plan or any successor development plan in that area, provided however that any such plan permits continued access to the GCT station building from 42nd Street and from the adjoining New York City

Transit Authority subway passenger stations substantially equivalent to the access presently permitted, (ii) to require Lessee to continue furnishing through existing GCT facilities, to the extent of their capacities, electricity, steam, compressed air and hot water service to the structures presently served by such facilities in the Grand Central Terminal area, charging for such services rates not in excess of the greater of those rates which would cover Lessee's costs of furnishing such services or those rates which would be charged by the applicable public utility company for comparable service for each such structure, provided (a) Lessee need not continue any such service to any parcel after its existing structure is demolished, and (b) Lessee need not be required to make a substantial capital expenditure with respect to the system which furnishes any such service;

All for a term of 60 years to commence as of the effective date hereof, upon the following terms, covenants and conditions:

1. Lessee shall pay to Lessor as fixed rent within ten days after the end of every quarter following the effective date hereof, for the use of (a) all passenger stations served on the Harlem Line by the Harlem-Hudson Service within the boundaries of the City of New York, including Grand Central Terminal to 59th Street, and (b) that portion of the leased premises, other than passenger stations, lying between Grand Central Terminal and Woodlawn Junction, an amount for each such category equal to one-quarter of the sum assigned to it for the calendar year shown in Schedule B attached hereto, multiplied by a fraction of which the numerator is the number of railroad cars and locomotive units of the Harlem-Hudson Service entering Grand Central Terminal at 59th Street during the quarter and the denominator is the total number of railroad cars and locomotive units entering Grand Central Terminal at 59th Street during the quarter. Lessee shall also pay to Lessor as fixed rent for the remainder of the leased premises the sum of \$1 per annum.

2. Lessee agrees to hold Lessor harmless from the payment of any taxes or levies, including vault rentals and franchise charges for street occupancies, imposed upon the leased premises but only to the extent that they are attributable to the use of the leased premises for

transportation purposes; and further agrees to hold Lessor harmless from those taxes or levies imposed upon the leased premises which are attributable to existing concessions the revenues from which Lessee is entitled to pursuant to paragraphs 3 and 4 hereof or attributable to any future concessions or other uses engaged in or permitted by, or any future improvements made by, Lessee upon the leased premises during the term hereof. This indemnity shall be applicable only in the event that the said taxes, levies, vault rentals or franchise charges are held by a court of competent jurisdiction to have been lawfully imposed in proceedings in which Lessee is given an opportunity by Lessor to participate, the arbitration provisions hereof notwithstanding.

3. Lessee shall be entitled to any and all rents, revenues and other income derived from the leased premises. Lessor hereby assigns to Lessee, and Lessee hereby assumes the obligations of Lessor under, any and all existing leases, easements, contracts or other agreements pursuant to which such rents, revenues and other income are payable.

4. Notwithstanding the provisions of paragraph 3 hereof, Lessee hereby assumes the obligations of Lessor under the GCT Joint Facilities Agreement, dated as of October 27, 1970, among Lessor, Lessee and the State of Connecticut acting through its duly authorized agency the Connecticut Transportation Authority of the Department of Transportation (hereinafter referred to as the "GCT Joint Facilities Agreement"), except that Lessor shall remain obligated for the annual \$2,000,000 credit referred to in Section 302 of the GCT Joint Facilities Agreement and for the New Haven Service portion of the annual credit referred to in Appendix III-A Account 8293 (v) of such agreement. If the structure referred to in (iii) of the exclusions to the leased premises is constructed, Lessor shall remain obligated annually for concession revenues with respect to any portion of GCT which as of December 31, 1967, was generating concession revenues or was used as concession space on such date and which was converted to a non-GCT concession use by such construction. In computing such concession revenues for this purpose, such converted portion shall be deemed to be generating concession revenues equal to the concession

revenues it actually generated at the time of its conversion to non-GCT concession use or as of December 31, 1967, whichever is greater. Such deemed concession revenues shall thereafter be increased or decreased in the same proportion as the remaining GCT concession revenues shall have increased or decreased since the time of said conversion.

Lessor grants Lessee the right to exercise all of Lessor's rights under the GCT Joint Facilities Agreement, but Lessee shall not amend said Agreement without Lessor's consent, which consent shall not unreasonably be withheld. In the event the GCT Joint Facilities Agreement is terminated during the term of this lease, Lessee shall grant Lessor, for a fair and reasonable charge, rights comparable to the rights granted MTA/CTA in Article Two of the GCT Joint Facilities Agreement to the extent Lessor requires such grant of rights to enable it to operate service comparable to the New Haven Service operated into GCT pursuant to the GCT Joint Facilities Agreement, and shall provide to Lessor sufficient traction power, at a fair and reasonable charge, to effect such entry.

5. Lessee shall have the right to improve the leased premises for any lawful purpose and, in connection therewith, if such improvement is for railroad transportation purposes, subject to then existing agreements, to enter Lessor's air-rights north of 59th Street, Manhattan, or subsurface rights, so long as and to the extent that there is no undue interference with any prior exercise of those rights by Lessor.

Without limitation of the foregoing, Lessee shall be entitled to improve the GCT station building by adding floor space thereto, but in so doing Lessee shall take no action which will operate to reduce by more than 100,000 "zoning" square feet the amount of space which may legally be built or the amount of air rights (or rights to build floor area) which may legally be transferred as contemplated by (iii) or (iv), respectively, of the exclusions to the leased premises, above. Lessor shall have the right to exercise its air-rights and subsurface rights above and below the leased premises for any lawful purpose and, in connection therewith, to enter upon the leased premises for the purpose of gaining access to the subsurface or, in the case

of air-rights, for the purpose of constructing, reconstructing, maintaining and repairing poles, towers, columns, footings, foundations, utilities, and service connections serving buildings and structures within the air-rights, provided in every case that there is no undue interference with the operation of the Harlem-Hudson Service or with Lessee's enjoyment of the leased premises as then improved. Subject to the provisions of the preceding sentence, the right of Lessee to improve the leased premises shall include the right to alter or demolish any then existing improvements to the leased premises, provided that if any such existing improvement is required for the exercise of any of the trackage rights hereinafore reserved, Lessee shall provide a substitute improvement adequate to serve the same function, except that in the case of Harmon Shops, the substitute improvement shall be deemed adequate if it accommodates the needs of the Harlem-Hudson Service.

The rights granted the Lessee to improve the leased premises are further limited in that Lessee may not make any improvement which will interfere with any clearance requirement which must be observed in order to permit Lessor to conduct all of its present types of operations over existing track. In elaboration of this obligation, but without limitation: (a) in the event Lessee shall construct high-level platforms at passenger stations, they shall provide for a clearance of 5' 8" from the center line of the tangent track unless Lessor shall remove all restricted clearances in the affected territory, in which event the side clearance shall be increased at the expense of Lessee to 5' 9", and (b) in the event that Lessee shall construct overhead bridges, they shall provide vertical track clearance in each case of no less than 16' 6" from top-of-rail on the Harlem Line and, on the Hudson Line, 16' 6" from top-of-rail south of Tarrytown and 18' 6" from top-of-rail north of Tarrytown, provided, however, that in the event Lessor shall remove all other equally or more restrictive vertical track clearances on either such line or any portion thereof, then the vertical clearance on such line or portion shall be increased wherever necessary, again at the expense of Lessee, to the minimum of the other vertical clearances provided by Lessor in such removal program subject to a maximum vertical clearance of 22' from top-of-rail.

6. Title to any improvements made to the leased premises by Lessee shall be in Lessor upon completion thereof, unless the same consists of a fixture which may be removed without causing permanent damage to the realty, in which event Lessee shall have title to such fixture and may remove the same at Lessee's expense at the expiration or termination of the term hereof; provided, however, that title to the following fixtures shall vest in Lessor upon their installation upon the leased premises in the course of railroad maintenance, repairs or improvements whether or not they may be removed without causing permanent damage to the realty: (a) all ties, rails, switches, other track material, ballast, track laying and servicing material, fences and other right of way material, (b) all signal system apparatus including interlockers, (c) all communication systems and public address equipment, (d) all power transmission systems equipment exclusive of power sub-station equipment, (e) all bridge, tunnel and viaduct equipment, and (f) all shop, engine house and repair track machinery and equipment including machinery and equipment located in yards or terminals for the repair and servicing of trains, locomotives or cars, including MU cars.

7. Lessee shall have the right to sublet the leased premises or any portion thereof, but shall notify Lessor of each such sublease. Lessee shall not assign or transfer this Lease or its rights hereunder in whole or in part to any person or corporation other than a successor to the rights and properties of Lessee or a subsidiary corporation of Lessee without the prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessee agrees to execute such instruments in recordable form as may be reasonably requested to confirm any rights reserved to Lessor under, or areas excluded from, this Lease.

8. Lessor shall have the right to terminate this lease 30 days after written notification to Lessee that Lessee is in default in the payment of moneys payable hereunder or 90 days after written notification to Lessee that Lessee is otherwise in default hereunder, and Lessee's failure to cure such default in the payment of money or such other default prior to the expiration of such 30- or 90-day period.

Upon such termination, Lessor shall be immediately entitled to the leased premises and to all revenues, rents and income derived therefrom and, thereupon, the leased premises shall be returned to Lessor, Lessee shall cease to have any estate, right, title, claim or interest in or to the leased premises except (subject to the provision of paragraph 6 hereof) title to improvements made by Lessee as aforesaid, and Lessor may re-enter and take possession of the whole or any part of the leased premises and may at any time enter upon said premises and every part thereof, and have and possess the leased premises, as of its former estate, and without such re-entry, may recover possession thereof in the manner prescribed by the statute relating to summary process; it being understood that no demand for rental, and no re-entry for condition broken, as at common law, shall be necessary to enable Lessor to recover such possession pursuant to said statute relating to summary process.

8-A. Lessee, to the extent rights thereunder have not already been terminated, shall have the right to terminate this Lease on not less than 30 days' written notice to Lessor (a) at any time after Lessee shall have been deprived of its right of peaceable possession of any substantial part of the leased premises as a result of the termination of the contract dated April 1st, 1873 between The New York and Harlem Railroad Company and The New York Central and Hudson River Railroad Company or foreclosure or other enforcement proceedings under any of the mortgages specifically identified in the provisions of this Lease, (b) at any time after another carrier shall have been substituted for Lessor to operate the Harlem-Hudson Service pursuant to the provisions of Section 705 of the Harlem-Hudson Service Agreement provided, however, that the Harlem-Hudson Service shall have been first lawfully abandoned or discontinued.

9. Lessee shall have the right to renew the term of this lease for up to six additional consecutive renewal terms of five years each upon giving Lessor written notice of its election to renew not less than eighteen months prior to the expiration of the original or the prior renewal term, as the case may be. The fixed rent payable for

each year of any such renewal term shall be fixed at the commencement of such year by agreement or, failing agreement, by arbitration procedures as herein provided in which event the arbitrators shall establish such fixed rent at: (a) as to the portion of the leased premises south of the Harlem River lift-bridge, the fair rental value of all land (exclusive of land in the bed of a street) comprising such portion, viewed as unimproved, and (b) as to the portion of the leased premises north of, and including, such bridge, the fair rental value of all land held in fee or by lease by Lessor comprising such portion, based upon the particular use or uses to which it is then being applied. In the fixing of such fair rental values, the arbitrators shall exclude any component thereof intended to represent real estate tax obligations of the owner, but only if and to the extent that at the time of the determination property leased by Lessee for transportation purposes is exempt by law from taxation or special ad valorem levies.

10. Upon the expiration of the term of this lease or the termination thereof, Lessee shall (i) discharge any liens, encumbrances or other charges imposed against the leased premises or any part thereof without the consent of Lessor and resulting from the acts or omissions of Lessee, its agents, contractors or subcontractors, (ii) assign to Lessor (and Lessor shall assume the obligations of Lessee under) any and all then existing leases, easements, contracts, or other agreements pursuant to which Lessee shall be entitled to rents, revenues and other income derived from the leased premises, and (iii) vacate the leased premises and leave the same in as good condition as when received, ordinary wear and tear, required major structural repairs which have been made the basis for a termination of this Lease, and improvements, alterations and demolitions permitted by the provisions of this Lease (provided, in the case of such alterations or improvements, that each of them is in good repair) excepted.

11. In addition to the covenants and obligations set forth herein, Lessor and Lessee shall be bound by all the covenants and obligations set forth in the aforementioned Harlem-Hudson Lease Agreement. Each of the provisions of general applicability, including the definitions, set forth in Articles One and Six of the Harlem-Hudson Lease Agreement shall be deemed to be set forth in full in this lease and

shall be applicable to the rights and obligations of each of the parties hereunder.

12. Notwithstanding anything in this lease to the contrary, it is understood and agreed that (i) in no event shall the said leased premises include (a) any property demised under those ground leases and grants of term, as amended to the date hereof (whether or not the same shall have expired or been terminated), identified in Schedule C annexed hereto (the "ground leases"), and any property above the elevations shown on the plot plan for 466 Lexington Avenue annexed hereto as a part of Schedule D, and (b) any easements, covenants and other rights granted to the lessees under the ground leases; and (ii) there is hereby granted to the Lessee, and included in the said leased premises, for so long as this lease shall be in effect, those easements, covenants and other rights heretofore reserved to the lessors for the benefit of the transportation properties both under the ground leases and as shown or enumerated in Schedule D, and Lessor covenants and agrees that said easements, covenants and other rights will be reserved for the benefit of Lessee from any conveyance by Lessor of the property and easements, covenants and other rights set forth in (i) above.

13. MTA covenants that over the initial term of the Harlem-Hudson Lease it will expend the moneys appropriated to it by Chapter 473 of the Laws of New York for 1970, as amended, and by Section 10 of Chapter 1 of the Laws of New York for 1971 for the improvement of the Harlem-Hudson Service in the manner contemplated by the said statutes, subject to (a) amendment or repeal of either or both of the said statutes by the Legislature of the State of New York, (b) the provisions of Section 103 of the Harlem-Hudson Lease Agreement, including, without limitation, the need for the Director of the Budget to issue his "certificate of approval of availability" as required by the said statutes and the need for the State Comptroller to perform his audit and issue his warrant for the expenditure of the said moneys as required by the said statutes, and (c) the termination of the Harlem-Hudson Lease, by any person and for any reason, in accordance with its terms. In the event of such termination, this

obligation to expend moneys shall be deemed to have been released and shall not be subject to proration.

14. The provisions of this lease shall become effective as of June 1, 1972.

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease on the day and year above written.

METROPOLITAN TRANSPORTATION AUTHORITY

ATTEST:

Robert R. Prince
.....
ROBERT R. PRINCE, Secretary

By *William J. Ronan*
.....
WILLIAM J. RONAN, Chairman

GEORGE P. BAKER, RICHARD C. BOND, JERVIS
LANGDON, JR. AND WILLARD WIRTZ, as
TRUSTEES OF THE PROPERTY OF THE
PENN CENTRAL TRANSPORTATION COM-
PANY, DEBTOR

Robert P. Baker
.....

By

George P. Baker
.....

GENERAL SOLICITOR
.....

SCHEDULE A TO HARLEM-HUDSON LEASE

The leased property is as shown in red outline on Valuation Plan Numbers 1 through 6 of Valuation Section 51; Valuation Plan Numbers 1 through 24 of Valuation Section 52 and Valuation Plan Numbers 1 through 53 of Valuation Section 54, and New York and Putnam Valuation Plan Number 54 of Valuation Section 56 (Harlem Division); Valuation Plan Numbers 1 through 29 including Plan Number 5B of Valuation Section 59; Valuation Plan Numbers 1 through 41 of Valuation Section 60, and New York and Putnam Valuation Plan Numbers 1 through 4 of Valuation Section 56 (Hudson Division).

The arcades and passageways which form a part of the GCT station building are outlined in red on the following Grand Central Terminal Main Station Building Existing Conditions Maps, all dated January 1, 1970: Issue 19—Commodore, Graybar Passageway, Issue 30—Street Level West, Issue 42—Street Level and Issue 42—Express Level Concourse (West). The areas outlined in blue on said maps are held by Lessor under lease from others and are included in the leased premises subject to such leases.

SCHEDULE B TO HARLEM-HUDSON LEASE

Year	Sums Assigned to Harlem Line N.Y. City Passenger Stations	Sums Assigned to Other Properties South of Woodlawn Junction	Total
1972	536,312	441,078	977,390
1973	536,312	441,078	977,390
1974	536,312	428,640	964,952
1975	536,312	416,482	952,794
1976	454,415	414,220	868,635
1977	438,458	414,220	852,678
1978	435,028	410,055	845,083
1979	435,028	391,231	826,259
1980	435,028	386,057	821,085
1981	435,028	366,597	801,625
1982	435,028	366,507	801,535
1983	435,028	366,507	801,535
1984	435,028	366,306	801,334
1985	435,028	365,080	800,108
1986	432,829	365,080	797,909
1987	413,620	364,545	778,165
1988	347,454	356,463	703,917
1989	347,419	324,941	672,360
1990	346,704	315,594	662,298
1991	345,973	315,594	661,567
1992	345,973	314,978	660,951
1993	345,973	314,530	660,503
1994	345,876	314,286	660,162
1995	345,524	314,104	659,628
1996	345,524	314,104	659,628
1997	345,524	314,104	659,628
1998	345,524	307,033	652,557
1999	345,524	304,949	650,473
2000	345,524	304,949	650,473

Year	Sums Assigned to Harlem Line N.Y. City Passenger Stations	Sums Assigned to Other Properties South of Woodlawn Junction	Total
2001	\$345,524	\$304,949	\$650,473
2002	336,763	304,949	641,712
2003	326,718	304,949	631,667
2004	319,685	304,949	624,634
2005	301,373	304,949	606,322
2006	301,373	304,949	606,322
2007	300,696	304,949	605,645
2008	300,188	304,949	605,137
2009	300,188	304,949	605,137
2010	300,186	304,949	605,135
2011	300,182	304,949	605,131
2012	300,182	304,949	605,131
2013	282,457	304,949	587,406
2014	267,032	299,238	566,270
2015	28,961	290,107	319,068
2016	23,561	258,956	282,517
2017	17,065	176,392	193,457
2018	14,659	171,407	186,066
2019	14,531	171,407	185,938
2020	14,531	171,407	185,938
2021	10,119	171,407	181,526
2022	2,001	171,407	173,408
2023	2,001	171,407	173,408
2024	2,001	171,407	173,408
2025	2,001	171,407	173,408
2026	2,001	171,407	173,408
2027	2,001	171,407	173,408
2028	2,001	171,407	173,408
2029	2,001	171,407	173,408
2030	2,001	171,407	173,408
2031	2,001	171,407	173,408

SCHEDULE C GROUND LEASES

Registry Number	Location	Original Grantor or Lessor	Original Grantee or Lessee	Date of Grant or Lease	Date of Grant or Lease Amendments
148,573	Grand Central Terminal (Air Rights)	The New York Central Railroad Company and The New York and Harlem Railroad Company	The 51st St. Realty Corporation	Jan. 22, 1968	
148,574	Grand Central Terminal (Air Rights)	The 51st St. Realty Corp.	UGP Properties Inc.	Jan. 22, 1968	Jan. 22, 1968 Jan. 22, 1968 Jan. 22, 1968 Jan. 31, 1968 June 11, 1968 Oct. 1, 1968
19,880	51 East 42nd Street	The New York Central Railroad Company	New York State Realty and Terminal Company	Mar. 1, 1924
68,098-A	51 East 42nd Street	New York State Realty and Terminal Company (See Agreement Reg. No. 68098-B for lease back to Despatch Shops)	51 East 42nd Street Corporation	Jan. 26, 1945	Jan. 26, 1966 Nov. 16, 1966
22,341-A	52 Vanderbilt Avenue	The New York Central Railroad Company and N.Y.N.H. & H.R.R. Co. (See Agreement, Registry No. 109,500 between The N.Y.C.R.R. Co. and N.Y.S. R.&T. Co., dated Feb. 29, 1956 for current lease)	Vanderbilt Concourse Corporation	Feb. 2, 1914
116,335	43rd Street Driveway	The New York Central Railroad Company	New York State Realty and Terminal Company	Dec. 30, 1957
116,334	43rd Street Driveway	New York State Realty and Terminal Company	78000 Corporation	Dec. 30, 1957	June 16, 1960
155,898	50 Vanderbilt Avenue (Yale Club)	The New York Central Railroad Company and The New York, New Haven and Hartford Railroad Company	Yale Leasing Corporation	June 1, 1913	July 9, 1934 June 1, 1954 Mar. 1, 1970
123,000	Pan Am Building	The New York and Harlem Railroad Company and The New York Central Railroad Company	New York State Realty and Terminal Company	Oct. 29, 1959	Apr. 19, 1961 June 15, 1963

Schedule C Ground Leases

Registry Number	Location	Original Grantor or Lessor	Original Grantee or Lessee	Date of Grant or Lease	Date of Grant or Lease Amendments
123,002	Pan Am Building	New York State Realty and Terminal Company	Grand Central Building, Inc.	Oct. 30, 1959	June 27, 1960 Apr. 19, 1961 June 15, 1963
41,903	Graybar Building	The New York Central Railroad Company	New York State Realty and Terminal Company	July 30, 1925	Apr. 12, 1944 Sept. 28, 1953 Oct. 9, 1953
116,322	Graybar Building (420 Lexington Ave.)	New York State Realty and Terminal Company	Eastern Offices, Inc.	July 30, 1925	Oct. 21, 1927 June 19, 1928 Nov. 2, 1938 Apr. 5, 1944 Apr. 12, 1944 May 26, 1944 July 20, 1950 Jan. 1, 1953 Dec. 30, 1957
139,206	Barclay Hotel	Park Lane Holding Corp. (See Agreement, Reg. No. 139,204, dated December 31, 1964, between The N.Y.C.R.R. Co. and The 51st Street Realty Corp., for Grant of Term; and Agreement, Reg. No. 139,205, dated Jan. 12, 1965, between The 51st Street Realty Corp. and Park Lane Holding Corp., for Ground Lease)	The New York Central Railroad Company (See Agreement No. 139207 dated 12-30-64 between The N.Y.C.R.R. Co. and N.Y.N.H. & H. R.R. Co. and Realty Hotels, Inc.)	Jan. 12, 1965
63,500-A	Biltmore Hotel	The New York Central Railroad Company and The New York, New Haven and Hartford Railroad Co.	Realty Hotels, Inc.	Dec. 6, 1934	Aug. 26, 1962
65-302-A	Commodore Hotel	New York State Realty and Terminal Company	Bowman-Biltmore Hotels Corporation (See Agreement No. 143,418 dated Oct. 5, 1966, as amended Apr. 1, 1967, between The NYC RR Co. and D.S.I. and Realty Hotels, Inc.)	Oct. 13, 1939	Jan. 26, 1946

(See Agreements Reg. Nos. 65303-A and 65303-B for lease backs to N.Y.C.R.R. Co. and N.Y., N.H. & H. R.R. Co.)

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Schedule C Ground Leases

Registry Number	Location	Original Grantor or Lessor	Original Grantee or Lessee	Date of Grant or Lease	Date of Grant or Lease Amendments
37,041-A	Roosevelt Hotel	The New York and Harlem Railroad Company The New York Central Railroad Company	New York State Realty and Terminal Company	Aug. 1, 1922
135,705	Roosevelt Hotel	New York State Realty and Terminal Company	Roosevelt Hotel, Inc. (See Agreement No. 135705 dated 3-9-64 between The N.Y.C. RR Co. and The N.Y.N.H. & H. RR Co. and Realty Hotels, Inc.)	May 1, 1940	May 1, 1943
51,500	Waldorf-Astoria Hotel	The New York Central Railroad Company	New York State Realty and Terminal Company	Sept. 1, 1929	Nov. 2, 1956
112,127	Waldorf-Astoria Hotel	New York State Realty and Terminal Company	Hotel Waldorf-Astoria Corporation	Sept. 1, 1929	Dec. 10, 1936 June 1, 1950
36,379	383 Madison Avenue	The New York Central Railroad Company The New York and Harlem Railroad Company	New York State Realty and Terminal Company	May 25, 1922	July 1, 1940 Sept. 20, 1946 Nov. 1, 1949 Nov. 1, 1949 Apr. 1, 1966
142,168	383 Madison Avenue	Despatch Shops, Inc.	383 Madison, Inc.	Apr. 27, 1966
118,809	230 Park Avenue	The New York Central Railroad Company N. Y. & Harlem R.R. Co.	New York State Realty and Terminal Company	Oct. 14, 1958
118,810	230 Park Avenue	New York State Realty and Terminal Company	Leah McEvelia	Oct. 14, 1958	Oct. 14, 1960 Feb. 1, 1962 Dec. 29, 1970
136,215	245 Park Avenue	The New York Central Railroad Company	The 51st St. Realty Corporation	Feb. 19, 1963
136,216	245 Park Avenue	The 51st St. Realty Corp.	Uris 245 Park Corporation	Feb. 19, 1963	Jan. 17, 1966
126,844	250 Park Avenue	The New York and Harlem Railroad Company The New York Central Railroad Company	New York State Realty and Terminal Company	Apr. 1, 1961

Schedule C Ground Leases

<i>Registry Number</i>	<i>Location</i>	<i>Original Grantor or Lessor</i>	<i>Original Grantee or Lessee</i>	<i>Date of Grant or Lease</i>	<i>Date of Grant or Lease Amendments</i>
126,845	250 Park Avenue	New York State Realty and Terminal Company	250 Park Avenue Corporation	Apr. 1, 1961
109,255	270 Park Avenue	The New York and Harlem Railroad Company The New York Central Railroad Company	New York State Realty and Terminal Company	Dec. 27, 1955
109,253	Union Carbide Build. (270 Park Ave.)	New York State Realty and Terminal Company	2639 Corporation	Dec. 27, 1955	Mar. 3, 1958 Feb. 29, 1960
118,525	277 Park Avenue	The New York and Harlem Railroad Company The New York Central Railroad Company	New York State Realty and Terminal Company	Aug. 26, 1958
118,526	277 Park Avenue	New York State Realty and Terminal Company	Stahl Equities Corp.	Aug. 26, 1958	Apr. 24, 1962 June 9, 1962 Dec. 20, 1963 Feb. 26, 1965
143,912	280 Park Avenue (West)	The New York Central Railroad Company The New York and Harlem Railroad Company	The 51st St. Realty Corporation	July 15, 1966
143,913	280 Park Avenue (West)	The 51st St. Realty Corp.	Sigmund Sommer	July 15, 1966
116,183	280 Park Avenue (East)	The New York Central Railroad Company The New York and Harlem Railroad Company	New York State Realty and Terminal Company	Nov. 30, 1957	Jan. 28, 1960
116,184-F	280 Park Avenue (East)	New York State Realty and Terminal Company	David Rose & Associates, Inc.	July 15, 1966

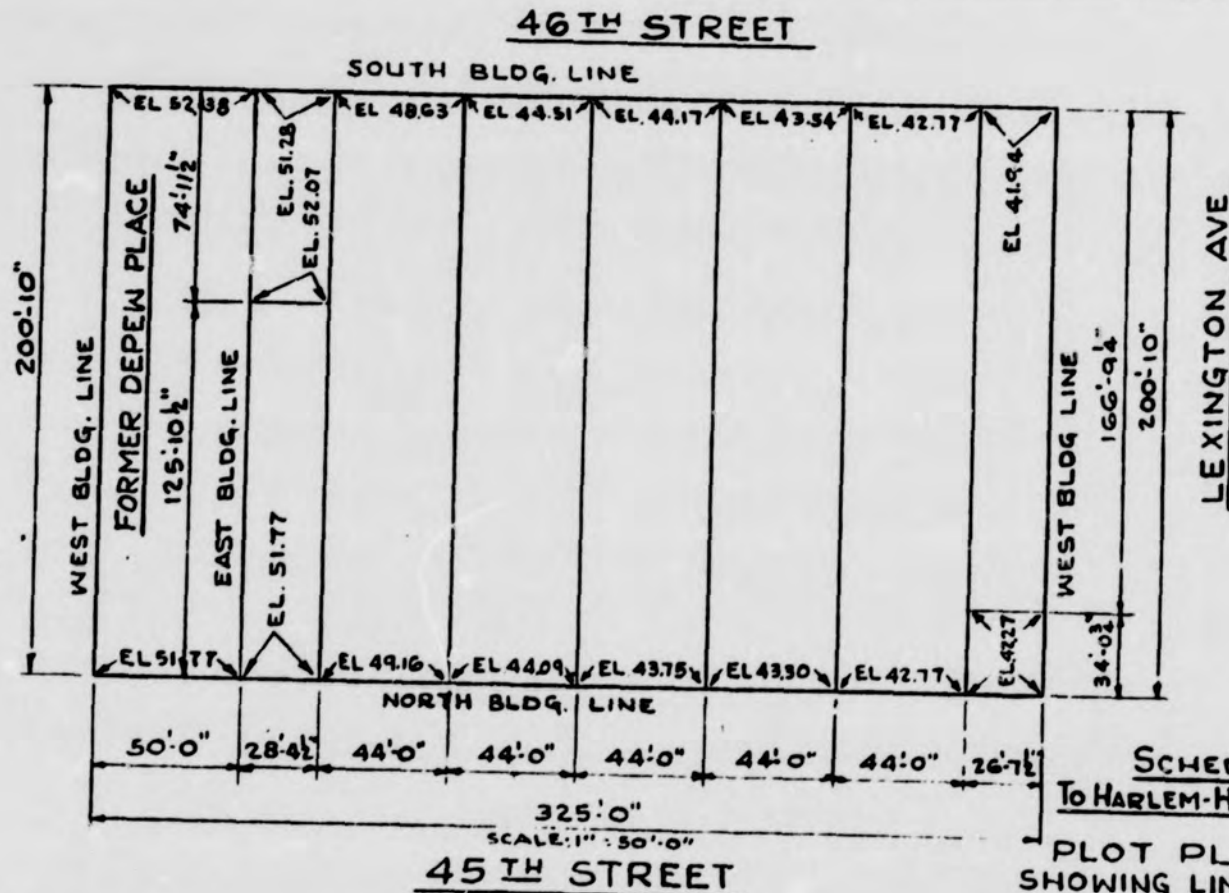
Schedule C Ground Leases

<i>Registry Number</i>	<i>Location</i>	<i>Original Grantor or Lessor</i>	<i>Original Grantee or Lessee</i>	<i>Date of Grant or Lease</i>	<i>Date of Grant or Lease Amendments</i>
139,204	299 Park Avenue	The New York Central Rail- road Company	The 51st St. Realty Corpora- tion	Dec. 31, 1964	
139,205	299 Park Avenue	The 51st St. Realty Corp.	Park Lane Holding Corp.	Jan. 12, 1965	Nov. 18, 1966 Apr. 16, 1968 Apr. 25, 1968
116,814	320 Park Avenue	The New York Central Rail- road Company The New York and Harlem Railroad Company	New York State Realty and Terminal Company	Feb. 27, 1958	
116,815	320 Park Avenue	New York State Realty and Terminal Company	Uris 320 Park Corp.	Feb. 27, 1958	May 4, 1961
116,791	350 Park Avenue	The New York and Harlem Railroad Company The New York Central Rail- road Company	New York State Realty and Terminal Company	Feb. 19, 1958	
116,792	340 Park Avenue (Now known as 350 Park Ave.)	New York State Realty and Terminal Company	Uris 340 Park Corporation	Feb. 19, 1958	Nov. 20, 1958 Mar. 7, 1961

NOTE: There is presently no Grant of Term for 50 Vanderbilt Avenue (Yale Club), Biltmore Hotel, and Commodore Hotel.

