

The joint board procedure has worked successfully in motor carrier regulation and has significantly strengthened federal-state relations. We believe it should be extended to Section 13a.

Under our proposal, a Section 13a joint board would apply the same legal standards for deciding railroad petitions as are now applied by the ICC. On appeal, the ICC could reverse or modify the decision of the joint board if it determine that the board failed to apply the proper legal standards on the basis of the findings of fact made by the board.

The use of the joint board procedure would not unduly lengthen the administrative process because it would be largely a substitute for preliminary consideration of discontinuance petitions by the ICC.

Section 13a was enacted because some believed that some state commissions were too reluctant in permitting railroads to discontinue unprofitable passenger train services. However, it appears to us that the pendulum has now swung too far in the opposite direction. The ICC, acting under Section 13a, has permitted hundreds of trains to be discontinued in the past several years with the result that railroad passenger service is at best sparse throughout the country and in some areas has ceased to exist. During the past five years rail travel has decreased sixteen percent and is now but one-fifth of the all time peak set in the World War II year of 1944.

We believe that a joint board composed of state commissioners applying national standards will give a proper balance to regional and national needs in passenger train discontinuance cases. If the joint board errs in its decision then of course the ICC would be free on appeal to correct any misapplication of national standards.

Summarizing, we support the enactment of S. 2711, but we hope the Subcommittee will go much farther by affording full consideration to all aspects of the problem, and report out proposed amendments of the nature recommended by the NARUC.

Thank you for your attention.

APPENDIX

In order to permit the use of state joint boards in proceedings under Section 13a, the NARUC recommends that the following provisions be added at the end of such Section:

"(a) Notwithstanding the provisions of subsection (1) of this section, where the discontinuance or change, in whole or in part, by any carrier subject to this part, of the operation or service of any train or ferry operated in service in a plural number of states not in excess of nine is prohibited by any provision of the constitution or statutes of any state or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any state, and where such carrier desires to discontinue or change, in whole or in part, the operation or service of any such train or ferry, such carrier shall petition the Commission for authority to effect such discontinuance or change. Within five days after the receipt of such petition, the Commission shall forward written notification thereof to the state commission of each state involved and advise that it is entitled to furnish one official to serve as a member of a state joint board established under the provisions of this subsection to hear and decide such petition, provided that the state commission certifies the name, title and address of its official to the Commission within fifteen days after receipt of such written notification from the Commission. A state commission which fails to make a timely certification of its official shall forfeit its right to furnish a member for such state joint board.

"(b) Upon the expiration of such fifteen day period, the Commission shall issue an order showing the names, titles and addresses of the state officials so certified and shall specify a time (within thirty days after the date of the order) and place (within the area involved) for them to convene to hear and decide such petition. The state joint board shall be composed solely of the state officials so named in such order and each shall have one vote in the deliberations of the board. All decisions by a joint board shall be by majority vote. The Commission shall designate an examiner to advise with and assist the state joint board in handling the case. The Commission shall also provide necessary stenographic assistance. A state joint board shall be vested with the same rights, duties, powers, and jurisdiction as are vested in members or examiners of the Commission to whom a matter is referred for hearing. An order of a state joint board shall be deemed an order of the Commission unless reversed or modified by the Commission. Members of a state joint board when administering the provisions of