

SURVEY OF GOVERNMENT OPERATIONS

PART 5—INTERSTATE COMMERCE COMMISSION

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HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES NINETIETH CONGRESS

SECOND SESSION

APRIL 8, 1968

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SURVEY OF GOVERNMENT OPERATIONS PART 5—INTERSTATE COMMERCE COMMISSION

WEDNESDAY, APRIL 3, 1968

**HOUSE OF REPRESENTATIVES,
GOVERNMENT ACTIVITIES SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.**

The subcommittee met at 10:07 a.m., in room 2247, Rayburn House Office Building, the Honorable Jack Brooks, presiding.

Present: Representatives Jack Brooks, William S. Moorhead, William J. Randall, Fletcher Thompson, and Margaret M. Heckler.

Also present: Ernest C. Baynard, staff administrator; William M. Jones, counsel; Irma Reel, clerk, and Lynne Higginbotham, clerk.

Mr. Brooks. The Government Activities Subcommittee, having been duly organized under the rules of the House of Representatives and a quorum being present, is hereby called to order.

Today the subcommittee is reviewing the economy and efficiency of operations at the Interstate Commerce Commission.

The ICC is the oldest as well as one of the largest of the regulatory agencies. It has far reaching responsibilities of the utmost importance to the interstate transportation industry in the United States.

Approximately one out of every \$5 in our national economy is spent for transportation. Some 9 million Americans, or almost 5 percent of our population, are employed by the transportation industry. These figures alone indicate the vital role of the ICC in our national economy.

The Congress foresaw the need for a regulatory agency in the infancy of our modern transportation system. Legislation was enacted during the 19th century creating the ICC. Many changes in transportation—and that is an understatement—have occurred since that time. We want to know how well the ICC is performing today.

In this hearing, we want to review the operations of the ICC on a program-by-program basis: What is each program? how much is being spent on it? what is the taxpayer receiving for his money in this operation?

The Chairman of the Interstate Commerce Commission, Mr. Paul J. Tierney, is here with us today. Before getting into the questions which the subcommittee has, Mr. Chairman, would you be so gracious as to introduce the officials of the ICC that may possibly be called upon to testify and who are accompanying you to this investigation.

STATEMENT OF PAUL J. TIERNEY, CHAIRMAN, INTERSTATE COMMERCE COMMISSION; ACCOMPANIED BY BERNARD F. SCHMID, MANAGING DIRECTOR; MARTIN E. FOLEY, ASSISTANT MANAGING DIRECTOR; JAMES L. BARBOUR, SPECIAL ASSISTANT TO THE MANAGING DIRECTOR; CURTIS F. ADAMS, DIRECTOR OF PERSONNEL; ROBERT J. HARTEL, CHIEF, SECTION OF SYSTEMS DEVELOPMENT; GEORGE J. LOTITO, BUDGET AND FISCAL OFFICER; ALAN M. FITZWATER, ASSISTANT BUDGET AND FISCAL OFFICER; FRITZ R. KAHN, DEPUTY GENERAL COUNSEL; H. NEIL GARSON, SECRETARY; BERTRAM E. STILLWELL, DIRECTOR, OFFICE OF PROCEEDINGS; ALVIN L. CORBIN, ASSOCIATE DIRECTOR, OFFICE OF PROCEEDINGS; THADDEUS W. FORBES, DEPUTY DIRECTOR, OFFICE OF PROCEEDINGS; EDWARD MARGOLIN, DIRECTOR, BUREAU OF ECONOMICS; BERNARD A. GOULD, DIRECTOR, BUREAU OF ENFORCEMENT; ROBERT D. PFAHLER, DIRECTOR, BUREAU OF OPERATIONS; EDWARD H. COX, DIRECTOR, BUREAU OF TRAFFIC; MATTHEW PAOLO, DIRECTOR, BUREAU OF ACCOUNTS; AND JAMES C. CHESELDINE, CHIEF HEARING EXAMINER, OFFICE OF PROCEEDINGS

Mr. TIERNEY. Right here at the table to my left is Mr. Bernard F. Schmid, Managing Director, and to his left is Mr. Foley, Assistant Managing Director, and Mr. Lotito, budget and fiscal officer.

To my right, as far as our Bureaus are concerned, we have with us here the head of our Office of Proceedings, who is Mr. Betram Stillwell, and representing our General Counsel's Office is the Deputy General Counsel, Mr. Fritz Kahn, and our Secretary, Mr. Neil Garson.

I will go down the line here: Associate Director of our Office of Proceedings, Mr. Alvin Corbin; Deputy Director, Office of Proceedings, Mr. Thaddeus Forbes; Director of our Bureau of Economics, Mr. Edward Margolin; Director our Bureau of Enforcement, Mr. Bernard A. Gould; Director of our Bureau of Operations, Mr. Robert Pfahler; Director of Bureau of Traffic, Mr. Edward Cox; and Chief Hearing Examiner, Office of Proceedings, Mr. James Cheseldine.

We also have here Mr. James Barbour, who is special assistant to the Managing Director; Mr. Curtis F. Adams, our director of personnel; Mr. Robert Hartel, Chief, Section of Systems Development; and Alan Fitzwater, assistant budget and fiscal officer.

PART 1.—OVERALL AGENCY OPERATIONS

Mr. BROOKS. Gentlemen, we welcome you here and we are delighted to see you.

Mr. Chairman, we have a number of detailed questions concerning various aspects of the management of your agency which we would like to submit to you for written responses to be placed in the record. However, at this time, we would like to discuss some of these management concepts.

To begin our questioning, do you have a fact sheet which indicates the total funds available to your agency as a whole for fiscal year 1968?

Mr. TIERNEY. Yes, Mr. Chairman, I do. The total funds are \$23,846,000.

Mr. BROOKS. At this point I would put in a copy of exhibit A, the combined program fact sheet, along with exhibits B and C, being the organization chart and the program budgeting breakdown, without objection.

(Exhibits A, B, and C follow.)

EXHIBIT A.—FACT SHEET—COMBINED PROGRAM—INTERSTATE COMMERCE COMMISSION

DEPARTMENT OR AGENCY		PROGRAM	SUBPROGRAM		
100	ICC	Total Agency			
CODE		CODE	CODE		
ANALYSIS AND CONTROL CODES					
FISCAL YEAR 1968					
		Unobligated Carryover	Appropriation or Current Year Request	Total Available <u>1/</u>	Total Obligated or Expended
500	"In house" inputs				
510	Personnel:				
511	Comp.			20,291,000	
512	Benefits			1,606,000	
513	Travel			780,000	
520	Expenses:				
521	Communications			470,000	
522	Transportation			24,000	
523	Printing			108,000	
524	Supplies and Consumable Materials			507,000	
530	Capital Equipment			60,000	
540	Land and Structures				
541	Additional Investment				
542	Rents				
550	Total			23,846,000	
600	Funds distributed				
610	Contracts				
620	Grants				
630	Loans				
640	Benefits				
650	Other				
660	Total				
700	Total			Prior Fiscal Year	
800	Input-output ratio				
810	1. Input				
811	1. Output				
820	2. Input				
821	2. Output				
830	3. Input				
831	3. Output				
840	4. Input				
841	4. Output				
850	5. Input				
851	5. Output				
860	6. Input				
861	6. Output				
870	7. Input				
871	7. Output				
880	8. Input				
881	8. Output				