004320

SCHEDULE D page I



NOTE

ELEVATIONS REFER TO THE PENN
CENTRAL TRANS. CO'S DATUM O.O.M.H.W.
EAST RIVER AT FOOT OF EAST 26TH ST. N.Y.C.
THE ELEVATIONS GIVEN REFER TO THE TOP
OF THE PLANE OF EXCEPTED SPACE

SCHEDULE "D"
TO HARLEM-HUDSON LEASE

PLOT PLAN No.1
SHOWING LIMITS & PLANES
466 LEXINGTON AVE
NEW YORK, N.Y.

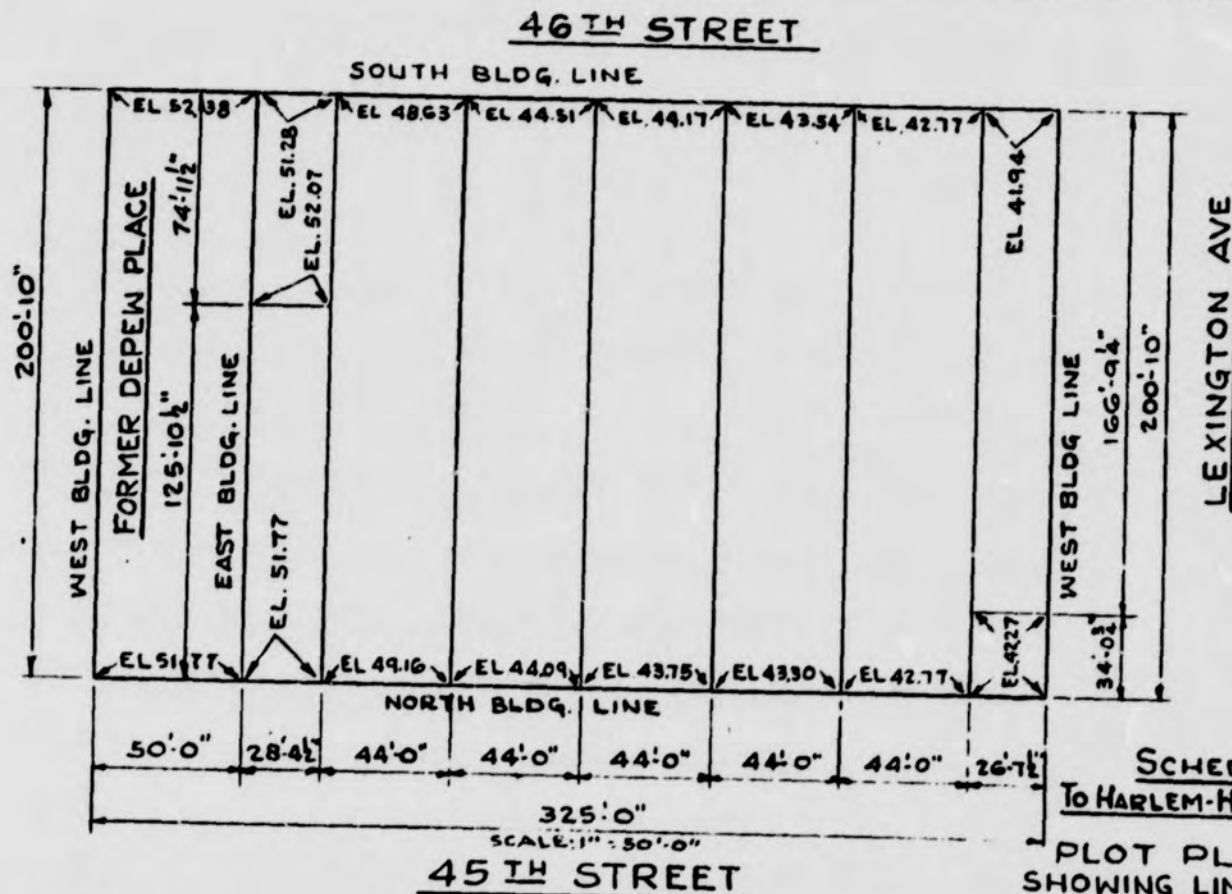
C. J. [Signature]
CHIEF ENGINEER
PENN CENTRAL TRANS. CO
24336

DATE: OCT 21, 1971

JMZ

04320

SCHEDULE D page I



NOTE

ELEVATIONS REFER TO THE PENN
CENTRAL TRANS. CO'S DATUM 0.0 M.H.W.
EAST RIVER AT FOOT OF EAST 20TH ST. N.Y.C.
THE ELEVATIONS GIVEN REFER TO THE TOP
OF THE PLANE OF EXCEPTED SPACE

JHZ

DATE: OCT 21, 1971

SCHEDULE "D"
TO HARLEM-HUDSON LEASE

PLOT PLAN No.1
SHOWING LIMITS & PLANES
466 LEXINGTON AVE
NEW YORK, N.Y.

C. J. [Signature]
CHIEF ENGINEER

PENN CENTRAL TRANS. CO
24326

**RESERVATIONS FOR THE BENEFIT OF THE
TRANSPORTATION PROPERTY**

The right and easement to the Lessee during the term of this Lease, to attach, renew and maintain pipes, conduits, overhead contact rails, ventilating ducts and other appliances and facilities and their supports to the underside of the building girders, floor beams and other structural members of any building, buildings or other structures, or any replacement or replacements thereof (hereinafter called the Building), that may at any time be constructed upon the lands above the planes shown on the plot plan included in this Schedule, restricted, however, to an aggregate weight or load which, together with the other loads thereon, shall not be in excess of a safe loading, having regard to the engineering factor of safety normally used in computing the stresses of said girders, floor beams and other structural members;

TOGETHER, also, with the right and easement to the Lessee during the term of this Lease, to enter upon the lands above the limiting planes shown on the plot plan included in this Schedule, and thereon to inspect and maintain the existing retaining walls provided that the Lessor, its successors or assigns, shall have the right to remove such retaining walls upon providing in place thereof proper protection and supports to the tracks, structures, appliances and facilities of the Lessee within the transportation area and upon replacing any such retaining walls with walls appropriately separating the transportation area from the adjoining spaces;

TOGETHER, also, with the rights and easements to the Lessee during the term of this Lease, to inspect and maintain, renew and operate upon the lands of the Lessor above the limiting planes shown on the plot plan included in this Schedule, for the proper and adequate ventilation and lighting of the transportation Area such ventilating ducts, machinery and equipment, motor and fan rooms and other ventilating facilities and also such lighting wires, fixtures and appurtenant facilities as are provided for in the building plan and specifications to be approved by the Lessee for the Building;

The Lessor, for itself, its successors and assigns, does hereby covenant and agree to and with the Lessee, that in the event the Lessor, its successors or assigns, shall at any time erect a new Building, it or they shall construct and install, at its or their own cost and expense, at such locations and in such manner as may be approved by the Lessee, all such ventilating ducts, machinery and equipment, motor and fan rooms and other ventilating facilities and lighting wires, fixtures and appurtenant facilities as may reasonably be required and also the passageway, stairway and doorway hereinafter referred to;

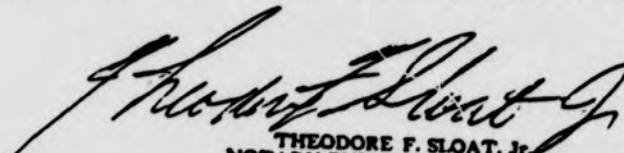
TOGETHER, also, with the right and easement to the Lessee during the term of this Lease, to the exclusive use of two (2) ventilating shafts, each of an area of at least twenty (20) square feet, extending up through and above the roof of the Building, or, at the option of the Lessor, up through and above the roof of any set-back of said Building, and connecting with the ventilating ducts to be constructed in the transportation Area by the Lessor and said shafts shall thereafter be maintained therein by Lessor, its successors or assigns, for the exclusive use of the Lessee, for the purpose of providing ventilation to the transportation Area; said ventilating shafts shall be constructed at the time of the construction of the Building at such location as may be approved by the Lessee and shall be located with a view of causing as little inconvenience as may be reasonably possible in the layout of the Building, and the Lessor, its successors or assigns, in the construction of the Building, shall provide walls in accordance with plans approved by the Lessee for enclosing said shafts;

TOGETHER, also with the right and easement to the Lessee during the term of this Lease, to inspect and maintain and use a passageway, stairway and doorway with proper clearances for convenient use upon the lands of the Lessor, its successors or assigns, connecting with and extending from the transportation Area at track level to the street level for the exclusive use of the Lessee, for the purpose of entrance and exit to and from the transportation Area, from and to the public street in cases of emergency. Said passageway, stairway and doorway shall be constructed by the Lessor, its successors or assigns, at its or their cost and expense, in the existing building or at the time of constructing any new Building, at such location as may be approved by the Lessee and shall be located in such manner as will cause as little inconvenience as may be possible in the layout of said Building.

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

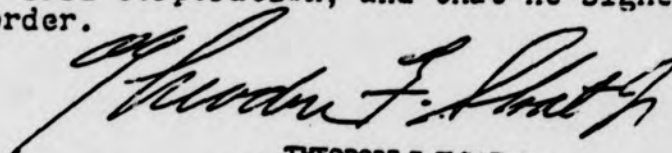
On this 26th day of May, 1972, before me personally appeared George P. Baker, who acknowledged himself to be one of the Trustees of the Property of The Penn Central Transportation Company, Debtor, and that he, as such Trustee, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by himself on behalf of said Trustees.

In Witness Whereof I hereunto set my hand and official seal.


THEODORE F. SLOAT, Jr.
NOTARY PUBLIC, State of New York
No. 60-3707100
Qualified in Westchester County
Cert. filed with N. Y. Co. Clk.
Term Expires March 30, 1973

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 26th day of May, 1972 before me personally came WILLIAM J. ROMAN, to me known, who being by me duly sworn, did depose and say that he is the Chairman of METROPOLITAN TRANSPORTATION AUTHORITY, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of a majority of the members of said corporation; and that he signed his name thereto by like order.


THEODORE F. SLOAT, Jr.
NOTARY PUBLIC, State of New York
No. 60-3707100
Qualified in Westchester County
Cert. filed with N. Y. Co. Clk.
Term Expires March 30, 1973

EXECUTION COPY

TRACKAGE RIGHTS AGREEMENT
BETWEEN
METRO NORTH COMMUTER RAILROAD COMPANY,
METROPOLITAN TRANSPORTATION AUTHORITY,
CONNECTICUT DEPARTMENT OF TRANSPORTATION
AND
CONSOLIDATED RAIL CORPORATION,
EFFECTIVE AS OF JANUARY 1, 1983

RECEIVED

JUL 30 1991

OFFICE OF
RAIL OPERATIONS

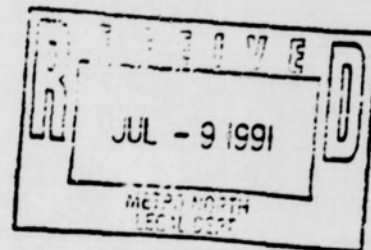


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TRACKAGE RIGHTS AGREEMENT

This Trackage Rights Agreement (Agreement), entered this 6th day of August, 1991, to become effective as of January 1, 1983, is made by and between the Metro North Commuter Railroad Company (METRO NO.), Metropolitan Transportation Authority (MTA), Connecticut Department of Transportation (CDOT), and Consolidated Rail Corporation (Conrail).

WITNESSETH

WHEREAS, the Northeast Rail Service Act of 1981 (NERSA) directed in Section 1137 that Conrail convey to commuter authorities Rail Properties used or useful in the operation of commuter service and retain appropriate trackage rights for its freight operations on those properties; and

WHEREAS, in accordance with NERSA §1136 and §1137, the parties hereto have executed Transfer Agreements, dated as of September 1, 1982 (Transfer Agreements); and

WHEREAS, Section 9.01 of the Transfer Agreements provides that the parties will enter into a trackage rights agreement; and

WHEREAS, litigation before the Special Court, established by the Regional Rail Reorganization Act of 1973, has confirmed Conrail's right to continue freight operations under the terms of the Harlem-Hudson Lease Agreement, the MTA Purchase and Lease Agreement and the CTA Lease Agreement; and

WHEREAS, in accordance with NERSA and the Transfer Agreements, it is necessary to establish appropriate rights and responsibilities between the parties for continued operation of rail commuter passenger and freight service over MTA/CDOT Rail Properties and Conrail Rail Properties;

NOW, THEREFORE, in consideration of the covenants, agreements, representations, and warranties contained herein, and intending to be legally bound, METRO NO., MTA, CDOT and Conrail agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01. Definitions

(a) "Actual Costs" shall mean all expenses incurred by the party in connection with a transaction, including retroactive wage adjustments and the party's applicable additives and over-head rates in effect at the time the work is performed.

(b) "CDOT" shall mean the Connecticut Department of Transportation.

(c) "Car Mile" shall mean a locomotive, car, unit of self-propelled work equipment, whether or not loaded, whether or not carrying passengers or freight, moved one mile over Rail Properties.

(d) "Conrail" shall mean the Consolidated Rail Corporation, a corporation organized under the laws of the Commonwealth of Pennsylvania.

(e) "Conrail Rail Properties" shall mean the rail properties, including (except as otherwise specifically provided herein) additions and betterments thereto, enumerated and so identified in Exhibits 2 and 6 hereto.

(f) "Crossover" shall mean a track fixture which is used to switch a train from one track to an adjacent parallel track and consists of two (2) turnouts. A turnout consists of a switch and other track components.

(g) "NERSA" shall mean the Northeast Rail Service Act of 1981.

(h) "METRO NO." shall mean the Metro North Commuter Railroad Company, a public benefit corporation of the State of New York and a wholly owned subsidiary of Metropolitan Transportation Authority.

(i) "MTA/CDOT Rail Properties" shall mean the rail properties identified in Exhibits 1, 4 and 5 owned or leased by MTA, METRO NO. or CDOT, respectively, including facilities existing thereon and additions and betterments thereto. Rail Properties identified in Exhibits 4 and 5 are those properties which are presently used solely by Conrail for its freight operation. Properties identified in Exhibit 1 are those jointly used properties which have been or are presently used by Conrail for its freight operations and are presently used by METRO NO. for its passenger operations.

(j) "MTA" shall mean the Metropolitan Transportation Authority.

(k) "Non-Routine Maintenance" shall be that work generally performed and programmed on a maintenance cycle, on a project or emergency basis, including, but not limited to, partial or entire replacement of switch timbers, ties, metal materials, ballast, switch stands, signal apparatus, and derails, if any.

(l) "Owner" shall mean Conrail, when referring to Conrail Rail Properties, and shall mean METRO NO. when referring to MTA or CDOT Rail Properties.

(m) "Parties" shall mean Conrail, METRO NO., MTA and CDOT collectively.

(n) "Rail Properties" shall mean the MTA/CDOT Rail Properties or Conrail Rail Properties as set forth in the Exhibits to this Agreement.

(o) "Routine Maintenance" shall be that work performed by basic maintenance forces including, but not limited to, inspections, switch stand and rod adjustments, lubricating, welding, respiking, spot surfacing and tamping, signal department tests and inspection, snow removal and turnout surfacing.

(p) "Transfer Agreements" shall mean the Agreements between MTA and CDOT, respectively, and Conrail, dated as of September 1, 1982, setting forth terms and conditions for the transfer of commuter rail properties and operations.

(q) "User" shall mean Conrail, when referring to MTA/CDOT Rail Properties, and shall mean METRO NO. when referring to Conrail Rail Properties.

ARTICLE II
ACCESS TO RAIL PROPERTIES

Section 2.01. Access to MTA and CDOT Rail Properties

(a) MTA and CDOT hereby grant to Conrail, subject to the provisions of this Agreement, the right to enter upon and utilize the existing tracks and related operating facilities located on MTA or CDOT Rail Properties listed in Exhibits 1, 4 and 5 for the purpose of performing Conrail's freight service, including such service operated by Conrail for others. This right shall be the same as that granted to the Penn Central Corporation in (1) the Harlem-Hudson Lease Agreement, as amended, (2) the MTA Purchase and Lease Agreement, as amended, and (3) the CTA Lease Agreement, as amended, and transferred to Conrail pursuant to the Final System Plan and affirmed by the Special Court in action No. 83-14.

(b) MTA acknowledges Conrail's continuing right to use:

(1) the freight trackage rights reserved to Penn Central in the Harlem-Hudson Lease Agreement, as amended, and in the MTA Purchase and Lease Agreement, as amended; and transferred to Conrail pursuant to the Final System Plan (affirmed by Special Court Action No. 83-14) subject to the use levels set forth in Appendix III-A of said Agreements, without payment for such use;

(2) the said trackage rights in excess of the use levels set forth in Appendix III-A, for which excess freight

use Conrail shall pay METRO NO. in accordance with Article V hereof;

(c) CDOT acknowledges Conrail's continuing right to use:

(1) the freight track, ~ rights reserved to Penn Central in the CTA Lease Agreement and transferred to Conrail pursuant to the Final System Plan, except for the segment between Derby Jct. and Waterbury, subject to the use levels set forth in Appendix III-A of said CTA Lease Agreement, without payment for such use;

(2) the said trackage rights in excess of the use levels in said Appendix III-A, for which excess freight use Conrail shall pay METRO NO. in accordance with Article V hereof.

(d) NERSA Rail Properties

MTA and CDOT hereby affirm that, subject to the provisions of this Agreement, Conrail has retained easements (except easements presently held by other railroads) for freight operations over rail properties conveyed in fee to MTA or CDOT pursuant to the provisions of NERSA and the Transfer Agreements dated as of September 1, 1982 and as reserved in the deeds from Conrail to MTA or CDOT.

(e) MTA will lease to Conrail for the sum of \$1.00 (the receipt of which is hereby acknowledged) all of that property known as Chevy Yard, Tarrytown, New York, necessary for Conrail freight operations and service to freight customers. This property shall be designated as an Exhibit 4 Rail Property.

(f) Where practicable, Conrail, at its sole cost and expense, shall arrange for and obtain necessary heat, water, electricity and other utility services required for its use. In the event it is impracticable to secure any of such services other than through facilities owned by MTA or CDOT, Conrail shall install, at its expense, if economically feasible and where permitted by law, necessary connections, supply lines and meters to measure its consumption of such services. In the event separate metering is not feasible, the utility bill shall be allocated on a fair and reasonable basis. Neither MTA nor CDOT shall be liable for any temporary suspension of any such services unless caused by either MTA or CDOT's negligence or that of their respective agents or employees. Conrail shall have the right to use facilities, connections, supply lines and meters presently serving the involved Rail Properties.

Section 2.02. Changes in Use of MTA/CDOT Rail Properties

MTA, CDOT or METRO NO. reserve the right to redesignate the category in which MTA or CDOT Rail Properties shown on Exhibits 1, 4 and 5 are listed to reflect changes in the nature of passenger services operated over such properties, provided that in the event METRO NO. or CDOT institute passenger service over Rail Properties listed in Exhibits 4 or 5, it shall redesignate such properties as jointly used, and, provided further, that in

the event Conrail's operation over any of MTA or CDOT Rail Properties shall terminate, such property shall be deleted from the Exhibits.

Section 2.03. Access to Conrail Rail Properties

(a) Conrail hereby grants to METRO NO., subject to the provisions of this Agreement, the right to enter upon and utilize tracks and related operating facilities located on Conrail Rail Properties listed in Exhibits 2 and 6 for the purpose of performing rail commuter passenger service.

(b) Conrail hereby grants to CDOT, subject to the provisions of this Agreement, the right to enter upon and utilize the tracks and related operating facilities of the Danbury Secondary (L.C. 4246) between Derby Junction and the Connecticut-New York State Line at about Mile Post 71.2 for the purpose of performing rail commuter passenger service.

(c) In the event that METRO NO. or CDOT extends its rail passenger service pursuant to the Transfer Agreements to other Conrail properties not listed in Exhibits 2 and 6, the provisions of this Agreement shall apply and such properties shall be immediately added to Exhibit 2 or 6 as appropriate.

(d) Conrail retains its right to use, or permit another party or parties to use, Conrail Rail Properties for any rail purposes, provided that such utilization does not unreasonably interfere with METRO NO.'s or CDOT's Trackage Rights.

(e) Where practicable, METRO NO., at its sole cost and expense, shall arrange for and obtain necessary heat, water, electricity and other utility services required for its use. In the event it is impracticable to secure any of such services other than through facilities owned by Conrail, METRO NO. shall install, at its expense, if economically feasible and where permitted by law, necessary connections, supply lines and meters to measure its consumption of such services. In the event separate metering is not feasible, the utility bill shall be allocated on a fair and reasonable basis. Conrail shall not be liable for any temporary suspension of any such services unless caused by its negligence or that of its agents or employees. METRO NO. shall have the right to use facilities, connections, supply lines and meters presently serving the involved Rail Properties.

ARTICLE III

MANAGEMENT AND OPERATIONS

Section 3.01. New Haven Service Agreement

As between MTA, CDOT and METRO NO., nothing in this Agreement is intended to amend or negate any provisions of the Amended and Restated Service Agreement ("Service Agreement") dated June 21, 1985 among CDOT, MTA and METRO NO. As between MTA, CDOT and METRO NO., in the event of any inconsistency between any provision in this Agreement and the Service

Agreement, the provision of the Service Agreement shall govern, provided, however, that nothing contained in the Service Agreement shall in any way amend, change, alter or otherwise affect Conrail's rights, duties, responsibilities and obligations set forth in this Agreement.

Section 3.02. MTA AND CDOT Rail Properties

(a) As between METRO NO. and Conrail, METRO NO. retains the right to establish the overall policies governing the management and operational control of all rail service over MTA and CDOT Rail Properties, including, but not, limited to, the dispatching and control of all trains. METRO NO.'s right shall not be exercised in a manner which would unreasonably interfere with Conrail's trackage rights.

(b) The scheduling and movement of revenue passenger trains shall take precedence over all other train movements.

(c) Conrail's freight operating rights described in this agreement are for the purpose of permitting Conrail to exercise its trackage rights under Section 2.01 hereof and the agreements referenced therein, including the right to operate its road and local freight trains, as well as switching movements, trains, locomotives, and other on-track equipment. Conrail shall have access to all running, side, switching, yard, and interchange tracks included in MTA or CDOT Rail Properties necessary for the provision of its freight service so long as that access does not interfere with existing or planned METRO NO. or CDOT uses.

(d) Conrail shall have the right to amend and increase the level of its freight service, as provided in Sections 3.03 of the Harlem-Hudson and CTA Lease Agreements and the MTA Purchase and Lease Agreement.

(e) Conrail may perform special and emergency services, provided that such operations do not interfere with then existing METRO NO. uses.

(f) METRO NO. and CDOT reserve the right to operate special or emergency trains over the properties. Reasonable notice of such use shall be given to Conrail.

(g) METRO NO. shall not do, or cause to be done, anything that interferes with Conrail communications on MTA and CDOT Rail Properties.

Section 3.03 Clearances

METRO NO. and CDOT guarantee that Conrail shall have clearance routes satisfactory to Conrail over METRO NO. lines for movement of all types of equipment and shipments which Conrail operated and transported, in both local and through freight service, over these lines as of January 1, 1983. These clearances on MTA and CDOT Rail Properties are those set forth in Exhibit 9. METRO NO. and CDOT also guarantee that Conrail shall have access to all industries located on METRO NO. lines at the same level of utility which existed as of January 1, 1983, so as to permit Conrail to provide freight service to and from any of its customers on MTA or CDOT Rail Properties in the same manner and to the same extent as existed on January 1, 1983. METRO NO.

will promptly notify Conrail of any modifications of Exhibit 9 clearances. If any restrictions on clearances imposed by METRO NO. or resulting from its maintenance activities after the effective date of this Agreement are more restrictive than the clearances set forth in Exhibit 9, and if such restrictions require alteration of METRO NO. facilities in order to permit Conrail to move freight shipments, such alteration shall be made promptly by METRO NO. at its expense. If a freight shipment exceeds the clearances on Exhibit 9, and requires alteration of METRO NO.'s facilities, such alteration shall be at Conrail's expense. "Facilities" as used in this Section 3.02(g) includes, but is not limited to, catenary wire, electric traction facilities and high level platforms located on MTA and CDOT Rail Properties. Conrail shall have the right to periodically operate its clearance car over MTA/CDOT Rail Properties in order to check the clearance levels, which operation may be conducted at least once every six (6) months. Notwithstanding the above, the parties understand and agree that the provisions as to clearances are subject to applicable state law and regulations as they may exist from time to time.

Section 3.04. Conrail Rail Properties

(a) Conrail retains the right to establish the overall policies governing the management and operational control of all rail service over Conrail Rail Properties, including, but not limited to, the dispatching and control of all trains. Conrail's

right shall not be exercised in a manner which would unreasonably interfere with METRO NO.'s or CDOT's trackage rights.

(b) The scheduling and movement of METRO NO. or CDOT rail passenger commuter trains shall take precedence over all other rail movements except Amtrak regularly scheduled revenue intercity passenger trains.

(c) METRO NO.'s and CDOT's passenger operating rights described in this Agreement are for the purpose of permitting the operation of commuter passenger trains in revenue service as set forth herein and in non-revenue service, as well as special trains, locomotives, and other on-track equipment. METRO NO. and CDOT (the latter insofar as the Connecticut segment of the Danbury Secondary Line is concerned) shall have access to and use of all running, side, switching, yard, and interchange tracks included in Conrail Rail Properties necessary for the provision of its passenger service, provided, however, that these uses will not interfere with Conrail's existing or planned uses.

(d) Subject to the approval of Conrail, which shall not be unreasonably withheld or delayed, METRO NO. or CDOT shall have the right to amend or increase the level of its passenger service; provided, however, that the character, scheduling, or extent of the passenger service shall not unreasonably interfere with Conrail's existing or planned uses of Conrail Rail Properties.

(e) METRO NO., subject to reasonable notice to Conrail, may operate non-scheduled revenue and non-revenue trains, work

trains, self propelled work equipment, and light engine moves, provided that such operations will not interfere with existing Conrail uses and will reimburse Conrail the Car Mile rate set forth in Section 5.03(a) for such movements. METRO NO. special or excursion trains may be operated provided the operation will not interfere with Conrail uses; approval to operate such special or excursion trains must be acquired in advance, in writing. Compensation for the operation of special or excursion trains shall be negotiated on a case by case basis.

(f) METRO NO. regularly scheduled revenue trains, non-revenue trains, work trains and light engine moves may be detoured over Conrail Rail Properties not covered by the Exhibits, in emergencies where interference with Conrail uses will not result; movement and reimbursement to Conrail for such detour trains shall be governed by the rates and provisions established in the AAR Standard Form For Detour Agreement, then in effect of which a current copy is attached and incorporated herein as EXHIBIT 10.