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89-641-b GPO

^{1/} Anticipates \$386,000 proposed supplemental appropriation for pay increases authorized by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

INTERSTATE COMMERCE COMMISSION



**EXHIBIT C.—PROGRAM STRUCTURE BREAKDOWN—INTERSTATE COMMERCE
COMMISSION**

1. Regulation of carrier rates, practices, operating authorities, and finance. (Exhibit F) :
 - (a) Office of Proceedings.
 - (b) Commissioners and their offices.
 - (c) Section of Records and Service, Office of the Secretary.
 - (d) Section of Cost Finding, Bureau of Accounts.
 - (e) Section of Financial Analysis, Bureau of Accounts.
 - (f) Board of Suspension, Bureau of Traffic.
 - (g) Fourth Section Board, Bureau of Traffic.
2. Compliance. (Exhibit G) :
 - (a) Bureau of Operations.
 - (b) Bureau of Enforcement.
3. Supervision and analysis of carrier accounting and statistics. (Exhibit H) :
 - (a) Bureau of Accounts (except sections of cost finding and financial analysis).
 - (b) Bureau of Economics.
4. Supervision and interpretation of tariffs. (Exhibit I) : Bureau of Traffic (except board of suspension and fourth section board).
5. Executive and advisory functions. (Exhibit J) :
 - (a) Chairman, Vice Chairman, and their staffs.
 - (b) Office of the General Counsel.
 - (c) Office of the Secretary (except section of records and service).
6. General management and administration. (Exhibit K) :
 - (a) Office of the Managing Director : Office.
 - (b) Administrative services.
 - (c) Budget and fiscal office.
 - (d) Personnel office.
 - (e) Systems development.

Mr. TIERNEY. I just want to add that, as a result of Public Law 90-218, \$317,000 of that figure I gave you is being held in reserve. We have asked for restoration of that figure, plus a supplemental appropriation of \$386,000 to cover the balance of our increased costs that will result from the pay increases.

Mr. BROOKS. I didn't have that information previously. Where does that fit in on the total agency appropriation?

Mr. SCHMID. That is a footnote on exhibit A.

Mr. BROOKS. It is not reflected in the total delineated on the chart itself?

Mr. SCHMID. Yes, sir, it is in the total of \$23,846,000.

Mr. BROOKS. It has already been calculated into that?

Mr. SCHMID. Yes, sir.

Mr. BROOKS. The supplemental plus the release of your reserve is calculated into the total available?

Mr. SCHMID. Yes.

Mr. BROOKS. This is an additional explanation as to where you acquired that?

Mr. SCHMID. That is correct.

Mr. BROOKS. Proceed, Mr. Chairman.

Mr. TIERNEY. Our employee ceiling, Mr. Chairman, is 1907. That figure reflects a reduction of 74 positions in our employee ceiling as a result of congressional and Budget Bureau actions. That will also be our ceiling for fiscal year 1969.

We have in the Commission, as of March 23 of this year, some 1,840 employees.

Our operations cover the entire continental United States, Alaska, and Hawaii. We have field offices in all States with the exception of Delaware and Hawaii.

A. GENERAL SUPPORT

Mr. Brooks. Under the program budgeting breakdown, sir, do you have a support program covering operations of your office, and other policymaking personnel not directly attributable to a program function?

Mr. Tierney. Mr. Chairman, it is a category we call executive and advisory functions.

Mr. Brooks. We will submit exhibit D, the fact sheet of your general support program at this point in the record, without objection. (Exhibit D follows:)

EXHIBIT D.—FACT SHEET—GENERAL SUPPORT PROGRAM—INTERSTATE COMMERCE COMMISSION

Note: Support functions include programs No. 5 Executive and advisory functions, and No. 6 General management and administration

DEPARTMENT OR AGENCY		PROGRAM	SUBPROGRAM		
100	ICC	General Support			
	CODE	CODE	CODE		
200	ANALYSIS AND CONTROL CODES				
300					
400	FISCAL YEAR 1968				
		Unobligated Carryover	Appropriation or Current Year Request	Total Available 1/	Total Obligated or Expended
500	"In house" inputs				
510	Personnel:				
511	Comp.			2,517,000	
512	Benefits			192,000	
513	Travel			28,000	
520	Expenses:				
521	Communications			273,000	
522	Transportation			1,000	
523	Printing			88,000	
524	Supplies and Consumable Materials			46,000	
530	Capital Equipment			11,000	
540	Land and Structures				
541	Additional Investment				
542	Rents				
550	Total			3,156,000	
600	Funds distributed				
610	Contracts				
620	Grants				
630	Loans				
640	Benefits				
650	Other				
660	Total				
700	Total				
				Prior Fiscal Year	
800	Input-output ratio				
810	1. Input				
811	1. Output				
820	2. Input				
821	2. Output				
830	3. Input				
831	3. Output				
840	4. Input				
841	4. Output				
850	5. Input				
851	5. Output				
860	6. Input				
861	6. Output				
870	7. Input				
871	7. Output				
880	8. Input				
881	8. Output				

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88-541-5 GPO

1/ Anticipates \$386,000 proposed supplemental appropriation for pay increases authorized by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

SUPPORT PROGRAM

The Commission's support program consists of two independently identifiable subprograms entitled "Executive and Advisory Functions" and "General Management and Administration." These programs encompass the functions performed by the Chairman and Vice Chairman and their staffs, the Office of the Managing Director, the Office of the Secretary, and the Office of the General Counsel.

The two subprograms which make up the general support program follow:

DEPARTMENT OR AGENCY		PROGRAM	SUBPROGRAM		
100	ICC	General Support	Executive and advisory functions		
200	CODE	CODE	CODE		
ANALYSIS AND CONTROL CODES					
FISCAL YEAR 1968					
		Unobligated Carryover	Appropriation or Current Year Request	Total Available <u>1/</u>	Total Obligated or Expended
500	"In house" inputs				
510	Personnel:				
511	Comp.			958,000	
512	Benefits			72,000	
513	Travel			13,000	
520	Expenses:				
521	Communications			14,000	
522	Transportation				
523	Printing			15,000	
524	Supplies and Consumable Materials			15,000	
530	Capital Equipment			6,000	
540	Land and Structures				
541	Additional Investment				
542	Rents				
550	Total			1,093,000	
600	Funds distributed				
610	Contracts				
620	Grants				
630	Loans				
640	Benefits				
650	Other				
660	Total				
700	Total				
				Prior Fiscal Year	
800	Input-output ratio				
810	1. Input				
811	1. Output				
820	2. Input				
821	2. Output				
830	3. Input				
831	3. Output				
840	4. Input				
841	4. Output				
850	5. Input				
851	5. Output				
860	6. Input				
861	6. Output				
870	7. Input				
871	7. Output				
880	8. Input				
881	8. Output				

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90-541-5 8-65

^{1/} Anticipates \$386,000 proposed supplemental appropriation for pay increases authorized by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

PROGRAM NO. 5. EXECUTIVE AND ADVISORY FUNCTIONS

(a) Statutory authority for members of the Commission, the General Counsel's functions and the Secretary is found in sections 11, 16(11), and 18(1) respectively, of the Interstate Commerce Act. Administrative authority for the Chairman's and Vice Chairman's functions is derived from delegations of authority

contained in the Commission's Organization minutes, items 3.1 through 3.13 inclusive.

(b) The principal objective of this program is to provide the overall executive direction of the Commission, and the legal advisory and ministerial support services.

The Chairman is the executive head of the Commission and is responsible for the overall management and functioning of the Commission, the formulation of plans and policies designed to increase the effectiveness of the Commission in the administration of the Interstate Commerce Act and related acts, and the development and improvement of staff support to carry out the duties and functions of the Commission. The Chairman acts as correspondent and spokesman for the Commission in all matters where an official expression of the Commission is required. The Chairman's responsibilities encompass the entire Commission organization and its operations which are performed with an authorized force of 1,907 employees and a budget in excess of \$23 million. Some 20,000 for-hire companies provide domestic surface transportation in the United States that are subject to the Commission's economic regulations. Such regulations relate primarily to carrier rates, practices, operating authorities, and finance. The scope and impact of the Commission's work is indicated somewhat by the fact that approximately \$1 out of every \$5 in our national economy is spent for transportation; and the industry has become a source of employment for some 9 million Americans.

The Vice Chairman acts for the Chairman during the latter's absence and is the official through whom the regulatory bureaus report on technical program operations.

The Secretary is the official through whom the Commission, its divisions, individual Commissioners, boards of employees, joint boards, and examiners issue their orders and decisions; he is custodian of the seal and records of the Commission and is responsible for the proper documentation of Commission decisions, procedures, and other transactions; and pursuant to the rules of practice, he is responsible for processing the official documents pending before the Commission and for service on parties to formal proceedings.

The Office of the General Counsel defends the Commission's orders promulgated pursuant to the provisions of the Interstate Commerce Act and related acts in the district courts, courts of appeal and in the U.S. Supreme Court. It advises the Commission and its staff on legal questions arising in Commission proceedings, and otherwise acts in an advisory capacity to the Commission and its staff on legal matters.

(c) The official having direct operational responsibility for this program is Paul J. Tierney, current Chairman of the Commission. The Commission's Vice Chairman is Virginia Mae Brown. The principal officials having operational responsibilities at the staff level are Robert W. Ginnane, General Counsel, and H. Neil Garson, Secretary.

PROGRAM NO. 6.—GENERAL MANAGEMENT AND ADMINISTRATION

a. The statutory and administrative authority for this program lies in the appropriate sections of the Interstate Commerce Act (49 U.S.C. secs. 1 et seq.), the organization minutes and internal minutes of the Commission, and numerous other statutes governing the operations and activities of administrative agencies, such as: the Budget and Accounting Act of 1950, the regulations of the Comptroller General, General Services Administration, Civil Service Commission, etc.

b. The principal function of this program is the day-to-day management and administration of the Commission's work. The program utilizes the latest management tools and concepts at our disposal, including the budget process, internal audit, management information system, and program evaluation to plan overall objectives in the substantive program areas and to measure accomplishments against the goals. Management's goal is to maintain the output of a high quality substantive work product, at the highest level possible and with minimum expenditures of manpower and dollars. This program is directed by the Commission's Managing Director, who is assisted by the following four units: (1) Budget and Fiscal Office; (2) Personnel Office; (3) Section of Administrative Services; and (4) Section of Systems Development, and six regional managers who manage all activities of the field staff and field programs.

	DEPARTMENT OR AGENCY	PROGRAM	SUBPROGRAM		
100	ICC	General Support	General Management and Administration		
200	CODE	CODE	CODE		
	ANALYSIS AND CONTROL CODES				
300					
400	FISCAL YEAR 1968				
		Unobligated Carryover	Appropriation or Current Year Request	Total Available 1/	Total Obligated or Expended
500	"In house" inputs				
510	Personnel:				
511	Comp.			1,559,000	
512	Benefits			120,000	
513	Travel			15,000	
520	Expenses:				
521	Communications			259,000	
522	Transportation			1,000	
523	Printing			73,000	
524	Supplies and Consumable Materials			31,000	
530	Capital Equipment			5,000	
540	Land and Structures				
541	Additional Investment				
542	Rents				
550	Total			2,063,000	
600	Funds distributed				
610	Contracts				
620	Grants				
630	Loans				
640	Benefits				
650	Other				
660	Total				
700	Total			Prior Fiscal Year	
800	Input-output ratio				
810	1. Input				
811	1. Output				
820	2. Input				
821	2. Output				
830	3. Input				
831	3. Output				
840	4. Input				
841	4. Output				
850	5. Input				
851	5. Output				
860	6. Input				
861	6. Output				
870	7. Input				
871	7. Output				
880	8. Input				
881	8. Output				

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99-041-1 OF 2

1/ Anticipates \$386,000 proposed supplemental appropriation for pay increases authorized by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

Through operation of this program, the Managing Director manages and evaluates the output of the substantive programs which, as an example, includes some 20,900 formal and informal proceedings in fiscal year 1967 (activity No. 1); an estimated 10,500 compliance surveys, 3,600 preliminary investigations, and 1,100 final investigations in fiscal year 1968 (activity No. 2); approximately 1,200 accounting examinations, 100 depreciation studies, over 2,000 cost analyses, over 100 projects, studies, and economic analyses in fiscal year 1967 (activity No. 3); and the examination and criticism of some 215,000 tariff filings annually (activity No. 4).

In addition to the substantial management and administrative functions outlined above, this program also provides substantial support services to the Commission and all of its operating units, such as a centralized ADP facility, the operation of a class A printing plant which provides the printing services relating to the Commission's decisions and its other requirements, and the normal

personnel, budget, fiscal, accounting, procurement, and general housekeeping services required by a government agency.

c. The ICC official having direct responsibility over the program is Mr. Bernard F. Schmid, Managing Director.

Mr. TIERNEY. Within that category, Mr. Chairman, are the offices of the Chairman and the Vice Chairman, the Office of the Secretary, and the Office of the General Counsel.

In addition to that which might be considered in the category of support functions is the general management and administration category, and that is the Office of the Managing Director who has the responsibility for the day-to-day management of the Commission.

Mr. BROOKS. Would you give a brief justification for the size and extent of this support program which you have broken in your agency into two, more or less well-defined areas?

Mr. TIERNEY. First, in the area of executive and advisory functions, the Office of the Chairman. The Chairman, as you know, is responsible for the executive direction of the Commission. He is also responsible for developing plans and policies which are designed to more effectively implement and administer the Interstate Commerce Act.

The Office of the General Counsel is an advisory office. In effect, he defends in Federal courts those decisions of the Commission which are appealed to the Federal courts. He also supplies to the Commission or to the various offices, advisory legal opinions.