Section 3.05. General Provisions

(a) As used in this Agreement, whenever reference is made to the trains, locomotives, cars, or equipment of, or in the account of, one of the parties hereto, such expression means the trains, locomotives, cars, or equipment in the possession of or operated by one of the Parties and includes such trains, locomotives, cars, or equipment which are owned by, leased to, or the responsibility of such Party. Whenever such locomotives, cars,

or equipment are owned or leased by one party to this Agreement and are in the possession or account of the other party to this Agreement, such locomotives, cars, or equipment shall be considered those of the latter Party.

(b) User shall comply with the provisions of applicable federal, state, and local laws, regulations, and rules respecting the operation, condition, inspection, and safety of its trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the Rail Properties. User shall indemnify, protect, defend, and save Owner and its officers, agents, and employees harmless from all fines, penalties, and liabilities imposed upon Owner under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable to the failure of User to comply with its obligations in this regard.

(c) User in its use of the Rail Properties will comply in all respects with the operating rules and regulations of Owner, and the movement of User's trains, locomotives, cars, and equipment over the Rail Properties shall at all times be subject to the orders of the transportation officers of Owner.

(d) User shall make such arrangements with Owner as may be required to have all of its employees who shall operate its trains, locomotives, cars, and equipment over the Rail Properties qualified for operation thereover. In the event it becomes necessary for Owner to furnish Pilots for the operation of User's trains over Owner's properties, Owner shall be reimbursed for the

Actual Costs of such employees and such employees shall be considered as employees of User for purposes of Article 6 of this Agreement.

(e) In the event Owner conducts an investigation or hearing concerning the violation of any operating rule or practice of Owner by an employee or employees of the User, except officers of User, User shall be notified in advance of any such investigation or hearing. Such investigation or hearing may be attended by any official designated by User and shall be conducted in accordance with the collective bargaining agreements, if any, that apply to said employee or employees.

(f) Owner shall have the right to exclude from the Rail Properties, for the length of time specified in a disciplinary proceeding, any employee of User, except officers, determined by Owner, as the result of such investigation or hearing described above, to be in violation of Owner's rules, regulations, orders, practices or instructions issued by Timetable or otherwise. User shall release, indemnify, defend and save harmless Owner and its officers, agents and employees from and against any and all claims and expenses resulting from such exclusion.

(g) If by reason of any mechanical failure or for any other cause not resulting from an accident or derailment, a train or locomotive of User becomes stalled and unable to proceed under its own power, or fails to maintain the speed required by Owner on the Rail Properties, or, if in emergencies, crippled or otherwise defective cars are set out of User's trains on the Rail

Properties, Owner shall have the option of allowing the User to furnish motive power or such other assistance as may be necessary to haul, help, or push such trains, locomotives or cars, or to properly move the disabled equipment off the Rail Properties, or the Owner, after notice to User, may perform the necessary functions. User shall reimburse Owner for rendering any such assistance based on the Actual Costs or the Owner's standard schedule of charges then in effect.

(h) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the Rail Properties, such work shall, at the option of the Owner, after notice to User, be done by the User or the Owner. User shall reimburse Owner for the Actual Cost of rendering any such assistance.

ARTICLE IV

MAINTENANCE AND CONSTRUCTION ON RAIL PROPERTIES

Section 4.01. Responsibility for Maintenance and Construction of MTA and CDOT Rail Properties

(a) As between METRO NO. and Conrail, METRO NO. shall retain the right to establish and carry out the overall policies governing maintenance, construction, reconstruction, and alteration of all MTA and CDOT Rail Properties. METRO NO.'s rights shall not be exercised in a manner which would unreasonably interfere with Conrail's trackage rights. As between MTA, METRO-NO. and CDOT, management control of CDOT Rail

Properties shall be governed by the Amended and Restated Service Agreement.

(b) With respect to MTA or CDOT Rail Properties in Exhibit 5, METRO NO. or its designee shall have the responsibility to perform all - maintenance, construction, reconstruction, or alteration on these Rail Properties. Notwithstanding the preceding sentence, Conrail shall determine the level of and requirements for maintenance, and shall bear the actual costs therefor as long as there is no regular use of these facilities by METRO NO. or until freight service thereon is discontinued by Conrail. In the event that METRO NO. redesignates properties as a Jointly Used MTA/CDOT Rail Property under Section 2.02 hereof, the level of maintenance shall be brought to no less than Federal Railroad Administration Class 1 standards. METRO NO. shall have the right to perform the necessary work and Conrail shall pay the actual costs incurred by METRO NO. in bringing the property to the specified maintenance level, but no expense for upgrading the property above the FRA Class 1 level may be charged to Conrail.

(c) As between METRO NO. and Conrail, with respect to MTA or CDOT Rail Properties in Exhibits 1 and 5, METRO NO. or its designee shall have the responsibility to perform or to arrange for the performance of the maintenance, construction, reconstruction, and alteration on such properties.

Section 4.02. Maintenance of Freight Facilities
on MTA and CDOT Rail Properties.

(a) METRO NO. shall perform routine and non-routine track maintenance together with the maintenance of signal appliances and derails, if any, for the portion of solely freight turnouts to sidings located between the point of switch and the clearance point (or mutually defined point beyond the clearance point) and both turnouts of any solely freight crossover out of the main track. Such facilities are listed on Exhibit No. 3.

(i) The routine and non-routine maintenance expenses incurred by METRO NO. with respect to these facilities are not included in the car-mile reimbursement provided in Section 5.01(a) hereof. The cost of such work shall be charged to Conrail in accordance with Section 5.01(b) hereof.

(b) In the event that Conrail advises that any solely freight facility is not required for the performance of Conrail's freight service, the provisions of Section 4.04(g) shall apply. In the event an emergency situation occurs which requires the total or partial replacement of a solely freight facility, METRO NO., subject to the verbal approval of Conrail's General Manager or his representative, shall proceed with the work and shall bill Conrail in accordance with the provisions of Section 5.05(b), except to the extent said facility is covered by Section 5.01(b).

(c) METRO NO. shall perform FRA-mandated inspections, automatic grade-crossing protection inspection and repair

and emergency repairs, including those resulting from derailments on the portion of solely freight sidings located beyond the clearance point (or mutually defined point beyond the clearance point). Such facilities are listed on Exhibit 5. The cost of such work shall be charged to Conrail in accordance with Section 5.05(b) hereof.

(d) In addition to maintenance of properties and facilities, METRO-NO. and Conrail shall from time to time, upon reasonable request, perform services necessary to assist the other in carrying out its services and operations, including without limitation such services as train control, wrecking and derailments, snow plowing service and pilot services. The parties agree, however, that Conrail will not be required to perform snow removal at passenger station facilities. Requests for the above described services will be considered promptly and not unreasonably refused, subject to the prior operating and service needs of the party receiving the request. Requests shall be in writing, except that oral requests may be acted upon in unusual circumstances, subject to prompt confirmation in writing. Performance and payment for such services shall be at the Actual Cost of the party performing the service.

Section 4.03. Maintenance and Other Services

(a) Maintenance and other services provided under this Agreement shall be performed in an economic and efficient manner. Properties and facilities are to be maintained by METRO NO. at

the level of maintenance specified in the exhibits, as amended from time to time by agreement, provided that all tracks maintained by METRO NO. hereunder shall be inspected and maintained at a level sufficient to meet Federal Railroad Administration (FRA) track safety standards for Class 1 track. Cost of maintenance of properties or facilities used by Conrail at levels above FRA Class 1 standards shall be at METRO NO.'s sole cost and expense unless otherwise requested or agreed upon by Conrail. Properties or facilities are to be maintained by Conrail at the level of repair specified in the exhibits.

(b) In the event Conrail wishes any properties or facilities used by Conrail, and for which charges are billable to Conrail, to be rehabilitated or upgraded, or wishes METRO NO. to carry out special projects or new construction on Conrail's behalf, Conrail's Senior Vice President-Operations or his designee will submit a written notice to METRO NO. to that effect, including the submission of complete specifications for the upgrading or construction requested. Any such proposal shall be subject to METRO NO. engineering approval. In the event such notice is submitted and if METRO NO. agrees to do the work, METRO NO., within 45 days following receipt of the notice, will submit to Conrail a Force Account Estimate for work to be performed and a time schedule. When the estimate and work schedule are approved in writing by Conrail, such notice will constitute an order to begin work.

(c) Conrail may, at its discretion and subject to METRO NO.'s approval, which approval shall not be unreasonably withheld, furnish material for any upgrading, special projects, or new construction requested hereunder. If it appears that the cost of the work will exceed the Estimate, METRO NO. will notify Conrail of the status of the project and, if it is to proceed, the need to secure additional authority for such additional cost. METRO NO. shall not be obligated to incur costs in excess of those approved by Conrail. If METRO NO. does not undertake the work, Conrail or its contractors shall be granted reasonable access to MTA/CDOT Rail Properties to carry out the work.

(d) In the event that METRO NO. for its own purposes determines that any properties or facilities, which under this Agreement are the responsibility of Conrail and the expenses for maintenance are chargeable to Conrail, should be upgraded, renewed or require special attention, METRO NO. will notify Conrail's Senior Vice President-Operations of its desires. If Conrail agrees, METRO NO. shall prepare a description of the desired work including, where necessary, detailed plans, which will be submitted to Conrail for its concurrence. The actual cost of the upgrading, renewal or special projects shall be paid by METRO NO. and the parties shall review the impact of any changes on future maintenance expenses and, if necessary, allocate those expenses between the parties, as they may agree.

(e) The provisions set forth in subsections (b) and (c) above will be followed in a similar manner in dealing with a

notice by METRO NO. to Conrail of METRO NO.'s desire that Conrail carry out similar projects with respect to properties or facilities billable to METRO NO.

(f) Each party agrees to use its best efforts to provide services necessary to deal with emergency situations on their respective properties or facilities or with other operating emergencies. Oral notice of the need for emergency service may be acted upon, subject to written confirmation as soon as possible, but in any event within 5 days after verbal authorization. The party performing such services may submit bills to the other for such services and shall include therein the name and title of the officer who requested and authorized such services. Projects desired by one party involving special projects or new construction involving costs of \$25,000 or less may be carried out by the other upon oral notice subject to the same confirmation and billing procedures as for emergency services.

(g) Except where otherwise indicated, Conrail agrees, at METRO NO.'s expense, to maintain the track, communication and signal systems, bridge and building structures, and other solely passenger facilities identified in Exhibits 6 and 7. The cost of such work shall be charged to METRO NO. in accordance with the appropriate provisions of Article V.

Section 4.04 Installation, Connection, Maintenance, and
Removal of Industrial Sidetracks.

(a) Conrail has the right to install track connections for rail lines and trackage owned, leased, controlled or operated by Conrail or its freight customers contiguous or adjacent to the MTA/CDOT Rail Properties in order to perform its freight service and to contract with those industries for the installation, construction, maintenance, and removal of industrial sidetracks which will be connected to tracks or connections on MTA/CDOT Rail Properties. The following provisions govern the construction, operation, maintenance and removal of sidetracks which have been constructed or are to be constructed for the purpose of providing rail freight service to industries served or to be served by Conrail which are connected to MTA/CDOT Rail Properties.

(b) Whenever Conrail plans to construct a new industrial sidetrack which will be connected to MTA or CDOT Rail Properties or plans to alter or modify an existing sidetrack, engineering plans and drawings showing the location and dimension of such sidetrack(s), and any construction on MTA/CDOT Rail Properties adjacent to or in support thereof, shall be submitted by Conrail to the Executive Vice President for METRO NO. in quadruplicate for review and approval. Approval of plans and specifications for sidetrack installations or modifications which are consistent with METRO NO.'s general specifications will not be unreasonably withheld or delayed. In the event of any conflict between

freight and passenger operational requirements, passenger requirements shall prevail.

(c) Nothing in this agreement is intended as a grant of rights to industries served by Conrail along the MTA/CDOT Rail Properties. The Industrial Sidetrack Agreement between Conrail and the industry shall in no way govern the terms of this agreement between METRO NO. and Conrail, but shall be limited to matters between the industry and Conrail.

(d) If METRO NO. is willing to undertake the work, all materials for installation of a new sidetrack or modification of existing sidetracks may, at METRO NO.'s discretion, be supplied by Conrail to METRO NO. at a location to be selected by agreement of the parties. Construction, installation, or modification of sidetracks shall be performed in accordance with approved plans on MTA/CDOT Rail Properties by METRO NO. forces or contractors, in return for which Conrail shall compensate METRO NO. in accordance with a force account agreement to be entered into on a case-by-case basis. If METRO NO. does not wish to undertake the work, it will authorize Conrail to do so and will give Conrail, its employees or contractors access to the worksite as necessary for completion of the work, subject to METRO NO.'s operating control, entry permit procedures and flagging requirements, the Actual Costs of which shall be borne by Conrail.

(e) Maintenance of industrial sidings beyond the clearance point may be performed by METRO NO. forces on MTA/CDOT Rail

Properties at Conrail's expense in accordance with Articles IV and V; or by Conrail or its contractors at Conrail's expense, subject to METRO NO.'s operating control, entry permit procedures and flagging requirements. Conrail shall provide to METRO NO., in writing, maintenance standards and instructions for industrial sidetracks prepared in a clear and unambiguous fashion.

(f) Construction and maintenance of that portion of the sidetrack located off MTA/CDOT Rail Properties shall be the responsibility of Conrail or the industry.

(g) Sidetracks - Cessation of Use:

(i) With respect to any industrial sidetracks or public delivery (team) tracks covered by this Agreement which have not been used for any freight shipment during the preceding 24 month period, METRO NO. shall have the option upon 90 days' written notice to propose removal of the connection and any other facilities and appurtenances connected therewith located upon the right-of-way.

(ii) Upon receipt of such notice, Conrail will promptly evaluate whether it or an industry or shippers will have need for the sidetrack or public delivery (team) track currently or in the future. If such need is reasonably anticipated, Conrail will so notify METRO NO. in writing, and the track shall be retained.

(iii) In the event of removal, Conrail shall have the right to retain all sidetrack materials which it has furnished after the effective date of this Agreement for the

construction of new sidetrack connections or the repair or modification of existing sidetracks. Such materials shall be removed by METRO NO. and delivered to a mutually agreeable location for Conrail pickup pursuant to the provisions of subparagraph (i) above at Conrail's expense. METRO NO. shall be entitled to retain all other sidetrack materials, which shall be removed at METRO NO.'s expense.

(iv) Sidetrack materials belonging to Conrail which are removed by METRO NO. pursuant to subparagraphs (i) and (iii) above shall be held for thirty days subsequent to the date that METRO NO. notifies Conrail that the removal of the said connection has been completed and materials delivered to the agreed upon location. Any materials not repossessed by Conrail within the 30-day period may be removed from MTA/CDOT's Rail Properties at Conrail's expense, or disposed of as may then be agreed upon.

Section 4.05. Construction, Reconstruction, and
Alteration of Freight Facilities on
MTA or CDOT Rail Properties

(a) Conrail, with the prior written approval of METRO NO., as to properties owned or leased by MTA or METRO NO. or of CDOT, as to properties owned or leased by CDOT, at Conrail's sole cost and expense, may construct, reconstruct, alter, or improve any freight facility such as yards, public delivery (team) tracks, but specifically excluding buildings, located on MTA or CDOT Rail Properties as

necessary for freight operations, including, but not limited to, increases in weight of rail, changes in signal or communication facilities, freight sidings, and interchange points, provided, however, that any additional expenses for the maintenance of these facilities shall be the sole responsibility of Conrail.

(b) All facilities constructed under subsection (a) for which Conrail furnished material shall remain the property of Conrail unless owned by the Penn Central Corporation and covered by the Harlem-Hudson Lease Agreement. METRO NO. may require Conrail to remove its facilities which are no longer used under the conditions set forth in Section 4.04(g), and to perform the necessary restoration work. This work shall be at Conrail's sole expense.

Section 4.06. Responsibility for Maintenance of
Conrail Rail Properties

Conrail shall have the right to establish and carry out the overall policies governing maintenance, construction, reconstruction, and alteration of all Conrail Rail Properties. Conrail's right shall not be exercised in a manner which would unreasonably interfere with METRO NO.'s or CDOT's trackage rights.

Section 4.07. Level of Maintenance of Conrail
Rail Properties

With respect to Conrail Rail Properties listed in Exhibit 2, Conrail shall determine the level of and requirements for maintenance, construction, reconstruction, or alteration, and shall bear the complete responsibility therefor, provided that the level of maintenance shall not be less than that specified in said Exhibit.

Section 4.08. Construction, Reconstruction, and
Alteration of Solely Passenger
Facilities on Conrail Rail Properties

(a) METRO NO., with the prior written approval of Conrail, at METRO NO.'s sole cost and expense, may construct, reconstruct, alter, or improve any solely passenger facility located on Conrail Rail Properties necessary for passenger operations, including, but not limited to, platforms, stations, electrification, signal or communication facility changes, and passenger sidings; provided, however, that any additional expenses for the maintenance of these facilities shall be the sole responsibility of METRO NO. Such facilities shall not interfere with Conrail's clearances, communications or any other Conrail use of its properties.

(b) All facilities constructed under subsection (a) above shall remain the property of METRO NO. At Conrail's option, it may require METRO NO., at METRO NO.'s sole cost and expense, to

remove facilities which are no longer used and perform the necessary restoration work.

ARTICLE V
COMPENSATION

Section 5.01. MTA/CDOT Rail Properties
Used Jointly With Conrail

(a) Conrail shall pay METRO NO. on a billable car-mile basis for freight service operated over the Exhibit 1 Rail Properties in excess of the use levels permitted without charge under Section 2.01 of this Agreement. The billable car-mile rates are:

	<u>RATES</u>							
<u>Car Miles</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
1st 1 Million Annually	\$.200	.216	.223	.230	.239	.248	.263	.273
Over 1 Million Annually	\$.150	.162	.168	.172	.179	.186	.197	.205

(b) Turnouts and Crossovers

1. Freight Only

(i) The parties agree to a flat rate payment for all maintenance and replacement associated with freight turnouts and crossovers maintained by METRO NO. for Conrail, which turnouts and crossovers are designated as Conrail responsibility in EXHIBIT 3. This flat rate payment shall

constitute the entire amount due for all maintenance and replacement of said turnouts and crossovers.

(ii) The flat rate, using 1983 average weighted costs, shall be \$3,578 per year per turnout for routine maintenance and \$2,301 per year per turnout for non-routine maintenance. Non-routine maintenance shall include both incremental and entire switch replacement.

(iii) In accordance with paragraphs (i) and (ii) above, Conrail shall pay METRO NO. at the rate of \$489.92 per month per turnout. This rate shall be effective as of January 1, 1983, and shall be escalated annually as provided in Section 5.04(b). Payments shall be made in two (2) increments, one on July 15 and the other on January 15 of each calendar year, covering the periods January 1 through June 30 and July 1 through December 31, respectively. At the time of each payment, Conrail will furnish METRO NO. with a statement indicating, by month, the number of turnouts for which payment is made, together with an explanation of any increase or decrease in the number of turnouts for which payment is submitted.

(iv) Conrail shall have the right to enter MTA/CDOT Rail Properties for the purpose of reviewing the level of maintenance being performed on turnouts and crossovers covered by this Section. In the event Conrail determines that its freight turnouts and crossovers are not being properly maintained, it shall promptly meet with METRO

NO. to discuss the matter. If the parties are unable to reach agreement on this matter, it shall be resolved in accordance with ARTICLE IX of this Agreement.

2. Jointly Used

The parties agree that the flat rate for all maintenance and replacement of freight turnouts and crossovers, as set forth in \$5.01(b)(1), shall apply to turnouts and crossovers used jointly by METRO NO. and Conrail for passenger and freight operations, and that said maintenance and replacement costs shall be shared equally by METRO NO. and Conrail. Conrail shall pay METRO NO. \$244.96 per month per turnout for each turnout designated as joint responsibility on Exhibit 3. This rate shall be effective as of January 1, 1983 and shall be escalated annually as provided in Section 5.04(b).

(c) Beyond Clearance Point Conrail shall pay for Routine and Non-routine Maintenance expenses incurred by METRO NO. relating to each solely freight facility located beyond the clearance point identified in Exhibit No. 5. METRO NO. shall bill Conrail in accordance with Section 5.05(c).

Section 5.02. METRO NO.- Property Owned By MTA, CDOT or METRO NO. Used Solely By Conrail and Maintained By Conrail - Exhibit 4

Conrail will assume all costs associated with maintenance of those properties identified in Exhibit 4 which are properties owned by MTA, CDOT or METRO-NO. and maintained and used solely by Conrail. Should Conrail discontinue its freight service on any of the rail lines identified in Exhibit 4, in whole or in part, the property shall be returned to MTA, CDOT or METRO NO. in at least FRA Class 1 condition.

Section 5.03. Conrail Exhibit 2 Rail Properties

(a) METRO NO. shall pay Conrail on a billable Car-Mile basis for passenger service operated over Exhibit 2 Rail Properties. The billable car mile rates are:

	<u>RATES</u>							
<u>Car Miles</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
1st 1 Million Annually	\$.200	.216	.223	.230	.239	.248	.263	.273
Over 1 Million Annually	\$.150	.162	.168	.172	.179	.186	.197	.205

(b) Turnouts and Crossovers

(i) The parties agree to a flat rate payment for all maintenance and replacement associated with passenger turnouts and crossovers maintained by Conrail for METRO NO., as listed in EXHIBIT 6. This flat rate payment shall constitute the entire amount due for all maintenance and replacement of said turnouts and crossovers.

(ii) The flat rate, using 1983 average weighted costs, shall be \$3,578 per year per turnout for routine maintenance and \$2,301 per year per turnout for non-routine maintenance. Non-routine maintenance shall include both incremental and entire switch replacement.

(iii) In accordance with paragraphs (i) and (ii) above, METRO NO. shall pay Conrail \$489.92 per month per turnout. This rate shall be effective as of January 1, 1983, and shall be escalated annually as provided in Section 5.04(b). Annual payments shall be made in two (2) increments, one on July 15 and the other on January 15 of each calendar year, covering the periods January 1 through June 30 and July 1 through December 31, respectively. At the time of each payment, METRO NO. will furnish Conrail with a statement indicating, by month, the number of turnouts for which payment is made, together with an explanation of any increase or decrease in the number of turnouts for which payment is submitted.

(iv) METRO NO. shall have the right to enter Conrail's properties for the purpose of reviewing the level of maintenance being performed on turnouts and crossovers covered by this Section. In the event METRO NO. determines that its passenger turnouts and crossovers are not being properly maintained, it shall promptly meet with Conrail to discuss the matter. If the parties are unable to reach

agreement on this matter, it shall be resolved in accordance with ARTICLE IX of this Agreement.

Section 5.04 Revision of the Billable Car-Mile and Maintenance Rates

(a) Car-Mile Rate: Beginning in July 1984, and each July 1 thereafter, the Billable Car-Mile Rates identified in Sections 5.01(a) and 5.03(a) shall be increased or decreased on a cumulative basis by the same percentage by which the cost of material, prices, wage rates and supplements combined (excluding fuel), as reflected in the Annual Indexes of Chargeout Prices and Wage Rates, East, (1977=100), Series RCR, included in the "AAR Railroad Cost Indexes", and supplements thereto, issued by the Association of American Railroads or other generally recognized index, if such AAR index ceases to be published, has increased or decreased in the preceding calendar year, using 1982 (161.8) as the base index year. Car-Mile rates calculated in accordance with this provision shall be stated to the nearest one-tenth (1/10) of a cent. The methodology for determining the amount of increase is set forth in Exhibit 8.

(b) Maintenance Rate: Beginning in January 1984, and each January 1 thereafter, the Maintenance Rate identified in Sections 5.01(b) and 5.03(b) shall be increased or decreased by the same percentage by which the cost of material, prices, wage rates and supplements combined

(excluding fuel), as reflected in the Annual Indexes of Chargeout Prices and Wage Rates, East, (1977=100), Series RCR, included in the "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads or other generally recognized index, if such AAR index ceases to be published, has increased or decreased in the preceding calendar year, using 1983 (174.5) as the base index year. Maintenance rates calculated in accordance with this provision shall be stated to the nearest dollar. The rates for the years 1984 through 1989, as well as an explanation of the methodology for determining the amount of increase, are set forth in Exhibit 8, which methodology shall be used for all subsequent increases or decreases under this provision.

Section 5.05. Billing Procedures - Monthly Charges

(a) Billable Car Mile Rate

(1) Within sixty (60) days of the close of the month, METRO NO. shall furnish to Conrail a statement showing by line segment the passenger service billable Car-Miles operated over Conrail Exhibit 2 Rail Properties. The amount to be billed to METRO NO. shall be the difference between the Conrail freight billable Car-Mile cost set forth in Section 5.01(a) and the METRO NO. passenger service billable Car-Mile cost set forth in Section 5.03(a). METRO NO. shall pay

Conrail's invoice within ninety (90) days of its receipt. In the event that the Conrail freight service billable Car-Miles exceed the METRO NO. passenger service billable Car-Miles, Conrail shall pay the amount due METRO NO. within ninety (90) days after receipt of METRO NO.'s Car Mile statement.

(ii) Within sixty (60) days of the close of the month, Conrail shall furnish METRO NO. with a statement showing by line segment the freight service Car Miles operated over the MTA/CDOT Rail Properties listed in Exhibit 1.

(b) Beyond Clearance Point - Non-routine Maintenance

(i) Subject to the provisions of Section 4.02(c), and with written approval of Conrail, METRO NO. shall perform certain maintenance, rehabilitation, construction and reconstruction of the track, communication and signal systems, bridges, buildings and other properties or facilities associated with those locations identified in Exhibit 5. Actual costs incurred with respect to each work order number set forth in Exhibit 5 shall be billable to Conrail, unless otherwise agreed to in writing. Invoices received for work performed under this provision shall be paid within ninety (90) days of receipt.

(ii) Actual Costs incurred with respect to each work order number set forth in Exhibits 6 and 7, shall be billable to METRO NO. unless otherwise agreed to in writing. Invoices received for work performed under this provision shall be paid within ninety (90) days of receipt.

(c) Beyond Clearance Point - Routine Maintenance

Routine maintenance performed by Conrail on those properties identified in Exhibits 6 and 7, and routine maintenance performed by METRO NO. on those properties identified in Exhibit 5 shall be billed to the appropriate party through use of the work order numbers. It shall not be necessary for either party to obtain written approval prior to performing routine maintenance.

(d) Beyond Clearance Point - Additions, Deletions, Abandonment of Exhibit 5, Exhibit 6, or Exhibit 7 Rail Properties.

(1) The properties or facilities and assigned work responsibilities set forth in Exhibits 5, 6, or 7 may be changed from time to time and properties or facilities may be added to or deleted from said Exhibits, subject to agreement by the parties. Any party may delete or add properties or facilities to be maintained by another party, upon written notice to and agreement by the parties.

(ii) If any party discontinues service over any of the properties or facilities owned by another party or permanently ceases to use any such properties or facilities, it shall give written notice to the other party within sixty (60) days of such cessation, advising that it no longer requires such facilities. Within thirty (30) days of receipt of such notice, such facilities shall be removed from coverage by any work order billable to Conrail or METRO NO., as the case may be, provided, however, that no party shall be relieved from expenses incurred for work performed on such facilities prior to termination of service.

Section 5.06. Late Payment

(a) Interest may be charged based on the prime interest rate of the Citibank, N.A., in effect as of the due date of the invoice in the event:

(i) Conrail fails to pay METRO NO. within ninety (90) days after Conrail's receipt of METRO NO.'s Car Mile statement for the billable Car-Mile reimbursement pursuant to Section 5.01(a);

(ii) METRO NO. fails to pay Conrail within ninety (90) days after receipt of Conrail's invoice for the billable Car-Mile reimbursement pursuant to Section 5.03;

(iii) All other amounts payable by either Party pursuant to this Agreement which have not been paid within ninety (90) days after receipt of the invoice from the billing Party, provided that if either Party's failure to make payment within the specified time limits is a direct result of the other Party's failure to supply support data and information as provided for in this Agreement, the interest charge set forth in Section 5.06 shall not be applied.

Section 5.07. Billing Addresses

Billing information, including invoices, shall be directed to:

IF CONRAIL: General Superintendent Contract
Administration
CONSOLIDATED RAIL CORPORATION
P.O. Box 8646
Philadelphia, Pennsylvania 19101-8646

IF METRO NO: METRO NORTH COMMUTER RAILROAD
Manager Accounts Payable
Grand Central Station
P.O. Box 3581
New York, New York 10163

Section 5.08. Disputed Amounts

(a) In the event that there is a dispute as to the amount to be paid, the undisputed portion of the invoice amount shall be remitted and the amounts disputed shall be resolved in accordance with the provisions of Article IX of this Agreement.

(b) For those cases decided through binding arbitration, as set forth in Article IX of this Agreement, if it is determined that there are monies due to the billing Party, there shall be an interest charge levied in accordance with Section 5.06. Interest shall be computed based on the period of time between the original due date of the payment and the date the amount due is remitted.