The Office of the Secretary—the Secretary has the responsibility for maintaining all the records of the Commission and he is the custodian of the Commission's seal. He prepares certifications of papers, copies of extracts from records filed with the Commission, and maintains the official minutes of the Commission.

Turning next to the area, Mr. Chairman, of general management and administration; this is the Office of the Managing Director—

Mr. BROOKS. Before you move to that, how many employees are there in the first breakdown on your general support section?

Mr. TIERNEY. In the first breakdown there are 86 employees, Mr. Chairman, and the amount of money for that aspect of the operation of the Commission is \$1,092,895. I believe that represents roughly a third of the funds for these support areas.

Mr. BROOKS. For your total support program?

Mr. TIERNEY. That is correct, sir.

Mr. BROOKS. Would you continue with the secondary aspect of your support program?

Mr. TIERNEY. The next area, general management and administration is the Office of the Managing Director who, as I have indicated, Mr. Chairman, is responsible for the day-to-day administration of the Commission. Under him there are four important offices: Administrative Services, Budget and Fiscal Office, the Personnel Office and the Systems Development.

Administrative Services is essentially a support area for much of the Commission. They edit and prepare publications and reports of the Commission; they operate, within the Administrative Services Branch, a class A printing plant from which we print Commission reports and publications. They also provide the normal procurement, contracting, and housekeeping functions of the Commission.

Next is the Budget and Fiscal Office which is self-explanatory, I think, as well as the Personnel Office.

The Systems Development Office is really the office which is responsible for the analysis and development of systems in the Commission, and the important aspect of that office is our computer operation.

Mr. BROOKS. Before we get into those fields, Mr. Chairman, under the Budget and Fiscal Office, your first breakdown, is that where you handle your printing?

Mr. TIERNEY. No, sir; under Administrative Services.

Mr. BROOKS. Your third breakdown under General Management?

Mr. TIERNEY. That is right, Administrative Services.

Mr. BROOKS. Under that section, why would you not use the Government Printing Office? What is the necessity for a major printing operation in addition to the Government Printing Office?

Mr. TIERNEY. As I understand it, we have received permission from the Joint Committee on Printing to use a separate printing service in lieu of the Government Printing Office.

Mr. BROOKS. Why is that?

Mr. TIERNEY. We find it more practical, more expeditious, and more reasonable.

Mr. BROOKS. It costs less money, is that what you mean?

Mr. SCHMID. That is one of the reasons. But the principal reason is the confidential nature of the decisions of the Commission. We print about 50 million pages of decisions and recommended reports.

Mr. BROOKS. You feel that at the Government Printing Office it would not be secure?

Mr. SCHMID. If pending cases were to go there, there would also be the possibility of leaks on these cases. Also, it is absolutely essential to expedite the processing of these decisions once they are made and release them to the public as quickly as possible, and we can do it much faster than the Government Printing Office.

Mr. BROOKS. I know the Government Printing Office does print confidential material for the Congress and they have not had any serious leak problems. I wonder if your staff has ever really put the pencil to it and decided whether you could use the Government Printing Office and save some money and not have a duplicate printing establishment and all the personnel and cost that go with a separate printing operation?

Mr. SCHMID. The other reason, Mr. Chairman, is the need for processing these quickly. We usually print and release a decision within a week to 10 days after the decision is made. Now, we wouldn't possibly expect the Government Printing Office to handle these things that fast.

I should add, however, we do use the Government Printing Office for many of our major work items. We don't print everything in our own plant.

Mr. BROOKS. Would you give us a breakdown on what percentage of your printing is done by the Government Printing Office; what percentage, Mr. Chairman, is done by your own in-house printing capacity and capability; also, what the total cost is of your own printing and what the economic justification would be for maintaining a separate printing establishment in addition to the Government Printing Office?

Mr. TIERNEY. We would be glad to do that, Mr. Chairman.

Mr. BROOKS. I just feel that it may well be that you could get the same type of service just as fast, just as secure, and at less money if you used the Government Printing Office, which I know many other Government agencies with highly classified materials do on occasion use.

Mr. TIERNEY. We will submit that information, Mr. Chairman.

Mr. BROOKS. I don't have the figures on that, but there ought to be a careful justification on that if there is one. If it is a matter of getting the Government Printing Office to be more secure or to give you a fixed time in which to get your decisions out, maybe that can be arranged without any real difficulty.

Mr. TIERNEY. We will supply that information, Mr. Chairman.

(The information to be supplied follows:)

During fiscal year 1967, this agency procured a total of \$138,202 of printing in Washington, D.C. Of this, 83 percent was procured from the Government Printing Office; and 17 percent from the Departmental Service Office. Of the total work procured from the Government Printing Office, 71 percent was procured by GPO from commercial sources. Ninety-eight percent of the work was for over 30-day delivery. Work sent to the Government Printing Office averaged \$9.31 per 1,000 units. (A unit means one sheet, size 8 x 10½ inches, one side only, one color.)

Additional printing services (70 percent of which was classified as administratively confidential) were provided at a cost of \$258,858 in the agency's own plant in Washington, D.C., employing 26 persons who worked 990 hours of overtime. Twenty percent of the production was required the same day, 65 percent in 4 to 10 days, and 15 percent in 11 to 30 days. Cost of producing work in-house was \$4.08 per 1,000 units. (Of the work produced in-house, only 20 percent could properly be classified as "printing." The balance falls under the JCP definition of "duplicating," having been produced from typewritten duplimats.)

Approximately 20 percent of the Commission's printing for fiscal year 1967 was done by the Government Printing Office. However, cost of GPO printing equaled 35 percent of the total printing costs. Only 2 percent of the work done at GPO involved a 25-percent surcharge as "urgent or priority" work; and none was confidential or secret which would have involved surcharges of 15 percent and 30 percent, respectively.

The total cost for printing for the Commission for fiscal year 1967 was \$397,060. This shows a reduction in printing costs of \$42,786 from fiscal year 1963 (despite increases in salaries and volume of work), when total printing costs amounted to \$439,846. The reduction in the Commission's printing costs was achieved through establishment of a cold-type composition operation in 1963 which eliminated a duplicate printing of Commission decisions. Prior to establishment of the cold-type operation, decisions were printed first at the Interstate Commerce Commission in legal size typed format; sent later to the Government Printing Office where they were set in hot type and printed as advance pamphlets to the bound volumes; page type stored, and printed as a bound volume still later. Now decisions are typed in-house on cold type composing machines during the decisional and review process and initially printed and served on the parties to the proceeding in the form of advance pamphlets to the bound volumes. Camera copy is accumulated and later sent to the Government Printing Office for printing the bound volume by the offset method rather than letterpress method thus resulting in an additional savings to the Interstate Commerce Commission over the system followed in fiscal year 1963 and prior years. All of the printing in connection with decisions is administratively confidential and of the first priority. To transfer this work to the Government Printing Office would add surcharges of from 40 to 60 percent to normal Government Printing Office cost. Any unwarranted delay in the timely release of the Commission's decisions works a hardship on the industry which it regulates and could result in the loss of many hundreds of thousands of dollars in revenue.

We believe the economic justification for maintaining a separate printing establishment at the Interstate Commerce Commission is clear—it costs the Government less and gives the public better service.

Mr. BROOKS. Go ahead with your general breakdown. Had you concluded your section on Administrative Services?

Mr. TIERNEY. Yes; the Budget and Fiscal Office has 29 people and \$266,411 allocated to that Office.

In the Personnel Office, which handles our personnel matters, Mr. Chairman, there are 18 people with a budget of \$208,930.

Our Systems Development Section which I explained has a total of 42 employees and a budget of \$568,152.

Mr. BROOKS. Do your systems development people work primarily with your Budget and Fiscal Office on financial matters or do they work on the programs and efficiency with which you implement acts of Congress?

Mr. TIERNEY. They work in a variety of areas, Mr. Chairman. One of the principal areas is a central status system whereby through the use of a computer we are able to determine the stages of the various processes of our cases; the purpose, of course, being to find out where our shortcomings are in this area and analyze those areas where we think we can improve the processing.

Mr. BROOKS. The processing of your caseload?

Mr. TIERNEY. Yes.

Mr. BROOKS. That is what they use it for primarily?

Mr. TIERNEY. That is one of the principal purposes. We also use it for payroll purposes and for inventory purposes.

Mr. BROOKS. Who administers this for you, sir?

Mr. TIERNEY. It is in Mr. Schmid's office, but Mr. Robert Hartel is in charge of it.

Mr. BROOKS. Mr. Hartel, what is your background in this particular field of data processing equipment?

Mr. HARTEL. I have a bachelor's degree and a master's degree in government. I have had 12 years in the management and systems area, 5 years' experience in the ADP area, Mr. Chairman.

Mr. BROOKS. Five years' experience with ADP within the ICC?

Mr. HARTEL. Yes, sir.

Mr. BROOKS. You have been with them in that particular facet of their operation for that period of time?

Mr. HARTEL. Yes, sir.

Mr. BROOKS. Do you on occasion employ consultants who are trained technicians in the use of this equipment?

Mr. HARTEL. No, sir; we have not used any consultants. Six or 7 years ago we did have some Bureau of Standards people come in on a consultant basis for 1 year, but currently we do not use any consultants other than there was a Bureau of the Budget contract with a consultant firm in Philadelphia to review potential uses of computers in the decisional process, but this was a contract let by the Bureau of the Budget, Mr. Chairman.

Mr. BROOKS. The GSA, the Defense Department, the Bureau of the Budget, and the Bureau of Standards have some pretty competent personnel in this field. I don't normally recommend that you go outside and hire a lot of consultants, but this is a very involved field that moves rapidly and is expanding and moving faster than most of us. You might be justified in discussing your basic problems and concepts and how they might be aided by the use of the existing computer art with

some of those folks. I think even within the Government you can get some high-grade consultation with a minimum of trouble and time. I think they would be willing to give you their best advice and I think you might find, as fast as this technique is growing, that you might benefit some from it and those benefits might be passed on to the agency as we try to upgrade the efficiency with which you operate.

MR. SCHMID. Mr. Chairman, may I supplement the remarks of the chairman on the use of the computer?

You specifically asked: "Do we use them in the program areas?" The answer is, "Yes." In our Bureau of Accounts, for example, we have computer programs developing cost formulas that are used in the rate cases. We also have a data bank with information from our annual and quarterly reports which are processed with the computer and information published therefrom.

There are other areas, too, where we do use a computer in the program, such as in our Bureau of Economics and some of their research studies. We apply computer techniques in aiding and assisting in the developing of that work.

MR. BROOKS. You can understand, Mr. Schmid, that this art is one that has grown faster than "Topsy" ever did.

MR. SCHMID. I certainly do, sir. It has great potential, but just where you can use it or apply it to a given agency requires a real definition of both the problem and the procedures that you are trying to implement.

MR. BROOKS. Among the people at the Bureau of Standards, Dr. Grosch is a particularly knowledgeable man, Mr. Hartel.

MR. HARTEL. Yes, sir.

MR. BROOKS. Off the record.

(Discussion off the record.)

MR. BROOKS. On the record.

MR. SCHMID. Mr. Chairman, I want to say in the past we have made extensive use of the Bureau of Standards, reimbursing them for their services, and they have been most helpful to us.

In recent years, I would say in the last 2 or 3 years, we have not made utilization of their services primarily because we have been busily engaged with our ongoing programs.

We have also utilized the consultant services of GSA. For example, when we made arrangement for our new computer which was installed only less than a year ago—

MR. BROOKS. What type did you get?

MR. SCHMID. Spectra 70, RCA. We worked very closely with GSA and they assisted us all the way through in the arrangements for the computer.

MR. BROOKS. That is good.

May I present Congressman Randall, a very distinguished member of this committee.

Congressman, do you know Chairman Tierney of the ICC and Bernard Schmid who is their managing director?

B. BUDGET PROCESSES

I wonder, Mr. Chairman, do you feel that the program budgeting concept has been fully implemented within your agency in operational terms?

Mr. TIERNEY. Mr. Chairman, I am having trouble with terminology, but if you are talking about a program budgeting system—

Mr. BROOKS. In other words, what you do related to the amount of money you spend and what the yield is in that particular area, in that program, what that effort is.

Mr. TIERNEY. That is related to the budget, sir.

Mr. BROOKS. Under the current regulations from the Bureau of the Budget?

Mr. TIERNEY. No, sir; it is not. We have not instituted the programing and planning budget system which the Bureau of the Budget has recommended. We are in the process of negotiations and implementation of it to a degree which we think will be suitable to the Interstate Commerce Commission. That is our situation right now.

Mr. BROOKS. How does that differ from the programs as outlined in the record that we have already gone over? You say you are now negotiating with them. Essentially, you have six programs, you have your support broken into two, and you have four other programs. Do they recommend any change in that?

Mr. TIERNEY. They haven't made any recommendations now that I know of.

Mr. SCHMID. Mr. Chairman, the PPBS system was not made mandatory as far as our Commission was concerned until January 1 of this year. We have been budgeting and managing the Commission under the old activities schedule concept which was approved in 1962 and which I agree needs some changes. We have had two meetings with the Budget Bureau representatives to develop our present system to conform to the Budget Bureau's directions on the new PPBS system. We think we have a very good solid base on which to build modern refinements to come into full accord with the PPBS system. We expect to be completely aboard in 3 or 4 months.

Mr. BROOKS. You don't anticipate any major problem at all?

Mr. SCHMID. No, sir.

Mr. BROOKS. You are trying to reexamine this one, to determine whether it is best meeting the needs of your agency, and then adapt that without major problems to the existing directives from the Bureau of the Budget?

Mr. SCHMID. That is correct, sir.

C. ACCOUNTING SYSTEM DEVELOPMENT

Mr. BROOKS. Mr. Chairman, I want you to meet a very distinguished member from Pennsylvania, Mr. Moorhead.

Mr. Moorhead, this is Chairman Tierney of the ICC and, of course, Bernard Schmid, who has been there for some years as the Managing Director.

Mr. Chairman, I wanted to ask you, what is your agency doing regarding the accounting system development?