Section 5.09. Maintenance and Inspection of Records

(a) Each of the Parties shall keep and maintain its books, records, accounts, and supporting workpapers which relate to operations, maintenance, and costs of the Rail Properties for a period of two (2) years, except that records relating to matters in dispute shall be retained until such dispute is resolved. Such records shall be maintained in such a manner as to enable either party to verify the assimilation of charges to a particular bill or work order number and may be computer generated. Additional information as may be required to verify billing, including, but not limited to logs, derailment reports, unusual incident reports, prepared in the normal course of business shall be made available as provided in Exhibit 11 to this Agreement.

(b) During normal business hours, each of the Parties shall have the right to inspect, examine, audit, and reproduce all books, records, accounts, and supporting workpapers of the other

Party which relate to the operations, maintenance and costs of the Rail Properties in support of billings as rendered.

Section 5.10. New Haver Service Agreement

As between MTA, CDOT and METRO-NO., all compensation received from Conrail which is attributable to the New Haven Line shall be allocated in accordance with the Service Agreement.

ARTICLE VI

LIABILITY APPORTIONMENT

Section 6.01. Scope

Financial responsibility for liability for personal injury, death or property damage which may result from activities conducted hereunder shall be allocated as follows in this Article. In no case shall any party claim compensation for loss of revenue from any other party.

Section 6.02. Conrail Employees

Conrail agrees to protect, defend, indemnify and save harmless METRO NO., irrespective of any negligence or fault of METRO NO. or METRO NO. Employees, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any Conrail Employee, or for loss of, damage to, or destruction of the property of any such Conrail Employee. "Conrail Employee" means a person who is an employee of Conrail or any agent or contractor of Conrail (other than METRO NO.), or

any person who at the time in question is acting within the scope of his or her employment by such agent or contractor. Conrail Employees who are involved in Conrail's provision of services to METRO NO. under this agreement shall be regarded as employees of Conrail, and not of METRO NO. Conrail Employees who are also METRO NO. Passengers at the time in question shall be treated as METRO NO. Passengers and not Conrail Employees, for purposes of this Agreement.

Section 6.03. METRO NO. Employees

METRO NO. agrees to protect, defend, indemnify and save harmless Conrail, irrespective of any negligence or fault of Conrail or Conrail Employees, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any METRO NO. Employee, or for loss of, damage to, or destruction of any property of any such METRO NO. Employee. "METRO NO. Employee" means a person who is an employee of METRO NO. or any agency or contractor of METRO NO. (other than Conrail), or any person who at the time in question is acting within the scope of his or her employment by such agent or contractor. METRO NO. Employees who are involved in METRO NO.'s provision of services to Conrail under this Agreement shall be regarded for purposes of this Agreement as employees of METRO NO., and not of Conrail. METRO NO. Employees who are also Conrail Passengers at the time in question shall be treated as

Conrail Passengers and not METRO NO. Employees, for purposes of this Agreement.

Section 6.04. Conrail Property

Conrail agrees to protect, defend, indemnify and save harmless METRO NO., irrespective of any negligence or fault of METRO NO. or METRO NO. Employees, or howsoever the same shall occur or be caused, from any and all liability for loss of, damage to, or destruction of any Conrail Property. "Conrail Property" means any locomotive, railroad car, including contents, and any other property, real or personal, owned, leased, used by or otherwise in the custody or possession of Conrail, other than any Conrail rolling stock operating in METRO NO. trains.

Section 6.05. METRO NO. Property

(a) In the event of a collision or occurrence involving a METRO NO. train and a Conrail train, irrespective of any negligence or fault of Conrail or Conrail Employees, or METRO NO. or METRO NO. employees, or howsoever the same shall occur or be caused, METRO NO. and Conrail shall each bear 50% of the liability for all loss of, damage to or destruction of any such METRO NO. Property. "METRO NO. Property" means any locomotive, railroad car, including contents, and any other property, real or personal owned, leased, used by or otherwise in the possession of METRO NO. (including CDOT and/or MTA Rail Properties or other

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real or personal property owned by CDOT or MTA) other than METRO NO. rolling stock operating in Conrail trains.

(b) In the event of a collision or occurrence involving a Conrail train but not a METRO NO. train, Conrail agrees to indemnify and save harmless METRO NO. irrespective of any negligence or fault of METRO NO. or METRO NO. Employees, or howsoever the same shall occur or be caused, for all loss of, damage to or destruction of any such METRO NO. Property.

(c) Except as provided in Sections 6.05(a) and (b), above, METRO NO. agrees to protect, defend, indemnify and save harmless Conrail, irrespective of any negligence or fault of Conrail or Conrail Employees, or howsoever the same shall occur or be caused, from any and all liability for loss of, damage to or destruction of any METRO NO. Property.

(d) The provisions of this Section 6.05 may be terminated by either party upon 90 days' notice.

Section 6.06. Conrail Passengers

Conrail agrees to protect, defend, indemnify and save harmless METRO NO., irrespective of any negligence or fault of METRO NO. or METRO NO. Employees, or howsoever the same shall occur or be caused, from any and all liability for injuries to or death of any Conrail Passenger, and for loss of, damage to, or destruction of any property of any such passenger. "Conrail Passenger" means any person other than a Conrail Employee who is on board, getting on, or alighting from a Conrail train.

Section 6.07. METRO NO. Passengers

(a) Except as noted in Section 6.14, in the event of a collision or occurrence involving a METRO NO. train or equipment and a Conrail train or equipment, irrespective of any negligence or fault of Conrail or Conrail Employees or METRO NO. or METRO NO. Employees, or howsoever the same shall occur or be caused, METRO NO. and Conrail shall each bear 50% of the liability for injuries to or death of any METRO NO. Passenger and for loss of, damage to or destruction of the property of any such passenger. "METRO NO. Passenger" means (1) any person other than a METRO NO. employee who is on board a METRO NO. train, except for Conrail Employees directly engaged in their employment for Conrail (not commuting to or from work), (2) any person who is not on board a METRO NO. train, but who has either purchased a ticket valid on METRO NO. trains or holds a travel voucher reflecting personal pass privileges granted by METRO NO. authorizing travel on a METRO NO. train, and (3) any person who is on, getting on or alighting from a METRO NO. train, or who is in a METRO NO. passenger station or on the platform or in the parking area for the purpose of meeting or delivering a person described in (1) or (2) of this sentence, or to purchase a METRO NO. ticket or obtain travel information.

(b) Except as provided in Section 6.07(a) above, METRO NO. agrees to protect, defend, indemnify and save harmless Conrail, irrespective of any negligence or fault of Conrail or Conrail Employees, or howsoever the same shall occur or be caused, from

any and all liability for injuries to or death of any METRO NO. passenger and for loss of, damage to, or destruction of property of any such passenger.

(c) The provisions of this Section 6.07 may be terminated by either party upon 90 days' notice.

Section 6.08. Third Part: Conrail Trains - Grade Crossing, Trespassers and Off-Premises

Subject to the provisions of Section 5.11 of this Agreement, Conrail agrees to protect, defend, indemnify and save harmless METRO NO. irrespective of any negligence or fault of METRO NO. or METRO NO. Employees, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any person, for loss of, damage to, or destruction of any property other than persons and property for which METRO NO. is responsible under Sections 6.03, 6.05 and 6.07 of this Agreement, if such injury, death, loss, damage or destruction either (i) arises from a collision of a vehicle or a person with a Conrail Train at the intersection at grade, of a street or road, whether public or private, and the tracks over which such Conrail Train is operating, (ii) arises from a collision of a vehicle or a person with a Conrail train on the right-of-way or (iii) occurs when such person or property is located off the right-of-way on which the aforesaid tracks are situated and arises from the operation of a Conrail Train.

Section 6.09. Third Parties: METRO NO. Trains - Grade Crossing, Trespassers and Off-Premises

Subject to the provisions of Section 6.10 of this Agreement, METRO NO. agrees to protect, defend, indemnify and save harmless Conrail, irrespective of any negligence or fault of Conrail or Conrail Employees, or howsoever the same shall be caused, from any and all liability for injury to or death of any person, or for loss of, damage to, or destruction of any property, other than persons and property for which Conrail is responsible under Sections 6.02, 6.04 and 6.06 of this Agreement, if such injury, death, loss, damage, or destruction either (i) arises from a collision of a vehicle or a person with a METRO NO. Train at the intersection at grade, of a street or road, whether public or private and the tracks over which such METRO NO. Train is operating, (ii) arises from a collision of a vehicle or a person with a METRO NO. train on the right-of-way or (iii) occurs when such person or property is located off the right-of-way on which the aforesaid tracks are situated and arises from the operation of a METRO NO. Train.

Section 6.10. Third Parties: Conrail Residuals

Conrail agrees to protect, defend, indemnify and save harmless METRO NO., irrespective of any negligence or fault of METRO NO. or METRO NO. Employees, or howsoever the same shall occur or be caused, from any and all liability for injury to or death of any person or for loss of, damage to or destruction of any property, other than persons and property for which METRO NO.

is responsible under Section 6.03, 6.05, 6.07, 6.09 and 6.11 of this Agreement, where such injury, death, loss, damage, or destruction arises out of activities conducted pursuant to Conrail operations on Conrail Rail Properties or Conrail operations conducted at freight stations and facilities owned or operated by Conrail.

Section 6.11. Third Parties: METRO NO. Residual

METRO NO. agrees to protect, defend, indemnify and save harmless Conrail, irrespective of any negligence or fault of Conrail or Conrail Employees, or howsoever the same shall occur, or be caused, from any and all liability for injury to or death of any person or for loss of, damage to or any destruction of any property, other than persons and property for which Conrail is responsible under Sections 6.02, 6.04, 6.06, 6.08, and 6.10 of this Agreement, where such injury, death, loss, damage, or destruction arises from activities conducted on METRO NO., MTA or CDOT Rail Properties as defined herein or conducted at passenger stations and facilities operated by METRO NO.

Section 6.12. Wrecking Charges

Nothing in this Agreement shall preclude the allocation or direct charging, in accordance with the circumstances of the case, for wrecking service resulting from an occurrence covered by Article VII of this Agreement.

Section 6.13. Liabilities Arising from Hazardous Substances and Electric Traction Facilities

Any other provision of this Article VI to the contrary notwithstanding:

(a) Conrail agrees to indemnify and save harmless CDOT, MTA and METRO NO.- irrespective of any negligence or fault of METRO No. or METRO NO. employees, or howsoever the same shall occur or be caused, from any and all damage and liability for injury to or death of any person or for loss of, damage to or destruction of any property, other than persons and property for which METRO No. is responsible under Section 6.03 hereof, where such injury, death, loss, damage or destruction arises from the transportation in Conrail Trains on MTA/CDOT Rail Properties of hazardous or toxic materials as defined in applicable federal or state laws or regulations, and including petroleum, crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance by such federal or state laws or regulations, provided, however, that Conrail also shall be required to indemnify and save harmless CDOT, MTA and METRO NO. for injury or death to, or destruction of or damage to property of, METRO NO. passengers (as defined in Section 6.07) under this subsection only to the extent such injury, death, damage or destruction arises from Conrail's negligence or from malicious or criminal acts of third parties. Hazardous or toxic materials shall also include natural gas, natural gas liquids, liquified

natural gas, or synthetic gas useable for fuel (or mixtures of natural gas and such synthetic gas).

Notwithstanding any provisions of this Agreement to the contrary, damage for which Conrail is responsible under the preceding paragraph shall include clean-up, removal, and remedial action required by law or the lawful directive of any agency having jurisdiction thereof, and restoration of hazardous or toxic materials on such property to a level commensurate with the existing condition of such property immediately prior to such damage.

(b) METRO NO. agrees to indemnify and save harmless Conrail and Conrail employees, irrespective of any negligence or fault of Conrail or Conrail employees, or howsoever the same shall occur or be caused, from any and all damage and liability for injury to or death of any person or for loss of, damage to or destruction of any property, other than persons and property for which Conrail is responsible under Sections 6.02 and 6.06, where such injury, death, loss, damage or destruction arises from the transportation in or servicing of METRO NO. Trains on Conrail property of hazardous or toxic materials as defined in applicable federal or state laws or regulations, and including petroleum, crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance by such federal or state laws or regulations. Hazardous or toxic materials shall also include natural gas, natural gas liquids,

liquified natural gas, or synthetic gas useable for fuel (or mixtures of natural gas and such synthetic gas).

Notwithstanding any provision of this Agreement to the contrary, damage for which METRO No. is responsible under the preceding sentence shall include clean-up, removal, and remedial action required by law or the lawful directive of any agency having jurisdiction thereof, and restoration of any portion of Conrail property that is damaged by METRO NO.'s transportation or use of hazardous or toxic materials on Conrail property to a level commensurate with the existing condition of such property immediately prior to such damage.

(c) METRO NO. shall protect, defend, indemnify and save harmless Conrail, irrespective of any negligence or fault of Conrail or Conrail Employees, or howsoever the same shall occur or be caused, from any and all liability (other than liability for which Conrail is responsible under Section 6.02 hereof) resulting from the existence or operation of electric traction facilities, whether overhead or third rail, in the area of METRO NO. operations so long as Conrail does not use such electric traction facilities in its freight operations.

Section 6.14. Liability Insurance

For so long as Conrail has trackage rights over METRO NO., MTA or CDOT Rail Properties, Conrail shall maintain liability insurance covering the contractual indemnification and hold harmless covenants set forth in this Article VI. Such liability

insurance shall cover any and all damages, liabilities, claims and lawsuits in connection with or arising out of the operation of Conrail freight service, including, but not limited to, liability under the Federal Employer's Liability Act and the Federal Safety Appliance Acts. Deductible amounts of such insurance shall be those generally applicable to Conrail operations.

For so long as METRO NO. has trackage rights over Conrail Rail Properties, METRO NO. shall maintain liability insurance covering the contractual indemnification and hold harmless covenants set forth in this Article VI. Such liability insurance shall cover any and all damages, liabilities, claims and lawsuits in connection with or arising out of the operation of METRO NO. service, including, but not limited to, liability under the Federal Employer's Liability Act and the Federal Safety Appliance Acts and liability to METRO NO. passengers. Deductible amounts of such insurance shall be those generally applicable to METRO NO. operations.

Section 6.15. Handling of Claims and Lawsuits; Cooperation

In the event a claim is filed or lawsuit brought against Conrail or METRO NO. (including MTA and/or CDOT) asserting a liability against which one party has agreed to indemnify and save harmless the party receiving the claim or being sued, the indemnifying party shall, at its sole cost and expense, investigate and handle the claim and defend the lawsuit and save

harmless the indemnified party against all costs and expenses thereof and pay any legitimate claim, settlement or final judgments. The party receiving any claim or notice of suit shall promptly advise the indemnifying party and provide all information which from time to time may be required, provided, however, that in those instances in which the parties have agreed to share the passenger liability, it is agreed that METRO NO. will handle all claims and lawsuits involving its passengers. Each party agrees that it will furnish the other with all available information in its possession relating to lawsuits and claims made for injury, death, loss, damage or destruction of property whenever requested by the party handling the claim or lawsuit. All expenses incurred in connection with the furnishing of such information shall be borne by the requesting party.

ARTICLE VII

CLEARING WRECKS

Section 7.01. Incidents on MTA or CDOT Rail Properties

(a) (1) When as a result of the operation of a Conrail train on MTA/CDOT Exhibit 5 Rail Properties rerailling, wrecking service or wreck train service is required, Conrail shall perform, or arrange to have performed, such service at Conrail's expense, including, without limitation, removal of damaged equipment.

(2) In the event that METRO NO.'s special use of these properties results in the need to clear wrecks, the provisions of Section 7.02 shall apply.

(b) With respect to incidents on MTA or CDOT Exhibit 1 Rail Properties, the following provisions shall apply:

(1) When, as a result of the operation of a Conrail Train on MTA/CDOT Exhibit 1 Rail Properties, rerailling, wrecking service or wreck train service is required, METRO NO., with the cooperation, assistance, and advice of Conrail, shall have the option of having Conrail perform such service, or perform it by itself or by its contractor at Conrail's sole cost and expense, including, but not limited to, removal of damaged equipment.

(2) When, as a result of METRO NO.'s and Conrail's joint use of Exhibit 1 Rail Properties, rerailling, wrecking service or wreck train service is required, the provisions of Section 7.01(b)(1) and (2) will apply, except that all costs, including without limitation, liability costs, will be apportioned in accordance with the provisions of Article VI.

(c) All Conrail locomotives, cars, equipment, lading (including loss thereof), and salvage from any such wreck or derailment under the management or control of METRO NO. shall remain the property of Conrail. All METRO NO. locomotives, cars, equipment, lading (including loss thereof), and salvage involved

in such wreck or derailment shall remain the property of METRO NO.

Section 7.02. Incidents on Conrail Rail Properties

(a) When as a result of the operation of a METRO NO. train on Conrail Rail Properties, rerailing, wrecking service, or wreck train service is required, Conrail promptly shall perform, or promptly arrange to have performed, such service at METRO NO.'s expense, including, without limitation, removal of damaged equipment provided that METRO NO. shall be permitted to remove its damaged equipment at its own expense.

(b) When as a result of METRO NO.'s and Conrail's joint use of Conrail Rail Properties, rerailing, wrecking service, or wreck train service is required, the provisions of Section 7.02(a) will apply, except that all costs, including, without limitation, liability costs, will be determined in accordance with the provisions of Article VI.

(c) All METRO NO. locomotives, cars, equipment, lading (including loss thereof), and salvage from any such wreck or derailment under the management or control of Conrail shall remain the property of METRO NO. All Conrail locomotives, cars, equipment, lading (including loss thereof) and salvage involved in such wreck or derailment shall remain the property of Conrail.

Section 7.03 Reports of Incidents

In the event a party performs any service in connection with an incident covered by Section 7.01 or Section 7.02 on its Rail Properties that is billable to another party, the performing party shall maintain a record of said service(s) in accordance with the documents set forth in Exhibit 11.

ARTICLE VIII

TERM, TERMINATION,
RENEGOTIATION, DEFAULT, DISCONTINUANCE

Section 8.01. Term

This Agreement shall be for an initial term of fifteen years commencing as of January 1, 1983. Thereafter, unless sooner terminated under applicable provisions of this Article VIII, this Agreement shall continue in force from year to year, subject to termination by any party on one year's notice. If such notice is given, this Agreement shall continue in force pending renegotiation. Neither a notice of termination nor termination shall affect the parties' rights and responsibilities under The Harlem-Hudson Lease Agreement, The MTA Purchase and Lease Agreement and The CTA Lease Agreement.

Section 8.02. Termination

This Agreement shall continue in full force and effect as set forth in Section 8.01 unless terminated as follows:

Either party may elect to terminate this Agreement if an Event of Default is not timely cured or satisfied following a Declaration of Default pursuant to Section 8.04(a) and (b).

Section 8.03. Renegotiation

The parties covenant that, should any of the events listed in Section 8.02 take place and any party elects to terminate this Agreement in accordance therewith, the parties shall promptly negotiate a new agreement.

Section 8.04. Default

MTA, CDO's and METRO NO., for purposes of this Section 8.04, Default, shall be deemed to constitute a single party, so that an action by any member of that collective group shall be considered an action by the party.

(a) Each of the following shall constitute an event of default (an "Event of Default") under this Agreement:

(1) The failure to pay in full any payment pursuant to Article V of the Agreement; or

(2) The failure to observe any other covenant or obligation contained in this Agreement, which failure

shall have continued for more than thirty days after the other party shall have given written notice demanding performance thereof; or

(3) Any material representation or warranty made in this Agreement shall prove untrue; or

(4) Any proceeding shall be commenced by or against either party which might result in any modification of the obligations of such party hereunder under any bankruptcy, insolvency, or similar law (unless all of the obligations of such party under this Agreement shall have been duly assumed by a trustee or successor to such party within sixty days after such proceeding shall have commenced;) or

(b) In the event an Event of Default shall have occurred and be continuing hereunder, the party not in default, upon written notice to the other party, may make a declaration of default (a "Declaration of Default") hereunder and exercise any or all of the following remedies:

(1) Terminate this Agreement by and upon sixty days' written notice to the party in default; and

(2) Pursue any other remedy at law or in equity in any court of competent jurisdiction.

(c) Failure of a party to make a Declaration of Default shall not be considered a waiver of any remedies available to it under this Agreement or otherwise. Nor shall an Event of Default be considered wiped out or satisfied by failure of a party to make a Declaration of Default with respect thereto.

Section 8.05. Discontinuance of Conrail Freight Service

(a) MTA/CDOT Rail Properties

(1) Notwithstanding the provisions of this Agreement, Conrail may seek regulatory authority to abandon its freight operations, in whole or in part, over the MTA/CDOT Rail Properties during the term of the Agreement. Conrail shall provide written notice of its intent to do so to METRO NO. if the Property is located in New York State and to CDOT and METRO-NO. if the property is located in Connecticut.

(b) Conrail Rail Properties

(1) Notwithstanding the provisions of this Agreement, Conrail may seek regulatory authority to abandon its freight operations, in whole or in part, over the Conrail Rail Properties during the term of this Agreement. Conrail shall provide notice to METRO NO. of its intent to do so.

(2) Within thirty days of METRO NO. receipt of Conrail notice of its intent to abandon freight service over Conrail Rail Properties, METRO NO. shall notify Conrail whether or not MTA or CDOT desires to assume ownership of those Conrail Rail Properties for railroad operations.

(3) MTA or CDOT shall have the right of first refusal before any disposition of these Conrail Rail Properties, subject to any preexisting rights or law.

(4) In the event MTA or CDOT should acquire the abandoned Conrail Rail Properties, METRO NO. and Conrail shall cooperate fully to secure such regulatory authority as

may be necessary for MTA's or CDOT's assumption of ownership.

(5) Until such time as Conrail abandons its operations thereover under the foregoing provisions, the terms and conditions of this Agreement shall remain in full force and effect.

(6) The provisions of this Section shall also apply in the event no regulatory authority is required to abandon service.

Section 8.06. Discontinuance of METRO NO. Commuter Service

(a) Notwithstanding the provisions of this Agreement, METRO NO. may take any necessary steps to discontinue its commuter service, in whole or in part, over Conrail Rail Properties. METRO NO. shall provide Conrail with notice of its intent to do so.

(b) Notwithstanding any provisions of this Agreement to the contrary, METRO NO. may discontinue its commuter operations over any of the MTA/CDOT Rail Properties. METRO NO. shall provide notice of its intent to do so, and the following terms and conditions shall apply:

(1) Within thirty (30) days of receipt of METRO NO.'s notice, Conrail will notify METRO NO. whether it wishes to continue freight service over all or part of the MTA/CDOT Rail Properties in question. In the event that it does so,

the property designated by Conrail shall be redesignated from Exhibit 1 to Exhibit 4 of this Agreement, and Conrail's trackage rights shall continue.

(2) Such Rail Properties shall also be redesignated as Exhibit 4 in the event that METRO NO. has operated no commuter service thereover for a period of five years.

(c) If either MTA or CDOT intends to sell or dispose of any of its Rail Properties, as defined in this Agreement, it will notify Conrail and within thirty days of receipt of its notice, Conrail shall notify either MTA or CDOT, as appropriate, whether it desires to assume ownership of those properties for railroad operation. Conrail will have the right of first refusal before any disposition of these MTA or CDOT Rail Properties subject to preexisting rights and statutes.

ARTICLE IX

DISPUTE RESOLUTION

Section 9.01. Resolution of Disputes Concerning Operations and Costs

In the event, and at such time as, any operating or cost dispute shall arise under this Agreement between Conrail and METRO NO., including any disagreement with any current Conrail, METRO NO., or federally mandated operating or safety rule, order, procedure, or standard applicable to such properties, either party shall have the right to submit such dispute or matter for binding determination by an arbitration panel.

The parties agree that before any operating or cost dispute is submitted to arbitration every effort will be made to resolve said dispute. In order to facilitate resolution of any operating or cost dispute, the parties agree to establish a committee, consisting of three members to be appointed by Conrail and three members to be appointed by METRO NO.

In the event the committee is unable to resolve any dispute or controversy within sixty (60) days of submission, it may be submitted by a party to binding arbitration in accordance with the procedures established in Sections 6.02-6.04 of the Harlem-Hudson and CTA Lease Agreements.

Section 9.02. Resolution of disputes concerning matters other than operations and costs.

In the event and at such time as a dispute arises as to any matter other than operations or costs as set forth in Section 9.01 above, any party shall have the right to submit such matter for binding determination by an arbitration panel.

The parties agree that before any such dispute is submitted to arbitration, every effort will be made to resolve said dispute. In the event a particular dispute cannot be resolved after good faith efforts on the part of the parties involved, a party may submit it to binding arbitration in accordance with the procedures established in Sections 6.02-6.04 of the Harlem-Hudson and CTA Lease Agreements.

Section 9.03. Arbitration under Amended and Restated
Service Agreement.

The parties agree that in the event of any dispute affecting only MTA, CDOT and/or METRO-NO., which does not involve Conrail, arbitration will be in accordance with Article Ten of the Amended and Restated Service Agreement among CDOT, MTA and METRO-NO. dated June 21, 1985.

ARTICLE X
GENERAL PROVISIONS

Section 10.01. Labor Rights

(a) The User agrees that its entrance upon and use of the Owner's properties is for its corporate purpose of providing service pursuant to appropriate authority and that such use does not create or continue any rights on the part of the User's employees or its contractors with respect to any other current or future use of the Owner's properties, including, but not limited to, maintenance, operation, rehabilitation, and improvement thereof by the Owner or Owner's contractors. Notwithstanding the provisions of Section 3.03(e), the User shall indemnify, defend, and hold harmless the Owner and the Owner's contractors against any liability arising from any claim of employment rights, or employment protection, arising from the performance of any work

for the User on the Owner's properties by the Owner or the Owner's contractors under this Agreement.

(b) Nothing contained in this Agreement shall require either party to perform any service or take any action which would violate any term or condition of any then-current labor agreement between the respective parties and any organization representing any of their respective employees or which would violate any applicable law.

Section 10.02. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the successors and assigns of the parties hereto. Except as provided in the following sentence, no party hereto shall assign or transfer this Agreement or any of its rights thereunder to any person, firm or corporation without obtaining the prior written consent of the other parties to this Agreement, which consent shall not be unreasonably withheld. In the event, however, that METRO-NO. should no longer be rail service operator on the CDOT Rail Properties under the Amended and Restated Service Agreement or substitute agreement, METRO-NO.'s rights and obligations under this Agreement pertaining to such properties and the Conrail Rail Properties located in the State of Connecticut automatically shall be assigned to and assumed by CDOT or its approved service operator without any further action being necessary. CDOT shall promptly notify Conrail of any such assignment and assumption.

Section 10.03. Force Majeure

(a) METRO NO. will be excused from its obligation under this Agreement to provide, operate, and maintain MTA and CDOT Rail Properties where non-performance is occasioned by any event beyond its control.

(b) Conrail will be excused from its obligations under this Agreement to provide, operate, and maintain Conrail properties where non-performance is occasioned by any event beyond its control.

Section 10.04. Amendment

(a) No term or provision in this Agreement may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the parties to this Agreement.

(b) All approvals and consents required under this Agreement shall be in writing, signed by a person designated in writing for such purpose unless otherwise provided in this Agreement or agreed to in writing by the parties. Any oral notices permitted by this Agreement shall be promptly confirmed in writing.

Section 10.05. Notices

(a) Unless otherwise provided in this Agreement, any notices required in this Agreement shall be in writing and sent to the parties at the addresses listed below, unless either party shall inform the other party in writing of any change in that address:

Conrail: Consolidated Rail Corporation
Senior Vice President-Operations
Six Penn Center Plaza
Philadelphia, PA 19103

METRO NO.: Metro North Commuter Railroad
Attention: Vice President - Operations
347 Madison Avenue
New York, NY 10017

CDOT: Connecticut Department of Transportation
Attention: Director of Rail Operations
P.O. Drawer A
24 Wolcott Hill Road
Wethersfield, CT 06109

MTA: Metropolitan Transportation Authority
Attention: Chairman
347 Madison Avenue
New York, NY 10017

Section 10.06. Effect of Execution and Performance

The parties do not, by reason of their execution of and the performance of their obligations under this Agreement, assume any other obligations or liabilities not imposed upon them by law.

Section 10.07. No Representations and Waivers

Except as expressly provided herein, the parties make no representations or warranties and waive no rights or remedies.

Section 10.08. Non-Discrimination

(a) As between MTA, METRO NO. and Conrail, the parties do hereby agree that the provisions of Sections 1266-C(13) and (14) of the New York Public Authorities Law, as amended and supplemented, dealing with discrimination in employment on public contracts, as set forth in Exhibit 12, are hereby made a part of

this Agreement and, to the extent applicable, are binding upon them.

(b) As between CDOT on one hand and MTA, METRO NO. and Conrail on the other, MTA, METRO NO. and Conrail agree to comply with the applicable State of Connecticut and federal laws and regulations as set forth in Exhibit 13, which are hereby made part of this Agreement.

Section 10.09. Effective Date

The effective date for purposes of this Agreement shall be January 1, 1983. It supersedes the Interim Trackage Rights Agreement effective January 1, 1983 as amended. In accordance with Section 6.01 of the Interim Agreement, costs agreed upon in this Agreement as payable shall be applied retroactively to January 1, 1983.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day first above written.