Mr. TIERNEY. Our system, Mr. Chairman, was developed with the assistance of the General Accounting Office, and we have a manual describing the operations of the system which we submitted to the Comptroller in March of this year requesting approval. We are still awaiting that approval. That manual sets forth the Commission's accounting objectives and policy. Compliance with that is mandatory.

Our system under which we have operated in the past was approved by the General Accounting Office in 1957. That has been revised now. We have submitted a new manual to GAO for their approval.

Mr. SCHMID. Mr. Chairman, we have informal approval already. We had a phone call this morning that said our system is approved and it is going to be formalized in the next few days.

Mr. BROOKS. Is it cost based?

Mr. SCHMID. Yes.

Mr. BROOKS. I always had a feeling that the GAO shouldn't approve them, they should lay out the objectives and the guidelines and let you work them out, and then if you are wrong, nail you.

D. MANAGEMENT INFORMATION SYSTEM

What is the status now of your management information system, sir?

Mr. TIERNEY. Our management system now, to which we will apply the computer, includes payroll, budget, leave administration, personnel and property inventory. And we have what we call our central status system which is used to control or manage our proceedings docket. As a case is processed, information is fed into the computer at the various stages. Later, we can extract information from the computer which will advise us as to the condition of our docket—where there are weak areas, where we can take particular action to achieve a more expeditious position of our proceedings area which is really our prime responsibility.

Mr. BROOKS. I have a good many questions on that which I will submit to you that are a little more detailed, Mr. Chairman.

Mr. TIERNEY. We will be happy to answer them, Mr. Chairman.

Mr. RANDALL. Mr. Chairman.

Mr. BROOKS. Congressman Randall.

Mr. RANDALL. Mr. Chairman, first, I would like to inquire, what effect did the creation of the Department of Transportation have upon your commission? You were an independent agency to start with?

Mr. TIERNEY. We still are, sir.

Mr. RANDALL. You feel you still are?

Mr. TIERNEY. I feel confident that we are. There is no doubt about it. Our responsibilities as to motor carrier safety, rail safety, and pipeline safety were transferred from the Commission over to the Department.

Mr. RANDALL. And that is the size of it?

Mr. TIERNEY. That is it. There was also the transfer of jurisdiction with respect to standard time zones, but this was very limited, inconsequential really.

Mr. RANDALL. The fact that you are here means, I assume, we would have jurisdiction which would not be true if you were a part of DOT? The fact that you are an independent agency is the reason you can be here with us this morning before this committee?

Mr. TIERNEY. That you would have no jurisdiction?

Mr. RANDALL. No; that we do have jurisdiction, which is proved by the fact you are here this morning.

Mr. TIERNEY. Yes, sir.

Mr. RANDALL. In surveying the chart here, Mr. Chairman, under operations I notice a listing of railroads, motor carriers, and water carriers. How does that break down as to personnel involved or the amount of work you do in the overall mission of each listing? What is the percentage involved? Do motor carriers now absorb a lot of your energy?

Mr. TIERNEY. It does, sir.

Mr. RANDALL. How much, sir?

Mr. TIERNEY. As far as the caseload is concerned, I think roughly 80 percent is motor carrier application cases.

Mr. RANDALL. In other words, now only 20 percent of effort is devoted to railroads. What percentage is water carriers?

Mr. TIERNEY. Extremely limited, inland and coastal waterways—

Mr. RANDALL. How do you define coastal waterways?

Mr. TIERNEY. It is domestic operations—

Mr. RANDALL. Like the Intracoastal Waterway?

Mr. TIERNEY. Yes, sir. Carriers that run, for example, from New York down to Galveston, Tex.

Mr. RANDALL. I notice there is sandwiched in here a section on insurance. What sort of jurisdiction do you exercise over insurance?

Mr. Chairman, what I am trying to bring out, which I thought was the purpose of these hearings, is to find out how the several agencies operate or carry on their work. I know I thoroughly enjoyed the appearance of the Civil Service Commission a couple of weeks ago.

Mr. BROOKS. I don't know if they did, but I know you did.

Mr. RANDALL. I'm afraid I don't have the time this morning. I have to get to my other committee.

Mr. TIERNEY. Carriers, for example, are required to carry insurance on the property they carry in the event it is damaged. Also, liability—

Mr. RANDALL. You have supervision? You issue guidelines and so forth?

Mr. TIERNEY. That is right. We will not issue a motor carrier certificate unless he is properly insured.

Mr. RANDALL. And you have just told us that is your big job now, motor carriers.

Mr. TIERNEY. Yes, but I would like to expand on that. The motor carrier cases represent 80 percent of our caseload; but the 20 percent involving the rail area represents a lot of work, numerous staff personnel, and a lot of resources because these rail cases are very complex.

Mr. RANDALL. You have just been through the Penn-Central and a few other rail mergers. What are your biggest ones pending now?

Mr. TIERNEY. We have 12—

Mr. RANDALL. Just the biggest.

Mr. TIERNEY. The Norfolk & Western—the C. & O. merger.

Mr. RANDALL. What else?

Mr. TIERNEY. The Rock Island merger case in the Midwest.

Mr. RANDALL. One more question. On this matter of tariffs here, how are your energies divided in that field? Do you have more problems with motor carriers on tariffs or with the rails?

Mr. TIERNEY. About equally divided, I would think. We have more motor carrier cases.

Mr. RANDALL. You have a lot of cases in the motor carrier field, don't you?

Mr. TIERNEY. Yes, sir.

Mr. RANDALL. But they don't take as long.

Mr. TIERNEY. Generally speaking, that is a fair description. The motor carrier cases are not as complex; they don't take as much time as the rail cases.

Mr. RANDALL. Thank you, Mr. Chairman.

Mr. MOORHEAD. I wonder if we can get a better breakdown on the 80 percent. It surprises me, that 80 percent of the caseload is motor carriers. Is that in numbers?

Mr. TIERNEY. That is numbers of cases. We are not talking about the complexity of the cases or the time, resources, and personnel needed to dispose of the case. A merger case—

Mr. MOORHEAD. That is one case but it might be equivalent in time to a hundred or thousand motor carrier cases.

Mr. TIERNEY. That is right. Because many of the motor carrier cases are quite simple, we can dispose of them, for example, without a hearing on the record. So, in that sense, although the numbers are great, many of the cases are disposed of very quickly.

Mr. MOORHEAD. Is there any percentage that would give us a more accurate feeling of the workload of the Commission x percent motor carriers, y percent rail carriers, z percent water carriers?

Mr. TIERNEY. We certainly can supply that for you.

Mr. MOORHEAD. I am not talking about accurate numbers. Just give use some rough idea, because I was quite surprised when you said 80 percent on motor carriers. I realize now that you were talking about the number of cases, and this, I assume, does not mean that 80 percent of the total effort of the Commission is directed toward motor carriers.

Mr. TIERNEY. Director Stillwell, can you give us any numbers?