ATTEST:

CONSOLIDATED RAIL CORPORATION

Allan Schindler

By J. A. Hagen

ATTEST:

APPROVED METRO-NORTH COMMUTER RAILROAD
AS TO FORM

Kathy R. Perry

By Donald N. Nelson

Kathy R. Perry

Donald N. Nelson

ASSISTANT SECRETARY

President

ATTEST:

Jeanette Redmond
Assistant Secretary

ATTEST:

R P Felt

APPROVED AS TO FORM:

Assistant Arnold K. Shmehl
ASSOCIATE ATTORNEY GENERAL,
STATE OF CONNECTICUT

METROPOLITAN TRANSPORTATION
AUTHORITY

By [Signature]

CONNECTICUT DEPARTMENT OF
TRANSPORTATION

By [Signature]

Pursuant to Conn. Gen. Stat.
Sections 13b-23, 13b-34 and 13b-36.

8/6/91
Date

METRO-NORTH COMMUTER RAILROAD COMPANY

OFFICE OF THE SECRETARY

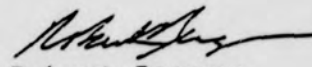
I HEREBY CERTIFY that the officers of Metro-North Commuter Railroad Company have been delegated authority, pursuant to a resolution adopted by the Board of Directors of the Company, to execute on behalf of the Company such contracts and agreements necessary or desirable for or in connection with the operation of commuter service and other transactions in connection therewith and that such delegations remain in full force and effect; and

I FURTHER CERTIFY that the duly appointed and acting officers of the corporation are as follows:

Chairman
President
Executive Vice President
Vice President - Operations
Vice President - Planning and Capital Programs
Vice President - Finance and Administration
Vice President - Marketing and Corporate Communications
Vice President - Human Resources
General Counsel and Secretary
Assistant Secretary
Treasurer

IN WITNESS WHEREOF I have hereunto set my hand and affixed the corporate seal of Metro-North Commuter Railroad Company this 7th day of December 1990.

ATTEST:

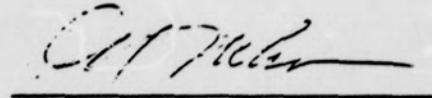

Robert Bergen
Secretary

(SEAL)

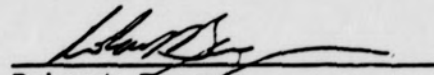
5236Z

INCUMBENCY CERTIFICATE

I, the undersigned, Robert Bergen, being the duly appointed and incumbent Secretary of Metro-North Commuter Railroad Company, ("Metro-North") do hereby certify that at all times since April 4, 1991, Donald N. Nelson has been the duly appointed and incumbent President of Metro-North and that a true and correct specimen of his signature is set forth in the space below:



In Witness Whereof, I have hereunto set my hand and the seal of Metro-North on this 20th of May, 1991.



Robert Bergen

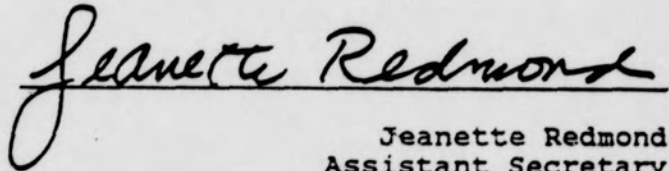
INCUMBENCY CERTIFICATE

I, the undersigned, Jeanette Redmond, being the duly appointed and incumbent Assistant Secretary of Metropolitan Transportation Authority, ("MTA") do hereby certify that at all times since April 23, 1986, Mortimer L. Downey, III has been the duly appointed and incumbent Executive Director of MTA and that a true and correct specimen of his signature is set forth in the space below:

A handwritten signature in cursive script, reading "Mortimer L. Downey, III", written over a horizontal line.

Mortimer L. Downey, III
Executive Director

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of MTA on this 19th day of July, 1991.

A handwritten signature in cursive script, reading "Jeanette Redmond", written over a horizontal line.

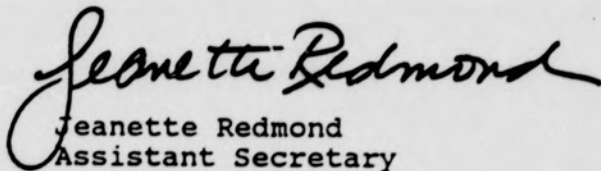
Jeanette Redmond
Assistant Secretary

METROPOLITAN TRANSPORTATION AUTHORITY

I HEREBY CERTIFY that the Executive Director of the Metropolitan Transportation Authority (the "Authority") has been delegated authority, pursuant to the By-laws of the Authority, to execute on behalf of the Authority such contracts and agreements as necessary or desirable in connection with the business and affairs of the Authority and that such delegation remains in full force and effect.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the corporate seal of Metropolitan Transportation Authority this 25th day of July, 1991.

ATTEST:


Jeanette Redmond
Assistant Secretary

INCUMBENCY CERTIFICATE

I, the undersigned, Allan Schimmel, being the duly elected Corporate Secretary of Consolidated Rail Corporation ("Conrail"), do hereby certify that, as of the date indicated below, James A. Hagen is the duly elected Chairman, President and Chief Executive Officer of Conrail and that a true and correct specimen of his signature is set forth in the space below:

J. A. Hagen

In Witness Whereof, I have hereunto set my hand on this
3rd day of July, 1991.

Allan Schimmel
Allan Schimmel

CONSOLIDATED RAIL CORPORATION

OFFICE OF THE SECRETARY

I HEREBY CERTIFY that James A. Hagen, Chairman, President and Chief Executive Officer of Consolidated Rail Corporation, has been delegated authority, pursuant to a resolution adopted by the Board of Directors of the Company, to execute on behalf of the Company such contracts and agreements necessary or desirable for or in connection with the operation of the Railroad and other transactions in connection therewith, and that such delegation remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of Consolidated Rail Corporation this 3rd day of July, 1991.

Allan Schimmel

Allan Schimmel
Corporate Secretary

(SEAL)



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

24 WOLCOTT HILL ROAD, P.O. DRAWER A
WETHERSFIELD, CONNECTICUT 06109

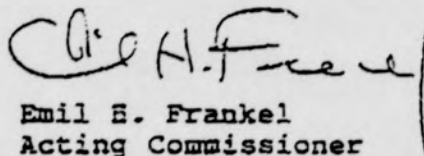


Office of the
Commissioner

An Equal Opportunity Employer

Delegation of Authority to Sign Documents
Authorized by Section 13b-20 of the
Connecticut General Statutes, As Amended

Know All Men By These Presents, That I, Emil H. Frankel,
Acting Commissioner of Transportation, as authorized by Section
13b-20 of the Connecticut General Statutes, as amended, do hereby
delegate to James F. Byrnes, Jr., Deputy Transportation
Commissioner, Department of Transportation, Bureau of Public
Transportation, the authority to sign any agreement, contract,
document or instrument which I am authorized to sign for said
Bureau.


Emil H. Frankel
Acting Commissioner

Date: 2/1/91

Time: 10:30 A.M.



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

24 WOLCOTT HILL ROAD, P.O. DRAWER A
WETHERSFIELD, CONNECTICUT 06109



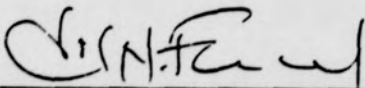
Office of the
Commissioner

An Equal Opportunity Employer

Delegation of Duties and Responsibilities
and Authority to Sign Agreements,
Contracts, Documents or Instruments

I, Emil H. Frankel, Commissioner of Transportation, under the authority of Sections 13b-17 and 13b-20 of the Connecticut General Statutes, hereby ratify, confirm and reissue all previous delegations of authority issued on February 1, 1991 and February 7, 1991 in my capacity as Acting Commissioner of Transportation.

Any and all actions taken thereunder by the designated personnel are hereby ratified and confirmed as being duly authorized by the Commissioner of Transportation.



Emil H. Frankel
Commissioner of Transportation

Date: March 1, 1991

EXHIBIT 1

MTA/CDOT RAIL PROPERTIES
USED JOINTLY WITH CONRAIL
(MAINTAINED BY METRO NO.)

<u>LINE</u>	<u>MILE POST</u>
NEW HAVEN LINE (L.C. 9108)	11.9 - 72.8 (Division Post)
NEW CANAAN BRANCH (L.C. 9118)	0.0 - 7.9 (E.O.T.)
DANBURY BRANCH (L.C. 9119)	0.0 - 24.2
WATERBURY BRANCH (L.C. 9121)	0.0 - 8.9
HUDSON LINE (L.C. 9100)	5.4 - 75.8 (Division Post)
PUTNAM INDUSTRIAL TRACK (L.C. 4223)	
HARLEM LINE (L.C. 9131)	5.4 - 77.0

All jointly used track on the above lines shall be maintained to at least Class I FRA Track Safety Standards.

EXHIBIT 2

CONRAIL RAIL PROPERTIES USED JOINTLY WITH METRO NO.

<u>LINE</u>	<u>MILE POST</u>	<u>CLASS OF TRACK</u>
SOUTHERN TIER LINE (L.C. 6102/6103)		
Suffern - Port Jervis		
(Maintained by Conrail)	31.3 - 89.9	
Suffern to Newburgh Jct.		Class 3
Newburgh Jct. to 5 miles east of Howells Jct.		Class 4
5 miles east of Howells Jct. to Port Jervis		Class 3
HARLEM LINE (L.C. 9131)		
Main Track (Maintained by METRO NO.)	77.0 - 81.6	Class 1
DANBURY SECONDARY (L.C. 4246)		
Beacon - Hopewell Jct.	0.0 - 12.6	
Hopewell Jct. - Derby Jct.	42.9 - 104.8	Class 1
(Maintained by Conrail)		

MTA/CDOT OWNED PROPERTIES -
TURNOUTS AND CROSSOVERS
(MAINTAINED BY METRO NO.)

NEW HAVEN LINE

<u>MILEPOST</u>	<u>TK</u>	<u>DESCRIPTION</u>	<u>RESP.</u>	<u>NO./TOs</u>
12.2	4	Woodlawn - Terranova	CR	1
14.3	4	West Chester Rockland	CR	1
19.7	3	Mamaroneck Yard	CR	1
25.8	3	Portchester Team Track	CR	1
26.6	3	Arnold's Bakery	CR	1
27.2	3	Ct. Natural Gas	CR	1
35.3	4	Richardson Gypsum	CR	1
36.7	3	Rings End Lumber	CR	1
43.6	3	Westport Team TK/Pepperidge	CR	1
50.2	3	Fairfield Team Track	CR	1
52.3	3	Bigelow Tea	CR	1
52.8	4	Bullard's	CR	1
53.2	3	State St. Yard	JT.	1
53.5	4	Lead to Railroad Ave/ Wordin Ave.	CR.	1
55.5	3	D'Addario (N. Bridgeport I.T.	CR	1
56.9	4	E. Bridgeport Yd.	JT.	1
56.9	4	Lead to GE/Remington	CR	1
57.2	4	E. Bridgeport Yd.	JT.	2
60.6	4	Devon East Leg 4	JT.	1
64.0	4	Milford Crane	CR	1
64.8	3	U.S. Electric Motors	CR	1
65.0	3	Reliable Steel Drum	CR	1
65.1	4	Furniture Transport	CR	1
65.1	3	Owens, Illinois	CR	1
65.8	3	Furman Lumber	CR	1
66.0	4	Brewster Building	CR	1
66.6	3	Boise Cascade	CR	1
67.0	3	DiChello Distrib.	CR	1
67.1	3	A.P. Green	CR	1
67.9	3	Miles	CR	1
68.1	3	Richardson	CR	1
68.3	3	Star Distributor	CR	1
68.4	4	Kalfus Steel	CR	1
68.5	3	Elder Bros.	CR	1
68.7	3	Sears	CR	1
69.7	3	Armstrong	CR	1
70.4	3	West Haven Team Tr.	CR	1
70.7	4	Atlas Movers	CR	
72.8	1	Connecticut Reserve Supply	CR	1

HUDSON LINE

<u>MILEPOST</u>	<u>TK</u>	<u>DESCRIPTION</u>	<u>RESP.</u>	<u>NO./TOS</u>
5.6	5	Mo "Wye"	JT.	1
6.4	4	Highbridge Yard	CR	1
7.0	4	Highbridge Yard	CR	1
8.9	4	Intl. Salt. Butler Lumber	CR	1
10.1	1	FH, G&T Packaging	CR	1
13.8	4	TK6 Crossover	JT.	2
15.5	3	Kawasaki	CR	2
16.3	4	Crossover to Yonkers Yd.	CR	2
19.2	4	Noble Van-Hastings	JT.	1
22.3	4	Irvington Lumber	CR	1
23.9-25.0	1-3	East Middle Track	CR	3
25.0	3	OW Yard - AIP	JT.	1
25.9	4	Chevy Yard	CR	1
25.9	3	Auto Yard	CR	1
26.2	4	Chevy Yard	CR	2
26.2	3	Auto Yard	CR	1
26.3	2/2	CP-26 Xover	CR	2
34-26.3	2/2	CP-35 Xover to West Yd.	JT.	2
36.6	4	CP-35 ³⁶ (Croton West Yd).	CR	1
40.5	4	West Chester Resco	CR	1
40.8	1	Hearl/Storage	JT.	1
41.0	2	Storage/Team Track	JT.	1
58.4	2	Danbury Sec.	JT.	1
58.7	C/S	Nabisco	JT.	1
61.0	C/S	Circle M Lumber	CR	1
63.4	1	American Lumber	CR	1
69.7	1	IBM	CR	1
72.6	1	Controlled Siding	JT.	1
73.6	2	Access to River Yard	CR	1
74.5	C/S	CNE Yard	CR	1
75.4	1	Controlled Siding	JT.	1

HARLEM LINE

<u>MILEPOST</u>	<u>TK</u>	<u>DESCRIPTION</u>	<u>RESP.</u>	<u>NO./TOS</u>
5.0		Mo Wye	JT.	1
6.2	3	Port Morris I.T.	CR	1
7.3	4	Tulnoy Lumber	CR	1
12.5	3	Ampacet	CR	1
12.7	3	Sound Distributors	CR	1
13.0	3	Tomkins Lumber	CR	1
13.3	3/1	Mt. Vernon West	JT.	2
14.0	1	Mt. Vernon Yard	JT.	1
28.1	2	Hawthorne, Con Ed	CR	1
29.9.	1	Pleasantville Runaround	CR	2
36.8	2	Suburban Propane	CR	1
37.7	1	Grand Union	CR	1
43.4	2	Kings Lumber/Goldens Bridge	CR	1
55.2	S	Dykemans	JT.	1
68.8	S	Wingdale Psych. Hosp.	CR	1
72.1	S	Dover Furnace	CR	1
76.7	S	N/E Dover Plains Siding	CR	1

WATERBURY BRANCH

0.3-1.2	S	Siding	CR	1
8.7	S	South Wye - Derby	JT.	1
8.8	S	North Wye - Derby	CR	1

NEW CANAAN Branch

3.6	S	Springdale Team Track	CR	1
7.7	S	New Canaan Lumber	CR	1
7.8	S	New Canaan Crossover	CR	2

DANBURY BRANCH

<u>MILEPOST</u>	<u>TK</u>	<u>DESCRIPTION</u>	<u>RESP.</u>	<u>NO./TOS</u>
0.8	S	Dock Yard	JT.	1
1.1	S	CL&P.	CR	1
1.3	S	Devine Bros./Libner	CR	1
11.8	S	Gilbert & Bennett	CR	1
12.8	S	Gilbert & Bennett	CR	1
20.0	S	Shepard's Warehouse	CR	1
20.4	S	Vanderbilt Chemical	CR	1
20.4	S	Bethel S/E	JT.	1
20.4	S	Condux	CR	1
20.5	S	Rings' End Lumber	CR	1
20.5	S	Shepard's R/A	JT.	1
20.6	S	Team Track	CR	1
22.4	S	Sperry Rail	JT.	1
23.0	S	CL&P	CR	1
23.0-23.8	S	Danbury Yard	CR	5

EXHIBIT 4

MTA/CDOT RAIL PROPERTIES
USED EXCLUSIVELY BY CONRAIL
(MAINTAINED BY CONRAIL)

<u>LINE</u>	<u>MILEPOST</u>
<u>HUDSON LINE (L.C. 9100)</u>	
1. TARRYTOWN	
Chevy Yard	25.7
<u>HARLEM LINE (L.C. 9131)</u>	
1. WAKEFIELD-AMPACET LEAD	12.5
<u>DANBURY BRANCH (L.C. 9119)</u>	
1. DANBURY	
Yard Tracks (16 thru 42 and Enginehouse 1, 2, 3)	23.7
<u>SUFFERN INDUSTRIAL TRACK</u>	0.0 - 3.33
(a/k/a Piermont Branch)	6.2 - 6.5

EXHIBIT 5

MTA/CDOT RAIL PROPERTIES USED EXCLUSIVELY BY CONRAIL (MAINTAINED BY METRO NO.)

(1 of 2)

<u>LINE/FACILITY</u>	<u>MILE POST LOCATION</u>	<u>LEVEL OF MAINTENANCE</u>
<u>HUDSON LINE</u>		
FH Yard Lead (Maintained to Property Line)	9.8	Class 1
Track 6-Riverdale-Yonkers		Class 1
East Middle-Tarrytown	24.9	Class 1
OW Yard-Tarrytown	24.8	Class 1
Peekskill [Team Track]	41.28	Class 1
Burnwell-Mearl Siding	40.6	Class 1
Beacon-Salt Track	58.5	Class 1
IBM Lead	69.7	Class 1
Poughkeepsie-River Yard [4-6 Track]	74.0	Class 1
CNE Yard	74.0	Class 1
Lead to Dutton	74.4	Class 1 ^{1/}
<u>HARLEM LINE</u>		
Mt. Vernon West-Team Track	13.9	Class 1
Pleasantville-Runaround	29.9	Class 1
Mt. Kisco-Team Track	36.8	Class 1
Goldens Bridge-Lead to King Lumber	43.4	Class 1
Milepost 77.0-81.03 [EOT]		Class 1 ^{2/}
<u>NEW HAVEN LINE</u>		
Mamaroneck Yard	19.6	Class 1
Port Chester Team Track	25.75	Class 1
Westport Yard-Lead to Pepperidge Farms Team Track	43.6	Class 1
Fairfield-Team Track	50.3	Class 1
Bridgeport-State St. Yard Lead	53.1	Class 1
Stratford-Stratford Spur	57.8 (0.0-EOT)	Class 1 ^{3/}
East Bridgeport Yard-Team Track	57.0	Class 1
West Haven-Team Track	70.37	Class 1

^{1/} METRO NO. inspects, maintains—operating rights PC to CR.

^{2/} METRO NO. inspects, maintains track.

^{3/} Line inspected and maintained by METRO NO., not CDOT property.

EXHIBIT 5

MTA/CDOT RAIL PROPERTIES
USED EXCLUSIVELY BY CONRAIL
(MAINTAINED BY METRO NO.)

(2 of 2)

<u>LINE/FACILITY</u>	<u>MILE POST LOCATION</u>	<u>LEVEL OF MAINTENANCE</u>
<u>NEW CANAAN BRANCH</u>		
Springdale-Team Track	3.75	Class 1
<u>DANBURY BRANCH</u>		
Dock Yard-Team Track	0.91	Class 1
Bethel-Upper and Lower Lead	20.0	Class 1
<u>WATERBURY BRANCH</u>		
Devon-Siding	0.10	Class 1

EXHIBIT 6

CONRAIL RAIL PROPERTIES -
USED EXCLUSIVELY BY METRO NO.

<u>SOUTHERN TIER LINE/FACILITY</u>	<u>MILE POST LOCATION</u>
Turnout to Port Jervis Passenger yard (Maintained by Conrail)	M.P. 87.3
Crossover to West End of Passenger yard (Maintained by Conrail)	M.P. 87.8
Radio Base at Otisville (Maintained by METRO NO.)	M.P. 74.76

EXHIBIT 7

MTA/CDOT RAIL PROPERTIES
USED EXCLUSIVELY BY METRO NO.
(MAINTAINED BY CONRAIL)

PORT JERVIS PASSENGER YARD -

Radio Base at Newburgh^{Jul.} - M.P. 45.0

Radio Base at^{Port} Nervis (Local) - M.P. 87.2

**EXHIBIT 8 TO CONRAIL/MNR/MEA/CDOT TRACKAGE RIGHTS AGREEMENT EFFECTIVE 1-1-83
DEFICIT METHOD AND ACTUAL ESCALATION OF PER CAR MILE AND MAINTENANCE
IN ACCORDANCE WITH SECTION 5.04**

1. Car Mile Rates

a. Index Year	1983	1984	1985	1986	1987	1988	1989	1990
b. Year in which Escalation is Calculated	1984	1985	1986	1987	1988	1989	1990	1991
c. Base Index Year	1982	1982	1982	1982	1982	1982	1982	1982
d. Base Rate	\$0.200	\$0.200	\$0.200	\$0.200	\$0.200	\$0.200	\$0.200	\$0.200

e. Escalation Formula: Index Year (a) minus Base Index Year (c) divided by Base Index Year (c) times Base Rate (d) plus Base Rate (d) equals Revised Base Rate to become effective as of July 1 in the Year in which Escalation is Calculated (b)

f. Actual Escalation Procedure

(1) Year in which Escalation is Calculated which rate will become effective as of July 1st of that year.	1984	1985	1986	1987	1988	1989	1990
(2) Index Year	1983	1984	1985	1986	1987	1988	1989
Index	174.5	181.2	185.7	193	200.4	212.7	221
(3) Base Index Year (1982)	161.8	161.8	161.8	161.8	161.8	161.8	161.8
(4) = (2) minus (3)	12.7	19.4	23.9	31.2	38.6	50.9	59.2
(5) = (4) divided by (3)	0.07849	0.11990	0.14771	0.19283	0.23857	0.31459	0.36588
(6) = Base Rate (\$.200) times (5)	\$0.016	\$0.024	\$0.030	\$0.039	\$0.048	\$0.063	\$0.073
(7) = Base Rate	\$0.200	\$0.200	\$0.200	\$0.200	\$0.200	\$0.200	\$0.200
(8) Revised Base Rate = (6) + (7)	\$0.216	\$0.224	\$0.230	\$0.239	\$0.248	\$0.263	\$0.273

2. Maintenance Rates (Flat Rate per Turnout/Crossover)

a. Index Year	1983	1984	1985	1986	1987	1988	1989	1990
b. Year in which Escalation is Calculated	-	1984	1985	1986	1987	1988	1989	1990
c. Base Index Year	1983	1984	1985	1986	1987	1988	1989	1990
d. Base Rate	\$5879	\$5879	\$5879	\$5879	\$5879	\$5879	\$5879	\$5879

e. Escalation Formula: Index Year (a) minus Base Index Year (c) divided by Base Index Year (c) times Base Rate (d) plus Base Rate (d) equals Revised Base Rate to become effective as of January 1 in the Year in which Escalation is Calculated (b)

f. Actual Escalation Procedure

(1) Year in which Escalation is Calculated which rate will become effective as of January 1st of that year.	1983	1984	1985	1986	1987	1988	1989	1990
(2) Index Year	1983	1984	1985	1986	1987	1988	1989	1990
Index	174.5	181.2	185.7	193	200.4	212.7	221	221.2
(3) Base Index Year (1983)	174.5	174.5	174.5	174.5	174.5	174.5	174.5	174.5
(4) = (2) minus (3)	0	6.7	11.2	18.5	25.9	38.2	46.5	46.7
(5) = (4) divided by (3)	0.00000	0.03840	0.06418	0.10602	0.14842	0.21891	0.26648	0.26762
(6) = Base Rate (\$5879) times (5)	\$0	\$226	\$377	\$623	\$873	\$1287	\$1567	\$1573
(7) = Base Rate	\$5879	\$5879	\$5879	\$5879	\$5879	\$5879	\$5879	\$5879
(8) Revised Base Rate = (6) + (7)	\$5879	\$6105	\$6256	\$6502	\$6752	\$7166	\$7446	\$7452

Note that in escalating the Maintenance Rate the Index Year and Year in which the escalation is calculated are the same. Since the Final Index figure for a given calendar year is not available until the subsequent calendar year it will be necessary to bill the current year on an estimated basis. It is agreed that the current year estimated billing will be accomplished using the first quarter forecast of the AAR Annual Indexes. When the Final Index becomes available in the next calendar year the prior years billing will be retroactively adjusted to agree with the Final Index. Thus the 221.2 Index in the Year 1990 for Maintenance is a First Quarter 1990 figure.

NOTE: The Flat Rate Maintenance Rate is comprised of two increments:
(1) \$3576 Routine Maintenance (2) \$2301 All Other Maintenance.

EXHIBIT 9

CLEARANCES ON MTA AND CDOT RAIL PROPERTIES

A. The vertical clearances on MTA and CDOT Rail Properties shall be those clearances set forth in Metro North Commuter Railroad Timetable No. 4, effective April 7, 1991, a copy of which is attached hereto, as supplemented by the following provisions:

1. Hudson Line clearances have changed since 1983 due to the Conrail-NYSOT funded Clearance Project to permit bi-levels to reach Tarrytown. Therefore, all cars up to 19'4" shall be accommodated between CP75 and MP 6.2, with specific track restrictions as noted in Timetable No. 4.
2. New Haven Line clearances between CP216 to CP112 on Nos. 2 and 4 Tracks have been reduced since 1983 to 15'0" open top and 15'2" closed top. The original clearances of 15'4" open top and 15'6" closed top shall be restored the next time the track is surfaced, which shall be no later than June 30, 1995;
3. New Canaan Branch clearances shall be 15'4" open top, 15'6" closed top;
4. Danbury Branch clearances shall be:
MP 0.0 to MP 12.7 - 16'2"
MP 12.7 to MP 23.6 - 17'6"
5. Waterbury Branch clearances shall be:
MP 0.0 to 8.9 - 17'9"
6. All clearances for MTA/CDOT Rail Properties listed in Exhibits 4 and 5 (maintained by Conrail or maintained by Metro-North for Conrail) shall be those applicable to the line segment where the particular properties are situated.
7. Any new construction over Rail Properties used jointly by Conrail and Metro North or exclusively by Conrail shall maintain the applicable state minimum statutory clearance requirements. Any replacement structure, including bridges, signal masts etc. shall meet the applicable state minimum vertical clearance requirements.

B. The lateral or horizontal clearances, especially with regard to high-level platforms, shall be governed by applicable State-Federal laws and Conrail's MW-4 Standards.



TIMETABLE NO. 4

IN EFFECT 2:01 A.M. SUNDAY
APRIL 7, 1991

FOR EMPLOYEES ONLY

R.J. SINIGIANI

GENERAL SUPERINTENDENT-TRANSPORTATION

1160-D Car Restrictions

Hudson Line	
A.C.T. Loop Trains	M Series cars are prohibited from operating around loop tracks with passengers unless authorized by the Train Dispatcher's Office.
Grand Central Terminal	Freight cars in excess of 50 feet prohibited unless authorized by the Train Dispatcher's Office.
Division Post C.R.C. to CP78	Cars higher than 17 ft. 4 in.
CP78 to MP 6.2	Cars higher than 17 ft. 0 in.
MP 6.2 to 87th Street	Cars higher than 15 ft. 6 in.
South of 87th Street	Cars higher than 14 ft. 6 in.
	• Bi-level cars (TTGX Series) not higher than 19 ft. 4 in. authorized between CP78 and MP25.4 with following restrictions: CP35-CP34. Must operate No. 2 track CP34-CP33. Must operate No. 4 track South of Bridge No. 25.41. "armytown" prohibited.
Harlem Line	
Division Post C.R.C. to Pelham Jct.	Cars higher than 17 ft. 9 in.
Pelham Jct. to No. White Plains	Cars higher than 16 ft. 10 in.
No. White Plains to CP113	Cars higher than 15 ft. 4 in.
CP113 to CP112	Cars higher than: 15 ft. 6 in. on No. 4 and No. 3 track 14 ft. 10 in. on No. 2 track 15 ft. 4 in. on No. 1 track
South of CP112	Cars higher than: 14 ft. 10 in. on No. 2 and No. 3 track 15 ft. 6 in. on No. 4 track to 138th Street 15 ft. 4 in. on No. 1 track to 144th Street
New Haven Line	
Division Post - R.E.C. to South	Open top cars 16 ft. 1 in. Close top 16 ft. 3 in.
South to CP 218	Open top cars 15 ft. 4 in. Close top 15 ft. 6 in.
CP 218 to CP112	Open top cars 15 ft. 0 in. Close top 15 ft. 2 in. on No. 2 and No. 4 tracks. Open top cars 15 ft. 4 in. Close top 15 ft. 6 in. on No. 1 and No. 3 track.
New Haven Line	Cars exceeding plate C unless authorized by the Train Dispatcher's Office. Plate C cars restricted from operating on No. 1 track between CP 218 and CP 223

STANDARD FORM FOR DETOUR AGREEMENT

Adopted by the Association of American Railroads for its predecessor The American Railway Association, October 25, 1905; with amendments adopted November 10, 1910, May 17, 1911, November 19, 1913, November 17, 1920, May 15, 1924, October 2, 1947, September 3, 1957, July 1, 1967, July 1, 1978, and January 1, 1984.