Mr. STILLWELL. At the end of February we had 4,146 motor carrier cases pending; water carriers we had 32; we had 19 ex parte cases which could be rail or motor; we had 155 finance docket cases, and that is in the merger field mostly; we had I. & S. cases—that is rail—23; we had 148 I. & S. cases where the rates have been up for suspension; we have complaints in the motor carrier area, complaints, revocations and so forth, 299; in the finance area of mergers and acquisitions for motor carriers, we had 277.

We can furnish you with a complete breakdown if you want it for the record.

Mr. MOORHEAD. Maybe I am asking the impossible question. What I am attempting to find out is how much of the effort of the Commission is directed in the rail field and how much in the motor carrier field. Again, from 60 to 70 percent would be close enough or in rail 30 to 40 percent—just give an approximate idea.

Mr. TIERNEY. I don't want to be evading the question, but I don't think we have precisely allocated this effort in that fashion. I would like to take a look at it and supply an accurate figure.

Mr. MOORHEAD. I am not talking about precise figures. I am talking about getting an estimate. I would imagine in 1900 probably 90 percent of your effort would have been in the rail field.

Mr. TIERNEY. A hundred percent.

Mr. STILLWELL. Offhand, you might say 60 percent in the motor area and 40 percent in the rail and other areas.

Mr. MOORHEAD. The additional percentage above a hundred is in water?

Mr. STILLWELL. No, that includes water. There are very few water cases.

Mr. TIERNEY. Water cases are negligible, sir.

Mr. MOORHEAD. Thank you, Mr. Stillwell.

Mr. BROOKS. Mr. Chairman, we want you to know Mrs. Heckler, a very able member of this committee. She is a very lovely lady Republican from Massachusetts.

I think under management information system, Mr. Chairman, you might, in answering the questions that I am submitting to your agency, want to carefully talk these over with Dr. Grosch who has the kind of expertise that might yield some real benefit with a minimum investment in your time and his.

Relating to the discussion with Mr. Randall, how much insurance are motor carriers required to carry, and is that insurance on what they are carrying, merchandise, or is that for liability damage as to accidents they might have? What part do you have in helping to enforce those requirements?

Mr. TIERNEY. I don't know the amount. As I understand it, Mr. Chairman, it is for both liability and insurance on the cargo: \$10,000 property damage, \$25,000-\$100,000 public liability.

Mr. BROOKS. \$25,000 for what?

Mr. TIERNEY. That is the accidental death or injury and \$100,000 for the aggregate.

Mr. BROOKS. For aggregate of one accident. If they kill nine people, the maximum would be \$100,000 for the nine people?

Mr. TIERNEY. That is right.

Mr. BROOKS. For which they would be liable?

Mr. TIERNEY. Yes, sir.

Mr. BROOKS. It doesn't really seem too high in the light of current expenses. A \$25,000 maximum for an individual injury.

Mr. TIERNEY. This is a minimum, Mr. Chairman. Many of the carriers do carry more insurance.

Mr. BROOKS. But those with the minimum are the only ones that are going to hit me with my luck.

On the material that they carry, what is the insurance on that for damage or loss in transit?

Mr. TIERNEY. A thousand dollars.

Mr. BROOKS. You mean if I sent a truckload of furniture to Texas, they would only be required to have \$1,000 insurance on it if they damaged it all?

Mr. TIERNEY. That is the limitation now. I am sure many of the carriers, of course, carry more insurance than that. That is the minimum as far as the Commission requires.

Mr. BROOKS. Why don't you give us a figure on how many of them carry the minimum because I bet you a lot of them carry the minimum. Do you have any idea about that, Mr. Schmid, Mr. Foley?

Mr. FOLEY. Mr. Chairman, the carriers subject to our jurisdiction are required to file certificates of insurance which warrant the minimum limits, but the certificates do not state the amount of coverage.

Mr. BROOKS. They just guarantee the minimum and beyond that you don't have any way of knowing what they have in the way of insurance?

Mr. FOLEY. We would have to go to each individual carrier's office and inspect the records and the policy to determine the amount.

Mr. BROOKS. What makes you think, Mr. Chairman, that many of them have more insurance than that?

Mr. TIERNEY. That has been our experience.

Mr. FOLEY. Mr. Chairman, I used to be in the Bureau of Operations and before that in the Bureau of Motor Carriers, which was a predecessor of the Bureau of Operations. We have several times over the past years made informal studies of the minimum insurance requirements. We have made the informal studies through the use of all of our field staff.

Mr. BROOKS. Insurance people want it raised and the carriers don't want it raised.

Mr. FOLEY. We have tried to be independent in our study of the matter. We are firmly convinced that most of the carriers carry substantially more than the minimum limits that are prescribed by our regulation.

When we had safety responsibility, we had quite composite accident experience figures showing frequency and damage amounts. They also showed us that the minimum limits were adequate to cover the public's need. This is always subject, of course, to further review at any time the Commission would wish to consider it.

Mr. BROOKS. I would think the Commission would seriously want to consider it in the public interest. They might want to raise the minimums, because what the maximums are, who knows? You don't know apparently. Nobody knows. The public doesn't know. I would think that a minimum of a thousand dollars on cargo might be a little low, and if they say that experience has proven that it is not, getting additional coverage for the few instances where it would be necessary won't cost them much money. The insurance companies won't charge them if they have a record that shows that they never lost or tore up anything that cost them a thousand dollars. The same thing would be true if they increased the minimum on personal injury. But I would certainly hate to really get creamed and have the insurance on a nice fat truck be \$25,000. It wouldn't get my family very far when you finish paying a lawyer to sue them for they wouldn't just give it to them.

Give me a copy of your last study on that. It might be that we could get some idea of this.

(The information requested is in app. B.)

Mr. TIERNEY. Carriers are fully liable for the loss and damage irrespective of the amount of insurance they carry on their cargo. Admittedly, Mr. Chairman, there will be carriers which are not financially able to withstand full liability. Of course, most carriers are. They are fully liable irrespective of the insurance they carry for damage or loss of cargo. I believe that some of the statistics we have developed have contributed to this figure of \$1,000 which we believe will take care of all or most of the situations.

E. INTERNAL AUDIT SYSTEM

Mr. BROOKS. Would you describe briefly your internal auditing system?

Might I introduce to you Congressman Fletcher Thompson.

Mr. THOMPSON. Good morning.

Mr. BROOKS. Mr. Tierney, Chairman of the Interstate Commerce Commission, Mr. Bernard Schmid, managing director.

Mr. TIERNEY. The internal auditing function of the Commission is under the direction of Mr. Schmid, the managing director, Mr. Chairman, and the persons who actually perform this service are qualified in accounting and auditing as well as in management, the substantive program areas.

Since we are not a large agency, the auditing function is not handled separately as such. It is carried out in conjunction with other management controls, for example our program evaluation process, our central status system, our field internal inspections and our internal fiscal audits. That is the summary of it, sir.

Mr. BROOKS. Mr. Chairman, I have a long interest in this internal auditing area. To whom do the senior internal auditors report their findings on investigations or analysis of a section of your agency?

Mr. TIERNEY. They report them to the managing director. Summaries, of course, have been furnished to me or to the vice chairman or to the members of the Commission, depending on the subject matter involved.