NOTE—This agreement should be executed on behalf of each company party thereto by an executive officer thereof and duly attested.

This Agreement, Executed in duplicate between

....., a Corporation created and existing under the laws of

and

....., a Corporation created and existing under the laws of

Witnesseth, That,

Whereas, should the railways of either party hereto become impassable by reason of unforeseen occurrences, making detour movement desirable, each party hereto is willing whenever, in its judgment, the conditions warrant, and subject to the terms and conditions hereinafter set forth, to temporarily permit the trains of the other party, hereinafter referred to as the Foreign Company, to be run over its tracks (Home Company) as a service of accommodation and reciprocation.

Now, Therefore, it is mutually agreed by and between the parties hereto as follows:

1. Whenever the Foreign Company desires to detour its trains it shall notify the Home Company, the circumstances necessitating detour movement, between what points, the number and character of trains and such other information as may be required by the Home Company. Upon receipt of such notice the Home Company shall promptly grant or refuse the accommodation requested. The granting of the accommodation will not warrant nor imply the insurance of the Foreign Company's trains against any of the risks of transportation, nor the assumption of liability therefor, by the Home Company. In the event of refusal to grant such permission, the Foreign Company shall have no claim of any nature against the Home Company by reason of such refusal.

2. The Foreign Company, if granted such permission, shall run its trains between the points designated over the tracks of the Home Company, using, unless otherwise agreed between the parties, its own engines, engine crews and train crews fully conversant with the Standard Code of the Association of American Railroads, but always with a pilot or pilots (not more than one pilot for each Foreign engine crew or train crew, nor more than two for any one train), to be furnished by the Home Company, and subject to all the rules and regulations of the Home Company, and the orders of its train dispatcher.

In case, by mutual agreement, the Home Company shall furnish engines and engine crews to haul, help or push trains of the Foreign Company, or in case, without mutual agreement, it becomes necessary, by reason of failure of the Foreign Company's engine to handle its train at speed required by the Home Company, or for other cause (including foreign engine not being equipped with train control or cab signals) for the Home Company to furnish engines and engine crews to haul, help or push trains of the Foreign Company, it may do so, and except at its option, without releasing pilot or pilots previously assigned to the train.

3. The Foreign Company, if granted such permission, shall promptly, upon presentation of bill, pay to the Home Company for trackage, the sum of \$9.00¹, per train mile, or fraction thereof (a light engine to be considered as a train), with minimum trackage charge of \$56.00, for each train detoured. The Foreign Company shall also reimburse the Home Company for any extra expenses incurred by the employment of additional operators, dispatchers, or others, or overtime paid any employee resulting directly from the detour movement.

On the request of the Foreign Company cars bad ordered out of detoured trains may be detoured under the terms of this Agreement, except that there shall be paid by the Foreign Company in full for such service \$9.00 per car mile for each freight car and \$1.35 per car mile for each passenger, baggage, express or sleeping car; car mileage and per diem as to all such cars to be assumed by the Foreign Company.

The costs of labor as referred to in this Agreement include actual wages plus additives according to joint facility accounting procedures of the Home Company. Additional charges for other services rendered and supplies furnished by the Home Company shall be charged to the Foreign Company at the rates specified below.

	When engine is furnished	
	By Foreign Company Sec. 2, Par. 1	By Home Company Sec. 2, Par. 2
(a) Per locomotive unit mile, including light mileage to and from point of service ¹	None	\$5.75
(b) Per engine turned on turntable or wye ²	\$5.50	None
(c) Per car turned on turntable ³	\$5.50	\$5.50
(d) Per train turned on wye ⁴	\$17.00	\$17.00
(e) Fuel	****	None
(f) Other engine supplies	****	None
(g) Other train supplies	****	****
(h) Enginehouse expenses	****	None
(i) Engine repairs	****	None
(j) Pilots, including deadhead or light mileage to and from point of service, and furnished in accordance with Section 2, paragraphs 1 and 2	****	****
(k) Crews furnished, train or engine, including deadhead or light mileage to and from point of service	****	****
(l) Bridge, ferry, terminal, trackage or switching charges assessed by other carriers in connection with handling detoured trains	Contract or tariff rates	Contract or tariff rates

¹ Includes wages of car inspectors inspecting detoured trains at regular inspection points

² Includes use of engine, fuel, and supplies but excludes crew

³ No mileage charge to be included

⁴ Costs plus additives according to the joint facility accounting procedures of the Home Company

UNUSUAL OCCURRENCE REPORT

1. TYPE OF OCCURRENCE		2. CLASS OF TRACK		3. PREPARED BY	
01 DERAILMENT 02 HEAD ON COLLISION 03 REAR END COLLISION 04 SIDE COLLISION 05 BACKING COLLISION 06 SLOWED TRAIN COLLISION 07 RAIL-HIGHWAY TRUCK COLL.		08 RR GRADE AND COLLISION 09 OBSTRUCTION INCIDENT 10 EXPLOSION-DETONATION 11 FIRE/VIOLENT RUPTURE 12 OTHER RAIL EQUIP. INCIDENTS 13 NON-RAIL EQUIPMENT INCIDENT		4. CLASS OF TRACK M - MAIN T - YARD S - SIDE I - INDUSTRIAL P - PRIVATE F - FOREIGN O - OFF-TRACK	
5. REGION		6. DIVISION		7. DATE MO. DAY YR.	
8. LINE/BRANCH/YARD		9. TYPE A - RUNNING TRACK B - BRANCH C - CONNECTING TRACK D - INDUSTRIAL TRACK E - SECONDARY YARD		10. PLACE	
11. ADDR		12. MILEPOST		13. TRACK NO.	
14. TRACK NAME		15. TRACK NO.		16. AUTH. SPEED	
17. OBSTRUCTIONS		18. TRACK NO.		19. AUTH. SPEED	
20. TRAIN SYMBOL		21. LEAD ENG. NO.		22. ADDITIONAL UNITS (NO. &)	
23. LEADS		24. EMPTIED		25. TONS	
26. ENGINEER		27. CONDUCTOR		28. DIRECTION	
29. ACTIVITY		30. ENGINEER		31. CONDUCTOR	
32. ENGINE-DETAILED		33. CARS DERAILED		34. THEIR LOCATIONS IN TRAIN	
35. NAME OF RELIEF (WRECKING) FORCE		36. KIND 1. WRECK TRAIN 2. RAIL-HIGHWAY CRANE 3. BLOCK TRUCK 4. OTHER M.E. 5. OTHER M.W. 6. T & S ONLY 7. OTHER		37. CALLED	
38. REPAIRING COMPLETE		39. ADDITIONAL INFORMATION		40. ARRIVED	
41. PERSONAL INJURY INVOLVED 0. NONE 1. FATAL 2. MEDICAL ATTENTION 3. RESTRICTED, LOST TIME ETC.		42. CLASS OF PERSON 1. EMPLOYEE ON DUTY 2. EMPLOYEE NOT ON DUTY 3. PASSENGER 4. NON-PASSENGER 5. TRESPASSER		43. NAME, DESCRIPTION AND DISPOSITION	
44. CAUSE CODE		45. CAUSE DESCRIPTION		46. EQUIPMENT INVOLVED - INITIAL & NUMBER	
47. EQUIPMENT INVOLVED - INITIAL & NUMBER		48. WORK ORDER NUMBER		49. COMMENTS	
50. TRACK DAMAGE		51. SIGNAL DAMAGE		52. OTHER RR PROP DAMAGE	
53. LADING LOSS		54. PROPERTY OF OTHERS		55. OTHER COSTS	
56. TOTAL RR DAMAGE		57. TOTAL COST		58. REMARKS	

MAJOR ITEMS OF EQUIPMENT

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

INITIAL	CAR NUMBER	CLASS/LOT	COMMODITY	LIGHT WEIGHT	BUILT/REBUILT	TIME REPAIRED

§ 1266-c. Transit projects

[See main volume for text of 1 to 12]

13.- a. All contracts for design, construction, services and materials pursuant to this title of whatever nature and all documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(i) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(ii) At the request of the New York city transit authority, the metropolitan transportation authority, and their subsidiaries (hereinafter referred to as the authority), the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the authority to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(iii) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of the contract with the authority, that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(iv) The contractor will include the provisions of subparagraphs (i) through (iii) of this paragraph in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract with the authority.

b. The authority shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action and equal employment opportunity as required by this subdivision. Such procedures may require after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. The authority may take appropriate action including contractual sanctions for non-compliance to effectuate the provisions of this subdivision and shall be responsible for monitoring compliance with this title.

STATE OF CONNECTICUT
BY HIS EXCELLENCY
THOMAS J. MESKILL
GOVERNOR
EXECUTIVE ORDER NO. SEVENTEEN

WHEREAS, Section 31-137 of the General Statutes of Connecticut as amended requires the maintaining of the established free services of the Connecticut State Employment Service to both employers and prospective employees and

WHEREAS, Section 31-5 of the General Statutes of Connecticut requires that no compensation or fee shall be charged or received directly or indirectly for the services of the Connecticut State Employment Service and

WHEREAS, large numbers of our citizens who have served in the Armed Forces of our nation are returning to civilian life in our state and seeking employment in civilian occupations and

WHEREAS, we owe a duty as well as gratitude to these returning veterans including the duty to find suitable employment for them and

WHEREAS, many of our handicapped citizens are fully capable of employment and are entitled to be placed in suitable employment and

WHEREAS, many of the citizens of our state who are unemployed are unaware of the job openings and employment opportunities which do in fact exist in our state and

WHEREAS, notwithstanding the free services of the Connecticut State Employment Service, many of our Connecticut employers do not use its free services or do not avail themselves fully of all of the services offered.

NOW, THEREFORE, I, THOMAS J. MESKILL, Governor of the State of Connecticut, acting by virtue of the authority vested in me under the fourth article of the Constitution of the State and in accordance with Section 3-1 of the General Statutes, do hereby ORDER and DIRECT, as follows, by this Executive Order:

I
The Labor Commissioner shall be responsible for the administration of this Order and shall do all acts necessary and appropriate to achieve its purpose. Upon promulgation of this Order, the Commissioner of Finance and Control shall issue a directive forthwith to all state agencies that henceforth all state contracts and subcontracts for construction on public buildings, other public works and goods and services shall contain a provision reserving such contract or subcontract subject to this Order, and that such contract or subcontract may be cancelled, terminated or suspended by the Labor Commissioner for violation of or noncompliance with this Order, notwithstanding that the Labor Commissioner is not a party to such contract or subcontract.

II
Every contractor and subcontractor having a contract with the state or any of its agencies, boards, commissions, or departments, every individual partnership, corporation, or business entity having business with the state or who or which seeks to do business with the state, and every bidder or prospective bidder who submits a bid or replies to an invitation to bid on any state contract shall list all employment openings with the office of the Connecticut State Employment Service in the area where the work is to be performed or where the services are to be rendered.

III
All state contracts shall contain a clause which shall be a condition of the contract that the contractor and any subcontractor holding a contract directly under the contractor shall list all employment openings with the Connecticut State Employment Service. The Labor Commissioner may allow exceptions to listings of employment openings which the contractor proposes to fill from within his organization from employees on the rolls of the contractor on the date of publication of the invitation to bid or the date on which the public announcement was published or promulgated advising of the program concerned.

IV
Each contracting agency of the state shall be primarily responsible for obtaining compliance with this Executive Order. Each contracting agency shall appoint or designate from among its personnel one or more persons who shall be responsible for compliance with the objectives of this Order.

V
The Labor Commissioner shall be and is hereby empowered to inspect the books, records, payroll and personnel data of each individual or business entity subject to this Executive Order and may hold hearings or conferences, formal or informal, in pursuance of the duties and responsibilities hereunto delegated to the Labor Commissioner.

VI
The Labor Commissioner or any agency officer or employee in the executive branch designated by regulation of the Labor Commissioner may hold such hearings, public or private, as the Labor Commissioner may deem advisable for compliance, enforcement or educational purposes under this Order.

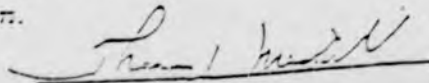
VII
(a) The Labor Commissioner may hold or cause to be held hearings, prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. In accordance herewith, the Commissioner or the appropriate contracting agency may suspend, cancel, terminate, or cause to be suspended, cancelled, or terminated in accordance with law any contract or any portion or portions thereof for failure of the contractor or subcontractor to comply with the listing provisions of the contract. Contracts may be cancelled, terminated, suspended absolutely or their continuance conditioned upon a program for future compliance approved by the contracting agency.

(b) Any contracting agency taking any action authorized by this Order, whether on its own motion or as directed by the Labor Commissioner, shall promptly notify him of such action. Whenever the Labor Commissioner makes a determination under this Order, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall report the results to the Labor Commissioner promptly.

VIII
If the Labor Commissioner shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless he has satisfactorily complied with the provisions of this Order.

This Order shall become effective thirty days after the date of this Order.

Dated at Hartford, Connecticut, this 15th day of February, 1971.


GOVERNOR

14. (a)(i) In the performance of projects pursuant to this title minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The authority provided for in this title shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this title shall be construed to limit the ability of the authority to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract.

(ii) In the implementation of this subdivision, the authority shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority and women-owned business enterprises, which may effectuate the requirements of this subdivision. If the authority determines that by virtue of the imposition of the requirements of any such law, in respect to capital project contracts, the provisions thereof duplicate or conflict with such law, the authority may waive the applicability of this subdivision to the extent of such duplication or conflict.

(iii) Nothing in this subdivision shall be deemed to require that overall state and federal requirements for participation of minority and women-owned business enterprises in programs authorized under this title be applied without regard to local circumstances to all projects or in all communities.

(b) In order to implement the requirements and objectives of this subdivision, the authority shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority and women-owned business enterprises to these contracts.

(As amended L.1986, c. 929, § 29.)

ADMINISTRATIVE AND STATUTORY REQUIREMENTS

MTA, METRO NO. and Conrail ("Parties") Agree

(1) The Parties shall comply with the Regulations of the United States Department of Transportation (Title 49, Code of Federal Regulations, Part 21) issued in implementation of Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, as applicable, which are hereby made a part of this Exhibit.

(2)(a) For the purpose of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

For purpose of this section, "Commission" means the Commission on Human Rights and Opportunities.

(b)(1) The Parties agree and warrant that in the performance of this Agreement the Parties will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, sex, mental retardation or physical disability, including but not limited to, blindness, unless it is shown by the Parties that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or the State of Connecticut. The Parties further agree to take affirmative action to insure that applicants with job related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, martial status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown the Parties that such disability prevents performance of the work involved, (2) the Parties agree, in all solicitations or advertisements for employees placed by or on behalf of the Parties individually, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Parties agree to provide each labor union or representative of workers with which the Parties have a collective bargaining agreement or other contract or understanding and each vendor with which the Parties have a contract or understanding, a notice to be provided by the Commission advising the labor union or workers' representative of the Parties' commitments under this section, and to post copies of the notice in conspicuous places available

to employees and applicants for employment; (4) the Parties agree to comply with each provision of this section and Conn. Gen. Secs. 46a-68e and 46a-68f; (5) the Parties agree to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Parties as relate to the provisions of this section and Section 46a-56. If the contract is a public works contract, the Parties agree and warrant that it will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) Determination of the Parties' good faith efforts shall include, but shall not be limited to, the following factors: the Parties' employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The Parties shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

(e) The Parties shall include the provisions of subsection (b) of this section in every subcontract or purchase order

entered into in order to fulfill any obligation of a contract with CDOT and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Parties shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. Sec 46a-56, as amended by Section 5 of Public Act 89-253; provided if the Parties become involved in, or are threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Parties may request the CDOT to enter into any such litigation or negotiation prior thereto to protect the interests of CDOT and CDOT may so enter.

(f) The notice provisions of subparagraph (b)(3) above apply only to those vendors, if any, that are intended to be used in fulfillment of obligations under this Agreement.

(3) If applicable, this Agreement is subject to the provisions of the Governor's Executive Order No. Three promulgated June 16, 1971 and, as such, this Agreement may be cancelled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this Agreement. The Parties to this Agreement, as part of the consideration hereof, agree that

the attached Executive Order No. Three is incorporated herein and made a part hereof. The Parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to performance in regard to nondiscrimination, until the Agreement is completed or terminated prior to completion. The Parties agree, as part consideration hereof, that this Agreement is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and the Parties will not discriminate in employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner. A copy of said Guidelines is attached and hereby made a part of this Agreement.

(4) If applicable, this Agreement is executed subject to the Governor's Executive Order No. 17, a copy of which is attached hereto and is hereby made a part of this Agreement. Governor's Executive Order No. 17 requires, inter alia, that all contractors and subcontractors shall list all employment openings with the Office of the Connecticut State Employment Service in the area where the work is to be performed or where the services are to be rendered. Failure of the Parties to conform with the requirements of the Governor's Executive Order No. 17 and any orders, rules or regulations issued pursuant thereto, shall be a basis for termination of this Agreement by CDOT.

STATE OF CONNECTICUT
BY HIS EXCELLENCY
THOMAS J. MESKILL
GOVERNOR
EXECUTIVE ORDER NO. THREE

WHEREAS, sections 4-61d (b) and 4-114a of the 1969 supplement to the general statutes require nondiscrimination clauses in state contracts and subcontracts for construction on public buildings, other public works and goods and services and

WHEREAS, section 4-61e (c) of the 1969 supplement to the general statutes requires the labor department to encourage and enforce compliance with this policy by both employers and labor unions, and to promote equal employment opportunities, and

WHEREAS, the government of this state recognizes the duty and desirability of its leadership in providing equal employment opportunity, by implementing these laws,

NOW, THEREFORE, I, THOMAS J. MESKILL, Governor of the State of Connecticut, acting by virtue of the authority vested in me under section twelve of article fourth of the constitution of the state, as supplemented by section 3-1 of the general statutes, do hereby ORDER and DIRECT, as follows, by this Executive Order:

I

The labor commissioner shall be responsible for the administration of this Order and shall adopt such regulations as he deems necessary and appropriate to achieve the purposes of this Order. Upon the promulgation of this Order, the commissioner of finance and control shall issue a directive forthwith to all state agencies, that henceforth all state contracts and subcontracts for construction on public buildings, other public works and goods and services shall contain a provision rendering such contract or subcontract subject to this Order, and that such contract or subcontract may be cancelled, terminated or suspended by the labor commissioner for violation of or noncompliance with this Order or state or federal laws concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to such contract or subcontract.

II

Each contractor having a contract containing the provisions prescribed in section 4-114a of the 1969 supplement to the general statutes, shall file, and shall cause each of his subcontractors to file, compliance reports with the contracting agency or the labor commissioner, as may be directed. Such reports shall be filed within such times and shall contain such information as to employment policies and statistics of the contractor and each subcontractor, and shall be in such form as the labor commissioner may prescribe. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order or any preceding similar Order, and in that event to submit on behalf of themselves and their proposed subcontractors compliance reports prior to or as an initial part of their bid or negotiation of a contract.

III

Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor organization or employment agency as defined in section 31-122 of the general statutes, the compliance report shall identify the said organization or agency and the contracting agency or the labor commissioner may require a compliance report to be filed with the contracting agency or the labor commissioner, as may be directed, by such organization or agency, signed by an authorized officer or agent of such organization or agency, with supporting information, to the effect that the signer's practices and policies, including but not limited to matters concerning personnel, training, apprenticeship, membership, grievance and representation, and upgrading, do not discriminate on grounds of race, color, religious creed, age, sex, marital status, or ancestry of any individual, and that the signer will either affirmatively cooperate in the implementation of the policy and provisions of this Order, or that it consents and agrees that recruitment, employment and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the act.

IV

The labor commissioner may by regulation exempt certain classes of contracts, subcontracts or purchase order from the implementation of this Order, for standard commercial supplies or raw materials, for less than specified amounts of money or numbers of workers or for subcontractors below a specified tier. The labor commissioner may also provide by regulation for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the state contract, provided only that such exemption will not interfere with or impede the implementation of this Order, and provided further, that in the absence of such an exemption, all facilities shall be covered by the provisions of this Order.

V

Each contracting agency shall be primarily responsible for obtaining compliance with the regulations of the labor commissioner with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the regulations of the labor commissioner in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this Order and of the regulations of the labor commissioner issued pursuant to this Order. They are directed to cooperate with the labor commissioner and to furnish the labor commissioner such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate from among the personnel of each agency, compliance officers, whose duty shall be to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

VI

The labor commissioner may investigate the employment practices and procedures of any state contractor or subcontractor and the practices and policies of any labor organization or employment agency hereinabove described, relating to employment under the state contract, as concerns nondiscrimination by such organization or agency as hereinabove described, or the labor commissioner may initiate such investigation by the appropriate contract agency, to determine whether or not the contractual provisions hereinabove specified or statutes of the state respecting them have been violated. Such investigation shall be conducted in accordance with the procedures established by the labor commissioner and the investigating agency shall report to the labor commissioner any action taken or recommended.

VII

The labor commissioner shall receive and investigate or cause to be investigated complaints by employees or prospective employees of a state contractor or subcontractor or members or applicants for membership or apprenticeship or training in a labor organization or employment agency hereinabove described, which allege discrimination contrary to the contractual provisions specified hereinabove or state statutes requiring nondiscrimination in employment opportunity. If this investigation is conducted for the labor commissioner by a contracting agency, that agency shall report to the labor commissioner what action has been taken or is recommended with regard to such complaints.

The labor commissioner shall use his best efforts, directly and through contracting agencies, other interested federal, state and local agencies, contractors and all other available instrumentalities, including the commission on human rights and opportunities, the executive committee on human rights and opportunities, and the apprenticeship council under its mandate to provide advice and counsel to the labor commissioner in providing equal employment opportunities to all apprentices and to provide training, employment and upgrading opportunities for disadvantaged workers, in accordance with section 31-51 (d) of the 1949 supplement to the general statutes, to cause any labor organization or any employment agency whose members are engaged in work under government contracts or referring workers or providing or supervising apprenticeship or training for or in the course of work under a state contract or subcontract to notify the commission on human rights and opportunities or other appropriate state or federal agencies whenever it has reason to believe that the practices of any such organization or agency violate equal employment opportunity requirements or state or federal law.

IX

The labor commissioner or any agency officer or employee in the executive branch designated by regulation of the labor commissioner may hold such hearings, public or private, as the labor commissioner may deem advisable for compliance, enforcement or educational purposes under this Order.

X

(a) The labor commissioner may hold or cause to be held hearings, prior to imposing ordering or recommending the imposition of penalties and sanctions under this Order. No order for disbarment of any contractor from further state contracts shall be made without affording the contractor an opportunity for a hearing. In accordance with such regulations as the labor commissioner may adopt, the commissioner or the appropriate contracting agency may

- (1) Publish or cause to be published the names of contractors or labor organizations or employment agencies as hereinabove described which it has concluded have complied or failed to comply with the provisions of this Order or the regulations of the labor commissioner in implementing this Order.
- (2) Recommend to the commission on human rights and opportunities that in cases in which there is substantial or material violation or threat thereof of the contractual provision or related state statutes concerned herein, appropriate proceedings be brought to enforce them, including proceedings by the commission on its own motion under chapter 563 of the general statutes and the enjoining, within the limitations of applicable law, of organizations, individuals or groups who prevent directly or indirectly or seek to prevent directly or indirectly compliance with the provisions of this Order.
- (3) Recommend that criminal proceedings be brought under chapter 939 of the general statutes.
- (4) Cancel, terminate, suspend or cause to be cancelled, terminated, or suspended in accordance with law any contract or any portion or portions thereof for failure of the contractor or subcontractor to comply with the nondiscrimination provisions of the contract. Contracts may be cancelled, terminated, suspended absolutely or their continuance conditioned upon a program for future compliance approved by the contracting agency.
- (5) Provide that any contracting agency shall refrain from entering into any further contracts or extensions or modifications of existing contracts with any contractor until he has satisfied the labor commissioner that he has established and will carry out personnel and employment policies compliant with this Order.
- (6) Under regulations prescribed by the labor commissioner each contracting agency shall make reasonable efforts within a reasonable period of time to secure compliance with the contract provisions of this Order by methods of conciliation, mediation or persuasion, before other proceedings shall be instituted under this Order or before a state contract shall be cancelled or terminated in whole or in part for failure of the contractor or subcontractor to comply with the contract provisions of state statute and this Order.

(b) Any contracting agency taking any action authorized by this Order, whether on its own motion or as directed by the labor commissioner or pursuant to his regulations shall promptly notify him of such action. Whenever the labor commissioner makes a determination under this Order, he shall promptly notify the appropriate contracting agency and other interested federal, state and local agencies of the action recommended. The state and local agency or agencies shall take such action and shall report the results thereof to the labor commissioner within such time as he shall specify.

XI

If the labor commissioner shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless he has satisfactorily complied with the provisions of this Order, or submits a program for compliance acceptable to the labor commissioner, or if the labor commissioner so authorizes, to the contracting agency.

XII

Whenever a contracting agency cancels or terminates a contract, or a contractor has been disbarred from further government contracts because of noncompliance with the contract provisions with regard to nondiscrimination, the labor commissioner or the contracting agency shall rescind such disbarment, upon the satisfaction of the labor commissioner that the contractor has purged himself of such noncompliance and will thenceforth carry out personnel and employment policies of nondiscrimination in compliance with the provision of this Order.

XIII

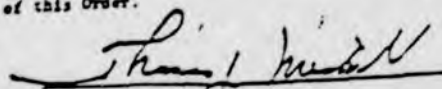
The labor commissioner may delegate to any officer, agency or employee in the executive branch any function or duty of the labor commissioner under this Order except authority to promulgate regulations of a general nature.

XIV

This Executive Order supplements the Executive Order issued on September 28, 1947. All regulations, orders, instructions, designations and other directives issued heretofore in these premises, including those issued by the heads of various departments or agencies under or pursuant to prior order or statute, shall remain in full force and effect, unless and until revoked or superseded by appropriate authority, to the extent that they are not inconsistent with this Order.

This Order shall become effective thirty days after the date of this Order.

Dated at Hartford, Connecticut, this 16th day of June, 1971.


GOVERNOR

GUIDELINES AND RULES
OF STATE LABOR COMMISSIONER
IMPLEMENTING GOVERNOR'S EXECUTIVE
ORDER NO. THREE

SEC. 1. PERSONS AND FIRMS SUBJECT TO EXECUTIVE ORDER NO. THREE AND GUIDELINES AND RULES.

a. Every contractor, or subcontractor as defined in Sec. 2 hereof, supplier of goods or services, vendor, bidder and prospective contractor or subcontractor, having ten or more employees as defined in Sec. 3 of these Guidelines, having or entering into or bidding to enter into any type of contractual relationship with the State of Connecticut or any of its agencies, boards, commissions, departments or officers, and if the consideration, cost, subject matter or value of the goods or services exceeds \$5,000.00, shall be subject to the Governor's Executive Order No. Three and these Guidelines and Rules.

b. A copy of the Governor's Executive Order No. Three and of these Guidelines and Rules shall be available to each said contractor, subcontractor, supplier, vendor, bidder and prospective contractor and subcontractor, and the said Executive Order No. Three and these Guidelines and Rules shall be incorporated by reference and made a part of the contract, purchase order, agreement or document concerned. A copy of the Executive Order and of these Guidelines and Rules shall be furnished to a contracting party or bidder on request.

c. All persons, partnerships, associations, firms, corporations and other entities having less than ten employees as defined in Sec. 3 at the time of the bid and execution of the contract and continuing through the performance of the contract are exempt from the provisions of the said Executive Order and these Guidelines and Rules. All contracts, subcontracts, purchase orders and agreements wherein the consideration is \$5,000.00 or less shall be exempt from Executive Order No. Three and from these Guidelines and Rules.

SEC. 2. SUBCONTRACTORS.

As used herein, subcontractors are persons, partnerships, associations, firms or corporations or other entities having contractual relationship with a contractor who in turn has a contract with the State of Connecticut or any of its agencies, boards, commissions or departments. Subcontractors below this tier are exempt from the Executive Order and from these Guidelines and Rules.

SEC. 3. EMPLOYEES.

As used herein, employees are persons working full or part-time irrespective of personnel classification whose wages, salaries, or earnings are subject to the Federal Insurance Contribution Act and/or to Federal Withholding Tax as a matter of law (whether in fact or not any actual withholding occurs in a given case), in an employee-employer relationship at the time of bid, contract execution, or offer or acceptance, and/or during any time thereafter during the existence of the performance period of the contract to the conclusion thereof.

SEC. 4. REPORTS.

a. Prior to the execution of the contract or prior to acceptance of a bid, as the case may be, the contractor, subcontractor, bidder or vendor shall file a report with the State Labor Commissioner, which report shall be complete and contain all of the information therein prescribed. The report shall be on Form E.O. 3-1, a facsimile of which is attached hereto and made a part hereof, or in lieu thereof the contractor, subcontractor, bidder or vendor shall submit a detailed report containing all of the information required in Form E.O. 3-1.

b. The Labor Commissioner may require the filing of additional reports prior to final payment or prior to any renewal or extension of the contract and during the duration of the contract at such times as the Commissioner may, in his discretion, from time to time deem necessary. The Labor Commissioner may require the filing of additional information or reports, and the contractor, subcontractor, bidder or vendor shall furnish said information or reports within the times prescribed by the Labor Commissioner.

c. The Labor Commissioner may, at his discretion, also require timely statistical reports on the number of minority employees employed or to be employed in the performance of the contract, and the Labor Commissioner may define such minority groups or persons.

d. Reports filed pursuant to these Guidelines and Rules in implementation of Executive Order No. Three are not public records subject to public inspection, but may be inspected only by federal and state officials having jurisdiction and authority to investigate matters of this type. All federal and state agencies empowered by law to investigate matters relating to Executive Order No. Three shall have access to these reports for inspection or copying during regular business hours.

e. Any person who wilfully, wantonly or through negligence destroys or permits to be destroyed, alters or allows to be altered after filing, any reports submitted in compliance herewith shall be subject to penalties as prescribed by law.

SEC. 5. MANDATORY CLAUSES IN DOCUMENTS.

a. All contracts shall contain the following provisions verbatim:

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be cancelled, terminated or suspended by the state labor commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the state labor commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

The (contractor), (subcontractor), (bidder), (vendor) agrees, as part consideration hereof, that this (order) (contract) is subject to the Guidelines and Rules issued by the state labor commissioner to implement Executive Order No. Three, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the state labor commissioner.

These provisions are in addition to and not in lieu of other clauses required by law."

* N.B. The above paragraphs contain requirements additional to those set forth in July 16, 1971 directive to state agencies.

b. Every purchase order or like form submitted by a vendor or bidder, as applicable, shall contain the following clause verbatim:

Vendor agrees, as part of the consideration hereof, that this order is subject to the provisions of Executive Order No. Three and the Guidelines and Rules issued by the Labor Commissioner implementing said Order as to nondiscrimination, and vendor agrees to comply therewith.

c. Where preprinted contract forms have been prescribed by federal authority and the rules of the federal agency prohibit the alteration thereof, the compliance officer of the State agency concerned shall submit to the Labor Commissioner a suggested short form or addendum acceptable to the federal agency, and in such cases, after approval by the Labor Commissioner, said clause may be substituted.

SEC. 6. COOPERATION OF STATE AGENCIES, BOARDS AND COMMISSIONS.

Every agency, board, commission and department of the State of Connecticut shall cooperate with the Labor Commissioner in the implementation of Executive Order No. Three and shall furnish such information and assistance as the Labor Commissioner may from time to time request.

SEC. 7. INVESTIGATIONS, COMPLAINTS.

The Labor Commissioner may initiate an investigation upon receipt of a complaint alleging discrimination. The Labor Commissioner may request that an investigation be conducted by the State agency which is the party to the contract in question. Investigations shall be conducted in accordance with acceptable legal standards, safeguarding the rights of all parties involved, and obtaining all of the relevant facts necessary for a complete determination of the issues. If the Labor Commissioner is not satisfied with the investigation or any part thereof he may order it to continue or to proceed further.

SEC. 8. HEARINGS.

The Labor Commissioner or officers designated by the heads of the State agencies, boards and commissions may conduct hearings on complaints filed. Hearings shall be held only after a report of the complaint has been filed with the Labor Commissioner and after a hearing on the complaint has been authorized or directed by the Labor Commissioner. Hearings shall be conducted in accordance with the accepted principles of administrative law. All parties shall be afforded the opportunity to a full, fair, impartial and complete hearing, the opportunity to examine and cross examine witnesses and to be present at all sessions of the hearing. If any party is vulnerable to a charge of a violation of the law, he shall be afforded the opportunity to procure counsel who may be present at the hearing.

SEC. 9. EQUAL EMPLOYMENT OPPORTUNITIES.

All State contracting agencies, employers, and labor unions shall use their best efforts to provide equal employment opportunities to all apprentices and to provide training, employment and upgrading opportunities for disadvantaged workers in accordance with section 31-51(d) of the General Statutes.

SEC. 10. DUTIES OF CONTRACTING AGENCIES.

All State contracting agencies shall be responsible for compliance with said Executive Order and with all state and federal laws relating to equal employment opportunities. All contracting agencies conducting investigations for the Labor Commissioner pursuant to Executive Order No. Three and these Guidelines and Rules shall report to the Labor Commissioner the action taken or recommended with regard to each complaint filed. Each officer of the executive department, every commissioner, and each executive head of each State agency, board and commission in the executive branch of the State government is expected to assume the responsibility of seeing to complete compliance with the Governor's Executive Order No. Three and shall forthwith take steps to assure and guarantee that there shall be no discrimination within their departments, agencies, boards or commissions in the performance of any state contract or subcontract on the basis of race, creed, color, sex, age, national origin or national ancestry, or in any way in violation of any state or federal law relating thereto.

BY VIRTUE OF THE AUTHORITY VESTED IN ME PURSUANT TO EXECUTIVE ORDER NO. THREE EFFECTIVE JULY 16, 1971, AND THE GENERAL STATUTES OF CONNECTICUT.

Dated at Westfield, Connecticut this 19th day of Nov., 1971. Jack A. Fusari

JACK A. FUSARI
LABOR COMMISSIONER

STATE OF CONNECTICUT

BY HIS EXCELLENCY

THOMAS J. MESKILL

GOVERNOR

EXECUTIVE ORDER NO. SEVENTEEN

WHEREAS, Section 31-237 of the General Statutes of Connecticut as amended requires the maintaining of the established free services of the Connecticut State Employment Service to both employers and prospective employees and

WHEREAS, Section 31-3 of the General Statutes of Connecticut requires that no compensation or fee shall be charged or received directly or indirectly for the services of the Connecticut State Employment Service and

WHEREAS, large numbers of our citizens who have served in the Armed Forces of our nation are returning to civilian life in our state and seeking employment in civilian occupations and

WHEREAS, we owe a duty as well as gratitude to these returning veterans including the duty to find suitable employment for them and

WHEREAS, many of our handicapped citizens are fully capable of employment and are entitled to be placed in suitable employment and

WHEREAS, many of the citizens of our state who are unemployed are unaware of the job openings and employment opportunities which do in fact exist in our state and

WHEREAS, notwithstanding the free services of the Connecticut State Employment Service, many of our Connecticut employers do not use its free services or do not avail themselves fully of all of the services offered.

NOW, THEREFORE, I, THOMAS J. MESKILL, Governor of the State of Connecticut, acting by virtue of the authority vested in me under the fourth article of the Constitution of the State and in accordance with Section 3-1 of the General Statutes, do hereby ORDER and DIRECT, as follows, by this Executive Order:

I

The Labor Commissioner shall be responsible for the administration of this Order and shall do all acts necessary and appropriate to achieve its purpose. Upon promulgation of this Order, the Commissioner of Finance and Control shall issue a directive forthwith to all state agencies that henceforth all state contracts and subcontracts for construction on public buildings, other public works and goods and services shall contain a provision respecting such contract or subcontract subject to this Order, and that such contract or subcontract may be cancelled, terminated or suspended by the Labor Commissioner for violation of or noncompliance with this Order, notwithstanding that the Labor Commissioner is not a party to such contract or subcontract.

II

Every contractor and subcontractor having a contract with the state or any of its agencies, boards, commissions, or departments, every individual partnership, corporation, or business entity having business with the state or any of which seeks to do business with the state, and every bidder or prospective bidder who submits a bid or replies to an invitation to bid on any state contract shall list all employment openings with the office of the Connecticut State Employment Service in the area where the work is to be performed or where the services are to be rendered.

III

All state contracts shall contain a clause which shall be a condition of the contract that the contractor and any subcontractor holding a contract directly under the contractor shall list all employment openings with the Connecticut State Employment Service. The Labor Commissioner may allow exceptions to listings of employment openings which the contractor proposes to fill from within its organization from employees on the rolls of the contractor on the date of publication of the invitation to bid or the date on which the public announcement was published or promulgated advising of the program concerned.

IV

Each contracting agency of the state shall be primarily responsible for obtaining compliance with this Executive Order. Each contracting agency shall appoint or designate from among its personnel one or more persons who shall be responsible for compliance with the objectives of this Order.

V

The Labor Commissioner shall be and is hereby empowered to inspect the books, records, payroll and personnel data of each individual or business entity subject to this Executive Order and may hold hearings or conferences, formal or informal, in pursuance of the duties and responsibilities hereunto delegated to the Labor Commissioner.

VI

The Labor Commissioner or any agency officer or employee in the executive branch designated by regulation of the Labor Commissioner may hold such hearings, public or private, as the Labor Commissioner may deem advisable for compliance, enforcement or educational purposes under this Order.

VII

(a) The Labor Commissioner may hold or cause to be held hearings, prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. In accordance herewith, the Commissioner or the appropriate contracting agency may suspend, cancel, terminate, or cause to be suspended, cancelled, or terminated in accordance with law any contract or any portion or portions thereof for failure of the contractor or subcontractor to comply with the listing provisions of the contract. Contracts may be cancelled, terminated, suspended absolutely or their continuance conditioned upon a program for future compliance approved by the contracting agency.

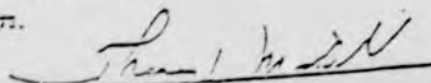
(b) Any contracting agency taking any action authorized by this Order, whether on its own motion or as directed by the Labor Commissioner, shall promptly notify him of such action. Whenever the Labor Commissioner makes a determination under this Order, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall report the results to the Labor Commissioner promptly.

VIII

If the Labor Commissioner shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless he has satisfactorily complied with the provisions of this Order.

This Order shall become effective sixty days after the date of this Order.

Dated at Hartford, Connecticut, this 12th day of February, 1971.


GOVERNOR

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BEFORE THE
SURFACE TRANSPORTATION BOARD

THE STATE OF NEW YORK, BY AND)	
THROUGH ITS DEPARTMENT OF)	
TRANSPORTATION -- TRACKAGE RIGHTS)	
OVER LINES OF CONSOLIDATED RAIL)	Finance Docket No. 33388
CORPORATION AND DECLARATION)	(Sub-No. 69)
CONCERNING TRACKAGE RIGHTS)	
RESTRICTIONS ON LINES OF METRO-)	
NORTH COMMUTER RAILROAD COMPANY)	

**Verified Statement
of
Walter H. Schuchmann**

I. Qualifications and Introduction

My name is Walter H. Schuchmann. I am Rail Project Manager at R.L. Banks & Associates, Inc., a firm of transportation economists and engineers, with offices at 1717 K Street NW, Washington DC 20006 and in Belvedere, CA. Detail of my qualifications is set forth in Appendix A.

In response to the proposed joint acquisition of Conrail by CSX Corporation (CSX) and Norfolk Southern Corporation (NS), the State of New York and the New York City Economic Development Corporation (NYCEDC) have asked me to address the operational feasibility of adding service by a second freight rail carrier on the Hudson Line from the Albany area to Fresh Pond, NY, east of the Hudson River.

New York citizens and business people, as well as observers of the U.S. rail transportation system are keenly aware of the absence of intramodal rail freight

competition in portions of New York State east of the Hudson River, a condition which has existed since the creation of Conrail in 1976. Reasons for establishing pro-competitive rights for a second carrier in the course of approving the present Application are clearly set forth in the testimony of other witnesses.

II. Rights Sought

In order to restore meaningful line haul rail transportation competition to/from the area of interest east of the Hudson River between Albany and New York City, a carrier other than Conrail or CSX would need:

- (i) access to customers in the area of interest and connecting short line railroads (specifically New York & Atlantic Railway Company (NY&A), freight service operator on lines of the Long Island Railroad),
- (ii) connection to one or more line haul railroads other than the Applicants (in this instance the Delaware & Hudson Railway Company (DH) at Albany/Selkirk), and
- (iii) operating (trackage) rights on rail lines linking customers and interchange connections.

As described more fully in the Responsive Application, the rights being sought from the Surface Transportation Board include:

1. Full service trackage rights in favor of a rail carrier other than Conrail or CSX, to be designated by New York and the NYCEDC, over the lines of Conrail between points of connection (a) with the St. Lawrence and Hudson Railway Company (DH) at CP-160 near Schenectady, New York; and with DH at Selkirk Yard near Selkirk, New York; and (b) with lines controlled by Metro-North Commuter R.R. Co. beginning at CP-75 near Poughkeepsie, New York; and

2. Full service trackage rights in favor of a rail carrier other than Conrail or CSX, to be designated by New York and NYCEDC, over the lines of Conrail between the point of Conrail ownership at Mott Haven Junction ("MO"), New York and the point of connection with the lines of the Long Island Rail Road near Fresh Pond ("MONT"), New York, via the Harlem River Yard.

In order to provide freight service using the rights described above, the trackage rights carrier will need to negotiate a separate trackage rights agreement with Metro-North providing access to its trackage between CP75 and Mott Haven. In his Verified Statement, Metro-North President Don Nelson confirms the company's capability and willingness to enter into such an agreement, and the capacity of the lines to handle trains of a trackage rights carrier.

III. Rail Infrastructure

The lines to which access is sought and important infrastructure characteristics of each are arrayed on the following page.

Trackage Rights Route and Infrastructure Characteristics		
Line Owner and Designation	Approximate Endpoints	Infrastructure Characteristics
Conrail; Chicago Line	CP160 (Schenectady) - Rensselaer	Single track with a long controlled siding, traffic control system, high speed operation
Conrail; Selkirk Branch	Selkirk Yard - CP125 via A.E. Smith Bridge	Double and single track, traffic control system
Conrail; Hudson Line	Rensselaer - Poughkeepsie	Two main tracks, cab signals and traffic control system, high speed operation
Metro-North; Hudson Line and Harlem Line (portion)	Poughkeepsie - Mott Haven and Oak Point Yard	Two to four main tracks, cab signals and traffic control system, high speed operation
New York State	Metro-North CP7 - Oak Point Yard (Oak Point Link)	Single track
Conrail; yard trackage and Fremont Industrial Track	Oak Point Yard - Long Island Railroad connection near Fresh Pond Junction via Hell Gate Bridge and Fremont Industrial Track	Single and yard tracks
LIRR (NY&A)	Conrail connection - Fresh Pond Junction	Single track

Sources: Conrail Albany Division Timetable, January 1, 1996 (see Exhibit WHS-01).

Metro-North Timetable No. 6, May 4, 1997 (see Exhibit WHS-02).

IV. Anticipated Service

In his verified statement earlier in this proceeding, James A. Utermark of the New York State Department of Transportation indicated that "... the level of additional freight traffic over the subject lines is not expected to exceed one (1) or two (2) trains each day on any of the involved line segments." (Utermark VS October 1, 1997, page 3). The accompanying testimony of Andrew C. Robertson includes a similar projection. (Robertson VS pages 10-13).

I have not limited my analysis to that level of additional freight traffic, but have looked more broadly at the ability of existing facilities to handle projected traffic including that of the trackage rights carrier.

V. Infrastructure is Sufficient to Accommodate the Anticipated Additional Use

On October 13 and 14, 1997, I inspected the Metro-North and Conrail portions of the Hudson Line from the locomotives of Metro-North and Amtrak trains. In addition, I examined LIRR's Fresh Pond Yard and interchange facilities, portions of the Fremont Industrial Track and Oak Point Link, CP160 and other connecting trackage in the Albany/Schenectady area. Based upon that inspection, my review of publicly available documents which describe present infrastructure and operations and documents made available by the Applicants in discovery, testimony made in deposition by John W. Orrison and the verified statement of Metro-North President Donald Nelson, I am confident that the route is entirely capable of handling the modest addition of trains which would result from initiation of the requested freight trackage rights operation.

Before reviewing the use and capabilities of each route segment, there are indicators of the line's capacity which should be noted.

First, Metro-North's willingness to accommodate a competitive freight carrier (Nelson VS) is telling. Train volumes and the vital importance of on-time performance to commuter rail service makes this portion of the route the greatest challenge for adding new service, yet Metro-North supports initiation of freight

trackage rights service. Metro-North controls all service over this portion, and establishes the operating rules. As explained further below, addition of the contemplated freight operations will be even easier on the other segments.

Second, CSX witness John W. Orrison in deposition testimony confirmed the available capacity of the trackage rights lines (including Selkirk Yard) to handle significant, additional freight traffic. Mr. Orrison stated that "... there's a history of heavy freight train operations in New York over this line" and he responded "Yes" to the question, "From your perspective as the man in charge of the operating plan, do you consider it feasible that the schedules could be meshed so that the freight traffic on the Hudson River Line could increase significantly?". He indicated that a "very high range, 30, 40, 50" additional freight trains per day could be run over the Hudson River Line. (Orrison Deposition, pages 51-52, 67-68)

Metro-North President Don Nelson points out that "Freight utilization is at an all-time low for the Hudson Line". (Nelson VS, page 8). Comparison of 1973 Penn Central and 1995 Conrail traffic in terms of density shows the following:

Penn Central, 1973		Conrail, 1995	
Rensselaer -	17.2 mgt	Rensselaer -	10 mgt
Poughkeepsie		Stuyvesant	
		Stuyvesant -	12 mgt
		Poughkeepsie	
Source: Estimated Annual Million Gross Tons Traffic Per Mile, Penn Central, 1973		Source: Application, Vol. 3A, page 469.	

It is also worth noting that despite Metro-North and Amtrak service, Conrail served the General Motors plant at Tarrytown (just 25 miles north of Grand Central Station and south of Croton-Harmon, right in the heart of the electrified, high density commuter service territory) until its shut-down in 1996. At times, this service took the form of dedicated Tarrytown trains in addition to the line's other freight traffic. Automobile manufacturers are known for demanding high quality

rail freight service; Conrail's ability over the years to serve the Tarrytown plant demonstrates that more flexibility and opportunity for freight service exists on the Hudson line that easily could be exploited by a second, competitive freight carrier.

Moreover, it is the case that freight traffic, formerly much larger than at present, has been handled for years despite the handicap of having to cross over in the face of all commuter traffic on Metro-North's Hudson and Harlem Lines at Mott Haven in order to access Conrail's freight connection to Oak Point Yard. Metro-North's Don Nelson points out that 670 trains per day operate through this territory. (Nelson VS, page 5). These potential freight-passenger conflicts will be entirely eliminated upon connection of the completed Oak Point Link with Conrail's Harlem River Yard freight trackage. Freight trains will be able to operate between Oak Point Yard and CP7 on the Hudson Line without encountering a single Metro-North or Amtrak train. This project will remove the single greatest potential obstacle to freight traffic on the trackage rights route, as it was intended to do. In fact, CSX's witness Mr. Orrison confirmed that the Oak Point link was part of the basis for his confidence in the added available freight capacity on the Hudson Line. (Orrison Deposition, page 56).

Finally, while my findings indicate that at present there is plenty of capacity to operate the additional freight trains of a trackage rights carrier, it should be noted that if future increases of freight and/or passenger train traffic warrant, many portions of the right-of-way are capable of accommodating additional trackage or other facilities expansions in order to increase capacity. In fact, the New York history of public support of rail freight improvements leaves little doubt that the state and NYCEDC would be catalysts or participants should major enhancement projects become necessary in order to support freight service growth and economic benefits. The Full Freight Access Program (which includes the Oak Point Link and many clearance and other improvements) both supports the desired freight service enhancements and demonstrates the public backing of valid freight rail projects.

Once railroads decide (or are instructed) to undertake track or facilities sharing or coordinated operations, field operating personnel often find a variety of ways to "get the job done" employing under-utilized facilities or devising creative or

cooperative operational procedures. I expect that such modifications and improvements would occur with respect to exercise of the requested trackage rights. For example, the parties (including host railroad CSX) could decide at some point to move the connecting point for east-west traffic between DH and the trackage rights carrier to the existing, but presently unused connection at Vorheesville. Rights to that connection are not presently sought, but it serves as an example of options available once trackage rights operations are underway.

All main line tracks of Conrail or Metro-North which would be used are in excellent condition. The following segment-by-segment review of the route supports my conviction that the lines over which access is sought can accommodate the anticipated use by another rail carrier.

Conrail's Chicago Line between Rensselaer and CP 160 (Schenectady)

This line links the Rensselaer and Schenectady passenger stations and is a component of the Amtrak route west of Rensselaer used by trains to and from the west (Buffalo and Chicago) or the north (Saratoga Springs and Montreal). The line hosts 14 passenger trains and 3.4 freight trains; no increase in trains is anticipated by the Applicants. (Application, Vol. 3A, page 447.)

Passenger trains traverse the Rensselaer-Schenectady segment in between 23 and 30 minutes, accounting for only seven hours out of a 24 hour period. Freight trains of the trackage rights carrier easily could share the remaining time with the few existing freight trains. The long controlled siding located at Schenectady would assist in train meets.

Conrail's Selkirk Branch between CP 125 (Hudson Line) and Selkirk Yard

This line of about 12.6 miles links the Hudson Line and Selkirk Yard. From CP 125 on the Hudson Line, the first seven miles are single track and are used by only four daily freight trains and no passenger trains; no change in train volumes is anticipated. (Application, Vol. 3A, page 447.) The remaining five miles are double track and are used by trains between Selkirk and Boston as well as those previously described. Total volume on that segment is two passenger trains and

about 30 freight trains daily. A negligible decrease in freight traffic is anticipated. (Application, Vol. 3A, page 447.) The line is equipped with a traffic control system.

Traffic on the double track segment equates to only one train on each track every 90 minutes; clearly additional freight trains may be accommodated. The remaining short segment, with only four trains per day, obviously can handle more.

The impact upon CSX operations at Selkirk would be negligible. Trains merely would be exchanged between the trackage rights carrier and DH; no classification or other handling would be called for. Should the DH be the trackage rights carrier, there would not even be an exchange at Selkirk; trains would remain under the control of a single railroad for the entire movement. For its part, CSX projects a slight reduction of activity is forecast at Selkirk, which presently classifies an average of 1,800 cars per day; that figure is anticipated to decrease by 71 as a result of planned pre-blocking. (Application, Vol. 3A, pages 195 and 431.) CSX witness Mr. Orrison confirmed that this would increase the capacity already available at the Selkirk Yard (Orrison Deposition, pages 67-68).

Conrail's Hudson Line between Rensselaer and Poughkeepsie

Conrail's Hudson Line hosts 20 daily Amtrak passenger trains on a double track, high speed route equipped with traffic control and cab signal systems. Freight activity consists of one train per day between Rensselaer and Stuyvesant. At Stuyvesant, the Selkirk Branch connects with the Hudson Line; south of Stuyvesant four freight trains per day operate between there and Poughkeepsie. No change is forecast in these freight volumes. (Application, Vol. 3A, page 447.)

This double track railroad has tremendous excess capacity at current levels of use, which equate to only 12 trains per day on each track. Further, only one Amtrak train per week operates over this segment between 11:00 p.m. and 6:00 a.m., which ties in well with the most attractive freight windows on the Metro-North segment discussed next.

Metro-North Hudson Line between Poughkeepsie and Mott Haven

This segment is by far the most heavily used portion of the requested route, especially the southern, electrified portion between Croton-Harmon and Mott Haven. (Nelson VS, page 5).

Because this is the portion of the route with the greatest passenger traffic, it is worthwhile to examine passenger schedules more closely in determining the viable freight train time slots or windows.

A good window exists for southbound freight trains after 8:36 p.m. From that time, three more southbound Metro-North trains operate at one hour intervals and from 11:36 p.m. until 5:01 a.m., no southbound commuter trains are operated.

Northbound freight trains would have a good window after 12:20 a.m., since only one more northbound commuter train departs Grand Central Station (at 1:20 a.m.). The next northbound commuter train does not depart until 6:28 a.m. These windows of opportunity in terms of Metro-North schedules are in keeping with Metro-North freight movement restrictions and are free of Amtrak trains as well. CSX plans to take advantage of these windows by scheduling its northbound through freight OPSE out of Oak Point at 12:30 a.m. and southbound SEOP out of Selkirk at 10:30 p.m. and departing Poughkeepsie at 2:35 a.m. (CSX documents CSX 21 CO 009901 and CSX 21 CO 009958). This scheduling demonstrates the validity of the identified window, but the presence of these single trains in each direction would not hinder operation of a trackage rights carrier's trains.

This is not to say that all freight operations must be concluded during the windows identified above. A northbound freight which departs during that period easily could fit in with morning and afternoon northbound commuter trains operating on one hour headways north of Croton-Harmon. Other opportunities exist outside of commuter peak periods for freight train operations, as Metro-North President Nelson confirms. (Nelson VS, page 8). But without looking any further, the dearth of revenue passenger trains during the late-night hours on this multiple track, high capacity segment presents more than ample opportunity to increase freight service by the modest levels initially forecast by New York and NYCEDC.

Conrail Fremont Industrial Track Between Oak Point Yard and Fresh Pond Junction and LIRR (NY&A) Trackage at Fresh Pond

Conrail's single track Fremont industrial Track connects Oak Point Yard with NY&A trackage north of Fresh Pond Junction. This route utilizes the Hell Gate Bridge, which has two dedicated passenger tracks, a freight track and space where a former fourth track has been removed. The approximately nine mile line handles the daily (usually) Conrail round trip interchange movement between Oak Point and Fresh Pond and periodic stone movements between the Providence and Worcester Railroad Company (via trackage rights over Conrail) and NY&A. Since the line is used only for NY&A interchange and service to a few modest on-line customers, it clearly is available much of the day and could handle additional round trip interchange movements.

NY&A facilities at Fresh Pond Junction consist of interchange tracks which parallel its north-south freight line to Bay Ridge and the east and west yards which parallel LIRR's Montauk Line and together comprise Fresh Pond Yard. The interchange tracks are perpendicular to the yard tracks, and cross over the east-west yard connection and the Montauk Line on an overhead bridge. The interchange tracks are connected to the yard by a full wye. In my judgement, based on physical observation, the interchange and yard facilities also are adequate to handle interchange with the requested trackage rights carrier.

South of Fresh Pond Junction, the NY&A track extends to Bay Ridge terminal, whose re-vitalization has been a frequent topic of public consideration in New York. NY&A could serve as a feeder railroad for traffic from this line (as with traffic from all NY&A lines on Long Island), connecting to both the trackage rights carrier and CSX, and thus securing the benefits of competitive long-haul rail service for existing and new Brooklyn and Long Island rail customers.

VI. Conclusion

In the course of examining the documents and sources cited above and inspecting the majority of the involved lines and connections, I have become firmly convinced that this combination of rail lines can support significantly more freight traffic than presently operates, and well in excess of the total of what is projected by the Applicants and contemplated in the Responsive Application. This finding has been confirmed by historic traffic levels and premium service to an automobile assembly plant and is supported by the testimony of Mr. Orrison. I concur with Mr. Nelson that additional freight trains can be handled on the critical segment operated by Metro-North, and soon the Oak Point Link will remove the route's single greatest potential impediment to freight traffic. For these reasons, I conclude that plenty of opportunity exists to add freight trains handled by a second carrier throughout the route.

Appendix A. Qualifications of Walter H. Schuchmann

Mr. Schuchmann, Rail Project Manager at R.L. Banks & Associates, Inc., has been active in the transportation industry as a student, railroad operations manager, analyst and consultant over the past two decades. He holds a BS in Industrial Management from Purdue University and an MBA from Indiana University with concentrations in transportation and economics.


Mr. Schuchmann has examined railroad operations and capacity issues in a variety of contexts since joining RLBA in 1988. He has used sophisticated computer programs to examine the effect of increased train operations, higher maximum speeds and various potential infrastructure improvements designed to increase capacity. He has proposed commuter schedules for new-start and prospective commuter rail services, drawing upon practical experience as a railroad operating officer and using tools ranging from stringline charts to computer simulation. On behalf of commuter agencies such as SCRRRA and VRE as well as prospective services around the country, he has examined freight-passenger conflicts and proposed resolutions ranging from schedule adjustments to capacity-enhancing improvements and re-routing of trains. He has reviewed and negotiated track sharing agreements for commuter and light rail use of active freight rail lines, and has developed plans for freight service continuation during and after implementation of new passenger services. He has examined the feasibility of short line and regional railroad operations in the context of line spin-offs or sales and has contributed to a variety of intermodal, unit train and merchandise freight studies.

Mr. Schuchmann served as an operating and safety officer in several locations for Norfolk & Western Railway, later Norfolk Southern. In Fort Wayne and Chicago, he supervised classification, interchange, intermodal and commuter operations, frequently serving as the senior officer on duty in the Chicago Terminal. As Safety Superintendent in Norfolk Southern's critical coal-originating territory, he developed successful inter-departmental safety initiatives and participated in the Corporation's first implementation of Voice Block Authority for train movements. He responded to major derailments, accidents and hazardous materials incidents. Mr. Schuchmann previously was a graduate state rail planner and served four years active duty as a U.S. Army Transportation Corps officer.

VERIFICATION

DISTRICT OF COLUMBIA)
) ss:
CITY OF WASHINGTON)

Walter H. Schuchmann, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.


Walter H. Schuchmann

Subscribed and sworn to
before me this 20th day
of October, 1997.

Gwendolyn M. Roper
Notary Public, DC

My commission expires:

Exhibit WHS-01

Conrail Albany Division Timetable

January 1, 1996

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CONRAIL®



ALBANY DIVISION

**DEDICATED
TO SAFETY**

STATION PAGES AND DIVISION SPECIAL INSTRUCTIONS
FOR
SYSTEM TIMETABLE NO. 2
EFFECTIVE 12:01 A.M., EASTERN STANDARD TIME
MONDAY, JANUARY 1, 1996

M. G. PETERSON
General Manager

J. C. DECKER
Transportation Superintendent

This packet contains the Station Pages, Notes and Special Instructions
for the ALBANY DIVISION only.
Employees must obtain SYSTEM TIMETABLE section for complete manual.

NS-21-CO-01098

CHICAGO LINE

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WEST ▽	SIDINGS IN FEET	M.P.	STATION	NOTE
			HUDSON DS.....	1
		142.0	CP-142 R-LAB.....	30
			(Hudson Line)	
			(Post Road Branch)	
		142.1	ALBANY-RENSSELAER.....	8
		142.2	CP-143 R-LAB.....	30
		142.4	CP-144 R-LAB.....	30
			(Troy I.T.)	
		143.1	LAB.....(Movable Bridge)	10 30
		144.6	CP-145 R-LAB.....	30
			(CP RR connects)	
		145.2	ROCK CUT.....	
		148.9	CP-146.....	30
			(West Albany Yard)	
		156.5	CP-156.....	30
			(Carman Branch)	
	CS 15.750	159.6	CP-159.....	30
		159.8	SCHENECTADY.....	
		159.9	CP-160.....	30
			(CP RR connects)	
		164.0	DED (Scotia).....	
		169.9	CP-169.....	30
			(Sallert Branch)	
		173.2	CP-173.....	30
			(Kellogg I.T.)	1
	CS 10.900	175.5	CP-175.....	30
			MOHAWK DS.....	1
		177.4	HBD-DED (Guy Park).....	
		177.6	AMSTERDAM (Amtrak Station)	7
		184.5	CP-184.....	30
	CS 16.200	187.9	CP-188.....	30
		189.9	DED (Mohawk).....	
		196.1	CP-196.....	30
		198.8	CP-198.....	30
		200.7	HBD-DED (Fort Plain).....	

(Continued)

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CHICAGO LINE—(Continued)

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NOTE 4: Distance from MP 286.0 to MP 294.0 is 8.8 miles. Distance between each Mile Post is 5,827 feet.

NOTE 5: Control Point on No. 3 and No. 4 Tracks only.

NOTE 6: Between CP-437 and Bayview. Mile Post numbers measure from CP-437.

NOTE 7: In the application of Rule 121 Passenger Trains discharging passengers across tracks between their train and the station platform at Amsterdam, Utica, Syracuse, Rochester and Depew will be protected against trains moving on tracks between their train and the station platform.

The Train Dispatcher will be responsible for such protection.

NOTE 8: Rule 121, Part C applies at Rensselaer Passenger Station. In the application of Rule 121, Part C, if a passenger train is occupying the station, the approaching train must not foul the passenger walkway until permission is received from the Station Master, who will insure measures have been taken to insure passenger safety. If unable to contact the Station Master or crew of standing train, train must not foul the passenger crossing until protection is provided on the ground by a member of the crew.

↓ Tracks are numbered North to South: ↓

Main-1-2	between CP-142 and CP-143	1-2-7	between CP-286 and CP-291
Main-1	between CP-143 and CP-144	1-2	between CP-291 and CP-429
S	between CP-144 and CP-169	4-3-1-2	between CP-429 and CP-433
1-2	between CP-169 and CP-278	3-1-2	between CP-433 and CP-434
4-1-2	between CP-278 and MP 282.3	1-2	between CP-434 and CP-2
1-2	between MP 282.3 and CP-286	3-1-2	between CP-2 and MP 8.2

RULES IN EFFECT

Between	Single Track	No. 1 Track	No. 2 Track	Other Tracks
CP-142 and CP-143		261/CSS	261/CSS	Main Trk 261/CSS
CP-143 and CP-144		261/CSS		Main Trk 261/CSS
CP-144 and CP-156	261/CSS			
CP-156 and CP-160	261/CSS			CS 261/CSS
CP-160 and CP-169	261/CSS			
CP-169 and CP-278		261	261	
CP-278 and MP 282.3		261	261	No. 4 Trk 261
MP 282.3 and CP-286		261	261	
CP-286 and CP-291		261	261	No. 7 Trk 251/WEST
CP-291 and CP-429		261	261	
CP-429 and CP-433		261	261	No. 3 Trk 261
				No. 4 Trk 261
CP-433 and CP-434		261	261	No. 3 Trk 261
CP-434 and CP-2		261	261	
CP-2 and MP 8.2 (Division Post)		261	261	No. 3 Trk 261
All Controlled Sidings— except CP-156 to CP-160 above				CS 261

(Continued)

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CHICAGO LINE—(Continued)

MAXIMUM SPEEDS—PASSENGER				
Between	Single Track	No. 1 Track	No. 2 Track	Other Tracks
CP-142 and CP-143		20	20	Main Trk 20
CP-143 and CP-144		15		Main Trk 15
CP-144 and LAB	20			
LAB and CP-145	25			
CP-145 and MP 145 2	40			
MP 145 2 and CP-146	80			
CP-146 and MP 149 0	90			
MP 149 0 and MP 156 3	100			
(Turbo Equip. Only)				
MP 149 0 and MP 156 3	110			
MP 156 3 and MP 158 0	90			
MP 158 0 and MP 159 6	55			
MP 159 6 and MP 159 9	30			
CP-160				Wye to CP RR 15
MP 159 9 and MP 160 3	50			
MP 160 3 and MP 161 3	70			
MP 161 3 and MP 164 5	100			
MP 164 5 and MP 165 8	90			
MP 165 8 and CP-169	100			
CP-169 and MP 181 5		70	70	
MP 181 5 and MP 183 0		50	50	
MP 183 0 and MP 192 5		75	75	
MP 192 5 and MP 192 8		50	50	
MP 192 8 and MP 198 2		70	70	
MP 198 2 and MP 199 6		60	60	
MP 199 6 and MP 205 4		70	70	
MP 205 4 and MP 205 9		70	70	
MP 205 9 and MP 210 5		75	75	
MP 210 5 and MP 216 5		70	70	
MP 216 5 and MP 216 9		55	55	
MP 216 9 and MP 225 3		70	70	
MP 225 3 and MP 237 0		79	75	
MP 237 0 and MP 237 8		60	60	
MP 237 8 and MP 242 6		79	79	
MP 242 6 and MP 242 9		70	70	
MP 242 9 and MP 285 0		79	79	
MP 285 0 and MP 286 8		40	40	
MP 286 8 and MP 293 7		60	60	
MP 293 7 and MP 319 7		79	79	
(Over Seneca River Bridge)				
MP 319 7 and MP 320 0		40	40	
MP 320 0 and MP 328 0		79	79	
MP 328 0 and MP 330 0		70	70	
MP 330 0 and MP 332 6		79	79	
MP 332 6 and MP 334 0		55	55	
MP 334 0 and MP 340 4		70	70	
MP 340 4 and MP 350 0		75	75	
MP 350 0 and MP 351 0		65	65	
MP 351 0 and MP 360 6		79	79	
MP 360 6 and MP 360 9		65	65	
MP 360 9 and MP 368 9		79	79	
MP 368 9 and MP 370 0		65	65	
MP 370 0 and MP 372 2		50	50	
MP 372 2 and MP 435 4		79	79	
MP 435 4 and MP 435 9		45	45	
MP 435 9 and CP-437		60	60	
CP-437 and CP-2		30	30	
CP-2 and MP 8 2		79	79	No. 3 Trk 50
All Controlled Sidings except 20 MPH head end only, at MP 285 0 between CP-283 & CP-285				CS 30

(Continued)

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CHICAGO LINE—(Continued)

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MAXIMUM SPEEDS—FREIGHT—TV								
BETWEEN	Single Track		No. 1 Track		No. 2 Track		Other Tracks	
	TV	FRT	TV	FRT	TV	FRT	TV	FRT
CP-142 and CP-143				15			Main	
								15
CP-143 and CP-144				15			Main	
								15
CP-144 and LAB		20						
LAB and MP 145 2		25						
MP 145 2 and CP-156		50						
CP-160							Wye to D&M RR	
								10
CP-156 and MP 161 3		30						
MP 161 3 and CP-169		50						
CP-169 and MP 181 0			60	50	60	50		
MP 181 0 and MP 183 0			50	50	50	50		
MP 183 0 and MP 192 5			60	50	60	50		
MP 192 5 and MP 192 8			45	45	45	45		
MP 192 8 and MP 198 2			60	50	60	50		
MP 192 8 and MP 199 6			60	50	60	50		
MP 199 6 and MP 205 4			60	50	60	50		
MP 205 4 and MP 205 9			60	50	60	50		
MP 205 9 and MP 210 5			60	50	60	50		
MP 210 5 and MP 216 5			60	50	60	50		
MP 216 5 and MP 216 9			50	50	50	50		
MP 216 9 and CP-218			60	50	60	50		
CP-218 and CP-225			60	50	60	50		
CP-225 and MP 237 0			60	50	60	50		
MP 237 0 and MP 237 7			50	50	50	50		
MP 237 7 and MP 242 6			60	50	60	50		
MP 242 6 and MP 242 9			60	50	60	50		
MP 242 9 and MP 250 0			60	50	60	50		
MP 250 0 and MP 255 0			60	50	60	50		
MP 255 0 and MP 280 0			60	50	60	50		
CP-278 and MP 282 3							No. 4 Track	
							40	40
MP 280 0 and MP 285 0			60	50	60	50		
MP 285 0 and MP 286 8			30	30	30	30		
CP-286 and CP-291							No. 7 Track	
							30	30
MP 286 8 and CP-291			60	50	60	50		
CP-291 and CP-293			50	50	50	50		
CP-293 and MP 295 0			60	50	60	50		
MP 295 0 and MP 319 7			60	50	60	50		
MP 319 7 and MP 320 0 (over Seneca River Bridge)			40	40	40	40		
MP 320 0 and MP 328 0			60	50	60	50		
MP 328 0 and MP 332 6			60	50	60	50		

(Continued)

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HUDSON LINE

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NORTH ▽	SIDINGS IN FEET	M. P.	STATION	NOTE
		73.6	POUGHKEEPSIE	
		75.5	CP-75	
		75.8	DIVISION POST (Albany/MNCR)	
			HUDSON DS. ②	
		80.7	HBD-DED (Staatsburg)	
		89.2	RHINECLIFF	
		89.8	CP-89 ③④	
		94.2	CP-94 ③④	
		99.0	HBD-DED (Troy)	
		103.8	CP-103 ③④	6
		114.1	CP-114 ③④	
		114.5	HUDSON (Claverack/Hudson Upper I.T.)	4
		115.4	CP-115 ③④	1
		121.5	HBD-DED (Stuyvesant)	
		123.7	CP-124 ③④	
		125.6	CP-125 ③④ (Selkirk Branch)	2
		130.0	HUDSON DS. ①	6
		141.1	CP-141 R-LAB ①③④	
		142.0	CP-142 R-LAB ①③④ (Chicago Line & Post Road Branch Albany-Rensselaer Station)	3.5 3

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HUDSON LINE—(Continued)

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NOTES

NOTE 1: In service for Southward movements only.

NOTE 2: In service on No. 2 Track only.

NOTE 3: CP-142 and Rensselaer Station located on Chicago Line.

NOTE 4: In the application of Rule 121 Passenger Trains discharging passengers across tracks between their train and the station platform at Hudson will be protected against trains moving on tracks between their train and the station platform. The Train Dispatcher will be responsible for such protection.

NOTE 5: Rule 121, Part C applies at Rensselaer Passenger Station. In the application of Rule 121, Part C, if a passenger train is occupying the station, the approaching train must not foul the passenger walkway until permission is received from the Station Master, who will insure measures have been taken to insure passenger safety. If unable to contact the Station Master or crew of standing train, train must not foul the passenger crossing until protection is provided on the ground by a member of the crew.

NOTE 6: In the application of system timetable special instruction 294-2 the following signals activated by slide protection:

Location			
North of MP 103.8	1082 S	1062 S	1062 N
	1081 S	1061 S	1061 N
South of MP 130.4	1181 N	1281 N & S	1301 S
	1182 N	1282 N & S	1302 S
	1211 S		

Tracks are numbered East to West 1-2 between MP 75.8 and CP-142

Tracks are numbered North to South Main-1-2 on Chicago Line at CP-142

RULES IN EFFECT

Between	No. 1 Track	No. 2 Track
DIVISION POST and CP-142	261/CSS	261/CSS

MAXIMUM SPEEDS

Between	No. 1 Track		No. 2 Track	
	Psg.	Frt.	Psg.	Frt.
MP 75.8 and MP 76.5	90	50	90	50
MP 76.5 and MP 76.6	80	50	80	50
MP 76.6 and MP 78.9	90	50	90	50
MP 78.9 and MP 87.7	95	50	95	50
MP 87.7 and MP 89.8	80	50	80	50
MP 89.8 and MP 92.6	90	50	90	50
MP 92.6 and MP 93.1	80	50	80	50
MP 93.1 and MP 114.1	90	50	90	50
MP 114.1 and MP 115.0	50	30	50	30
MP 115.0 and MP 119.4	90	50	90	50
MP 119.4 and MP 119.6	75	50	75	50
MP 119.6 and MP 121.5	90	50	90	50
MP 121.5 and MP 124.3	85	50	85	50
MP 124.3 and CP-141	110	50	110	50
CP-141 and CP-142	75	15	75	15

NS-21-CO-01119

SELKIRK BRANCH

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WEST ▽	SIDINGS IN FEET	M.P.	STATION	NOTE
			HUDSON DS 2	
			(Hudson Line)	
		1.3	CP-125 ③④	
		5.0	DED (Hudson View)	
		8.5	CP-SM ③④	1
			HCD 19 0" (for Boston Line & Hudson Line)	
		11.5	CP-SK ③④	
			HCD 17 9", 19 0" & 20 2" (for River Line)	2.3
			(Selkirk Yard)	
			(Albany Secondary)	
			(River Line)	
		13.7	End Block—Westward on INBOUND	4
		14.0	SELKIRK YARD	
		14.5	End Block—Eastward on No. 11 Track	
		16.9	CP-FB ③④	
		17.1	End Block—Eastward on No. 5 Track	
		18.0	CP-UNIONVILLE—SS ③④	
		22.2	CP-VO ③④	
			(CP R.R. crosses and connects)	
		25.9	GUILDERLAND CENTER	
		27.4	FULLERS	
		31.8	CP-SH ③④	
			(Carman Branch)	
		32.9	BURDICK RD	
		33.6	HBD-DED (South Schenectady)	
		39.5	CP-RJ ③④	
			(S.T.R.R. and West Shore I.T.)	
		42.3	CP-109 ③④	
			(Chicago Line)	

(Continued)

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SELKIRK BRANCH—(Continued)

CONFIDENTIAL

NOTES

- NOTE 1:** Eastward trains exceeding 19'0" must be stopped for inspection—
in service for Eastward trains only.
- NOTE 2:** Southward trains to River Line. Conductors must register with the
Assistant Chief Train Dispatcher, Philadelphia Division.
- NOTE 3:** HCD Readout in Train Dispatcher's office for Southward trains to
River Line. All trains exceeding 20'2" must be stopped and
inspected. All trains exceeding 17'9" or 19'0" River Line Train
Dispatcher, Philadelphia Division, must be notified.
- NOTE 4:** Westward trains and engines entering Selkirk Yard on the
INBOUND from the east must receive instructions regarding track
on which to yard their train prior to passing End Block sign at MP
13.7. If the yard track indicator does not display track number,
crew member must contact the Hump Yardmaster for instructions.

Tracks are numbered North to South:

- 1-2 between CP-SM and CP-SK.
- 5-1-2 between MP 17.1 and CP-UNIONVILLE.
- 1-2 between CP-UNIONVILLE and FULLERS.
- 2-1 between FULLERS and CP-169.

RULES IN EFFECT—CURRENT OF TRAFFIC

Between	Single Track	No. 1 Track	No. 2 Track	Other Track	Note
CP-125 and CP-SM	261				
CP-SM and CP-SK		261	261		
CP-SK and End Block MP 13.7				Inbound 261	
End Block MP 14.5 and CP-FB				No. 11 261	
CP-SK and CP-FB	SELKIRK YARD TRACKS				
MP 17.1 (Signal 175W) and CP-Unionville				No. 5 251/West	
CP-FB and CP-169		261	261		

MAXIMUM SPEEDS

Between	Single Track	No. 1 Track	No. 2 Track	No. 5 Track	Note
CP-125 and CP-SM	40				
CP-SM and CP-SK		30	30		
CP-SK and Begin/End Block	Inbound 30				
End Block MP 14.5 and CP-FB	No. 11 30				
CP-FB and Unionville		30	30		
MP 17.1 and Unionville				30	
Unionville-CP-VO		50	50		
CP-VO		30	30		
CP-VO-CP-RJ		50	50		
CP-RJ-CP-169		40	40		

NS-21-CO-01135

Exhibit WHS-02

Metro-North Timetable No. 6

May 4, 1997



TIMETABLE NO. 6
IN EFFECT 0201 HOURS SUNDAY
MAY 4, 1997

FOR EMPLOYEES ONLY

M.J. KENNY
GENERAL SUPERINTENDENT - TRANSPORTATION

STATION PAGE SYMBOLS

- K Indicates controlled by
- O Indicates automatic interlocking
- P Indicates in service part-time
- R Indicates remotely controlled from
- S Indicates control station at other than controller's office
- X Indicates in service continuously
- ★ Indicates Radio Channel 1
- ◆ Indicates Radio Channel 2
- ▲ Indicates Radio Channel 3

NOTE —Station pages show Rules in Effect, Track Assignments, Yard Limits, Maximum Speeds and Speed Restrictions.

HUDSON LINE

Interlocking Interlocking Block Station & Train Order Office	STATIONS	Distance From New York, G.C.T.	Siding, Direction E.W.B.S. or Both & Length in Feet	Note
	NEW YORK (G.C.T.)	0.0		
X	Upper Level	0.4		
X	Lower Level	0.4		
X	CP1	0.7		
X	CP3	3.2		
	125th St	~ 2		
X	CP4 (Movable Bridge)	4.8		
X	CP5 (Harlem Line)	5.2		
	Mott Haven (Harlem Line)	5.4		
X	CP6	5.6	W3742	
X	CP7	6.6		
	MORRIS HEIGHTS	8.1		
	UNIVERSITY HEIGHTS	8.7		
	BN	9.1		
	MARBLE HILL	9.8		
X	CP10	9.9		
X	CP11	11.0		1
	SPUYTEN DUYVIL	11.1		
X	CP12 (AMTK)	11.8	W10032	
	RIVERDALE	13.0		
	LUDLOW	14.4		
	YONKERS	15.2		
	GLENWOOD	16.3		
	GREYSTONE	17.9		
X	CP 19	18.5		
	HASTINGS	19.5		
	DOBBS FERRY	20.7		
	ARDSLEY	21.8		
	IRVINGTON	22.7		
X	CP 25	24.7		
	TARRYTOWN	25.3		
X	CP 26	26.4		
	PHILIPSE MANOR	26.5		
	SCARBOROUGH	29.5		
	OSSINING	30.9		
X	CP 33	32.9		
	CROTON HARMON	33.3		

HUDSON LINE (Cont'd.)					
Interlocking	Interlocking Station	Block Station & Train Order Office	STATIONS	Distance From New York, G.C.T.	Siding Direction E.W.R.S. or Both & Length in Feet
X			CP34	33.4	
X			CP35	34.2	
			CROTON No. STA	34.6	
X			CP36	36.4	
			CORTLANDT	38.4	
X			CP40	40.8	
			PEEKSKILL	41.3	
			MANITOU	46.1	
X			CP48	48.2	
			GARRISON	49.9	
			COLD SPRING	52.4	
			BREAKNECK RIDGE	55.0	
X			CP 58 (Beacon Line)	58.6	
			BEACON	59.0	E 13 200
X			CP 61	61.4	
X			CP 64 (Movable Br)	64.8	
			NEW HAMBURG	65.1	
X			CP 72	72.5	
			POUGHKEEPSIE	73.6	E 13 700
X			CP 75	75.5	
			DIV POST (Conrail)	75.8	

The Direction from New York to Div. Post (Conrail) is northward.

Note 1—The distance between MP10 and MP11 is 1416 ft.

RULES IN EFFECT

HUDSON LINE	Track	1	2	3	4	5	6
		E	W	E	W	E	W
CP1 and CP5	4 2 1 3				X		X
CP5 and CP7	4 2 1						X
CP7 and CP10	4 2 1				X		X
CP10 and CP11	2 1				X		X
CP11 and CP12	4 2 1				X		X
CP12 and CP33	4 2 1 3				X		X
CP33 and CP34	4 2 1 3						X
CP34 and CP35	2 1 3						X
CP35 and CP40	4				X		X
CP35 and Div. Post C.R.C.	2 1				X		X

CAB Signal Rules in service between

G.C.T. and CP1 and on controlled sidings between CP 6—

CP 7 CP 58 — CP 61 and CP 72 — CP 75

INTERLOCKING RULES

Rules 605 to 671 inclusive in effect between

Upper Level and CP1 on all Tracks

Lower Level and CP1 on all Tracks

CP4 and CP5 on No. 1, 2, 3 and 4 Tracks

CP5 and CP6 on No. 1, 2, and 4 Tracks

CP6 and CP7 on No. 1 and 2, 4 and 6 Tracks

CP 33 and CP 34 on No. 1, 2, 3 and 4 Tracks

CP 34 and CP 35 on No. 1, 2 and 3 Tracks

TWO OR MORE TRACKS

Current of Traffic or TCS as Follows

HUDSON LINE Between	No 4 Track	No 2 Track	No 1 Track	No 3 Track
CP1 and CP5	TCS	TCS	TCS	TCS
CP7 and CP10	TCS	TCS	TCS	
CP10 and CP11		TCS	TCS	
CP11 and CP12	TCS	TCS	TCS	
CP12 and CP34	TCS	TCS	TCS	TCS
CP35 and CP40	TCS	TCS	TCS	
CP40 and Div. Post C.R.C.		TCS	TCS	

Tracks are numbered from West to East 4, 2, 1 and 3 except between CP34 and CP35 where tracks are numbered from West to East 2, 1 & 3.

**SPEEDS, PASSENGER TRAINS
MAXIMUM SPEEDS, UNLESS OTHERWISE RESTRICTED
HUDSON LINE**

Between	MILES PER HOUR				
	No. 4 TK	No. 2 TK	No. 1 TK	No. 3 TK	Other TK
G.C.T. & CP1 (MP09)					10
CP1 and MP3.0	60	60	60	60	
MP3.0 and MP4.0	60	45	45	45	
MP4.0 & MP4.5	40	40	40	40	
MP4.5 and MP5.0	35	35	35	35	
MP5.0 and MP5.5	40	40	40	40	
MP5.5 and MP6.3	45	45	45	—	
MP6.3 and CP10 (MP9.9)	60	60	60	—	
CP10 & CP11 (MP11.1)		30	30		
CP11 & MP11.5	30	30	30		
MP11.5 & CP25 (MP24.5)	75	75	75	75	
CP25 & MP31.0	70	70	70	70	
MP31.0 & MP33.0	75	75	75	75	
MP33.0 & CP34	40	40	40	40	
CP34 & MP34.1		40	40	40	
MP34.1 & MP34.7	60	60	60		
MP34.7 & MP40.8	60	80	80		
MP40.8 & MP45.3		80	80		
MP45.3 & MP51.7		80	80		
MP51.7 & MP58.4		95	95		
MP58.4 & MP71.9		90	90		
MP71.9 & MP74.1		70	70		
MP74.1 & MP75.8		90	90		
All Controlled Sidings					30*

*CP 6 & CP 7 - 15 MPH

**SPEED RESTRICTIONS—PASSENGER TRAINS
HUDSON LINE - CURVES, BRIDGES, ETC.**

Between	Track No.	MPH
MP2.1 and MP2.2 (88th St.)	4 & 3	15
MP2.6 and MP2.7 (95th St.)	4 & 3	45
MP4.0 & MP4.3	3	30
BN Curve (MP9.2-MP9.9)	4, 2 & 1	50
1st Curve South of Yonkers (MP15.0-MP15.3)	4, 2, 1 & 3	50
CP33 (MP32.7-MP33.0)	4, 2 & 1	50
MP36.7 & MP38.4	4, 50, 2 & 1	60
MP40.3 & MP40.8	2 & 1	60
MP41.2 & MP42.4	2 & 1	45
MP43.8 & MP44.0	2 & 1	55
MP50.0 & MP50.9	2 & 1	60
MP54.4 & MP54.7	2	90
MP59.6 & MP61.6	2 & 1	80
MP60.7 & MP60.9	1	70
MP64.3 & MP64.8	2 & 1	80
MP73.0 & MP73.2	1	60
MP73.5 and MP73.7	1	60

SPEEDS, FREIGHT TRAINS

**MAXIMUM SPEEDS, UNLESS OTHERWISE RESTRICTED
HUDSON LINE**

Between	When Hauled By:	
	Metro-North Engines Class GP-9, GP-8 and GP-35	
	All Main Tracks	
	Freight	
G.C.T. and CP1 (MP0.9)	10 (Note 1)	
CP1 and MP6.4	20	
MP6.4 and CP10 (MP9.9)	40	
CP10 and CP12 (MP11.5)	20	
CP12 and MP32.0	40	
MP32.0 and MP34.7	25	
MP34.7 and MP35.7	45	No 4 Tr-40 MPH
MP35.7 and MP40.4	50	No 4 Tr-40 MPH
MP40.4 and MP45.3	40	
MP45.3 and MP75.8	50	
All Controlled Sidings	25*	

*CP6 and CP7 - 15 mph

MAXIMUM SPEEDS, ALL OTHER ENGINES

Between	All Main Tracks	
	Freight	
G.C.T. and CP1 (MP0.9)	10 (Note 1)	
CP1 and CP10 (MP9.9)	20	
CP10 and CP12 (MP11.5)	15	
CP12 and MP14.6	40	
MP14.6 and MP15.2	25	
MP15.2 and MP17.8	40	
MP17.8 and MP19.3	25	
MP19.3 and MP24.0	40	
MP24.0 and MP25.6	25	
MP25.6 and MP32.0	40	
MP32.0 and MP33.0	25	
MP33.0 and CP34 (MP33.4)	15	
CP34 and MP34.7	20	
MP34.7 and MP35.6	35	
MP35.6 and MP38.2	45	No 4 Tr-40 MPH
MP38.2 and MP46.3	40	
MP46.3 and MP52.0	45	
MP52.0 and MP55.0	40	
MP55.0 and CP61 (MP61.4)	50	
CP61 and CP64 (MP64.7)	40	
CP64 and MP71.0	50	
MP71.0 and CP72 (MP72.5)	45	
CP72 and MP75.8	35	
All Controlled Sidings	25	

*CP6-CP7 - 15 mph

**SPEED RESTRICTIONS — FREIGHT TRAINS
HUDSON LINE — CURVES, BRIDGES, ETC.**

Between	Track No.	MPH
BN Curve (MP9.2-MP9.9)	4, 2 & 1	30
MP36.7 and MP38.4	2 & 1	40
MP41.2 and MP42.4	2 & 1	30
MP46.0 and CP48	2 & 1 (Northward)	15
MP50.0 and MP50.9	2 & 1	40
MP73.0 and MP73.2	1	40

SPEEDS — Wreck Trains and Work Trains

Hudson Line	Miles per Hour	
	Wreck Train	Work Train
Between G.C.T. and MP 75.8	35	30

Note 1: Work trains without cranes may operate at speed authorized for Freight Trains unless otherwise specified

Note 2: Unless authorized by Gen. Supt. Transportation Boom must be in Trailing Position. Maximum Speed in Curves will be established by Asst. Chief Mech. Officer before departure

SPEEDS — TURNOUTS

Maximum Speeds (Hudson Line)	Miles per Hour
Grand Central Terminal	
Upper Level Loop Tracks	4
Lower Level Loop Tracks	6

CERTIFICATE OF SERVICE

I certify that I have this 21st day of October, 1997, served Confidential copies of the foregoing Joint Responsive Application of the State of New York and the New York City Economic Development Corporation by hand upon Applicants' counsel:

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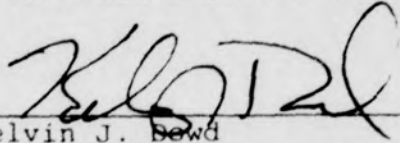
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I further certify that copies of the Public Version of the foregoing Joint Responsive Application were served by first class mail, postage prepaid on:

The Honorable Rodney E. Slater
Secretary
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400 7th Street, S.W., Suite 10200
Washington, D.C. 20590

The Honorable Janet Reno
Attorney General of the United States
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and upon all other parties of record in Finance Docket No. 33388.


Kelvin J. Dowd