Mr. BROOKS. Who is the internal auditor?

Mr. TIERNEY. We don't have an internal auditor as such. The whole program is operated out of the managing director's office, Mr. Chairman. For example, our internal audits would be handled through the central status area, through our fiscal people who conduct fiscal audits, also through our inspection people who conduct inspections of the various areas, and the program evaluation process.

Mr. BROOKS. I think this indicates that your internal audit is not particularly independent of your management or your managing director. I would think that in this type of an agency you ought to have a fairly independent auditing section. It would probably be a fair, equitable system to have whomever is running your internal audit system report frequently to you, the chairman, and to the managing director, since his relationship to the operation of the agency is a little different than being the second man of the agency. He has been there for some time and his successor will be there for some time. His is a continuing function, and I think this would be real substantial protection for the prevention of errors in operation or fraud or mismanagement that would protect both the chairman and the members of the Commission and would protect the managing director.

I think if it is just an auditor whom you assign to do that audit, operating out of your managing director's office, that neither you nor the managing director will get a really impartial, more or less objective view of both how the managing director does his job and how all of the other agency personnel operate and function. This is the danger. This is what we are trying to get in an internal audit as such.

Mr. SCHMID. May I clarify this a little bit?

Mr. BROOKS. I would be pleased if you could.

Mr. SCHMID. We have actually three different types of internal audit. In our budget and fiscal office we have a branch of internal auditors who are engaged primarily in what we call fiscal audits. They go into the bureaus and the offices here at the headquarters level and at the field level and develop information on the use of our travel funds, on the accuracies in payroll operation, and this type of thing, fiscal operations.

Those things come in directly to me, and I deal with the bureau directors and our regional managers as soon as we spot deficiencies and get them corrected.

We have another and a far more important internal audit program, and I think this is what you are talking about, in which the Chairman plays a very important part. We have our program evaluation system. First of all, at the beginning of every single year, every one of our bureaus and offices sets up program objectives within the overall mission of the Commission. We identify roughly 75 or 80 percent of our major workload program throughout the Commission. Each and every quarter the bureau directors, the regional managers, submit statistical reports and narrative reports pointing out how well they have met their target dates, if they haven't met them, why they haven't met them, and bringing many related matters into play on this.

These reports all come directly to me. These reports are analyzed. There are discussions and conferences with the bureau directors involved, and the final report is submitted to the Chairman. This report points out how well we are doing in relation to our overall program objectives and our deficiencies, which sometimes entails action on his part or on the part of the entire Commission.

Mr. Brooks. I don't want to be unkind, but I realize after you get all of those reports they do make up a report in final form that goes to the Chairman which does, as you say, point out that you are doing a magnificent job, that would be the normal procedure.

I think you, yourself, would be better protected in trying to do a good job, as you do, and I will give you full credit for that and for considerable management experience and expertise—but I think if you had an internal audit that went across the board with a free scope to make an individual appraisal of a function or condition, that you yourself would be better protected rather than have a more or less perfunctory rechecking of vouchers and totals. This is the kind of thing the Internal Revenue does when they check the figures on my income tax. It is pretty much of a routine. They find errors occasionally.

I think you would be much better protected with that type of freedom on the part of your internal auditor to look at the smallest voucher or a major defect in the implementation of what the Chairman and what the Board and what you have instructed some of your people to do. I think the Chairman would be better protected also. I think when you break them down you limit what they can do.

The AEC and some of the other agencies have used this system and feel that it is of benefit to them. The best example I can think of is probably the Agriculture Department. They had a lot of problems that were not—I don't guess they were going to destroy the country, but

they were problems that started out with vouchers being incorrect and ended up with people actually on a systematic basis trying to defraud the Government.

I think since then the Secretary of Agriculture has a very reliable internal audit section which he feels will not only expose this type of activity and these errors, but will prevent them.

What we are trying to do is to prevent people from doing wrong, not to catch them after they have done it. Catching them is expensive when they already have done it. They generally don't have any insurance.

I think that you ought to think about that, Mr. Chairman. It has some real advantages for you. I wouldn't be Chairman of that agency without an internal audit that I got to look at first crack. I wouldn't run that risk. I think there is a risk, because when you are dealing with 1,800 people you always have a problem of people either doing things wrong intentionally or by mistake.

F. AUTOMATIC DATA PROCESSING

Now, on automatic data processing, do you have a central organization which is responsible for ADP management in your agency, sir?

Mr. TIERNEY. Yes, sir.

Mr. BROOKS. Would you describe its function?

Mr. TIERNEY. It is in the Office of the Managing Director. Our processing and systems development program is in that area. I believe that prior to reorganization it was in three areas of the Commission. Now we have placed in one area the central responsibility for automatic data processing.

Mr. BROOKS. And Mr. Hartel manages that section for you?

Mr. TIERNEY. That is correct, sir.

Mr. BROOKS. How would you describe its functions concisely?

Mr. TIERNEY. The section of system developments, Mr. Chairman, is responsible for conducting studies to determine the feasibility of applying automatic data processing to the various work of the Commission. While I must admit I am not an expert in this area, as I understand it, we determine first of all whether there are programs, for example, worthy of continuing or expanding, and whether automatic data processing can be applied and utilized in the area.

Mr. BROOKS. Is that Spectra leased or purchased?

Mr. TIERNEY. It is leased.

Mr. BROOKS. Leased?

Mr. TIERNEY. Yes, sir.

Mr. BROOKS. What does it cost?

Mr. SCHMID. About \$120,000 a year, isn't it?

Mr. LOTITO. Yes, sir.

Mr. BROOKS. What would it cost to buy it?

Mr. LOTITO. I don't have that figure available, Mr. Chairman.

Mr. HARTEL. About a half million dollars.

Mr. THOMPSON. Mr. Chairman, does the lease include maintenance?

Mr. HARTEL. Yes, sir.

Mr. BROOKS. That is the standard method. How long do you anticipate using this machine?

Mr. TIERNEY. Perhaps a year. We are in a transitional stage. For example, we have the problem of adapting tariffs to automatic data processing and we are not sure whether this particular machine would be adequate for that. As I understand it, it would not be. Being in a transitional stage, Mr. Chairman, we feel this is the best approach. Through this, we can use programing which was used in the older machine. It is compatible for that as well as using information or data from other areas within the Government.

Mr. BROOKS. I understand this capability.

Did you all make a feasibility study as to the desirability of leasing or purchasing the machine before you made this lease?

Mr. TIERNEY. Yes, sir.

Mr. BROOKS. Could we have a copy of that report?

Mr. TIERNEY. Yes, sir.

(The report follows:)

PURCHASE VERSUS LEASE—SPECTRA 70 COMPUTER, MARCH 24, 1967

Inherent in the selection process is a decision whether to purchase or lease the computer system to be required. Although many factors are involved in the decisionmaking process, a key factor is the length of time the equipment will be utilized; for example, the break-even point is approximately 4 plus years, after which it is more economical to purchase rather than lease.

The selection of the Spectra 70 computer was based on an emergency need to provide immediate additional computer capacity. With its emulator feature we can double our throughput without reprograming. However, this is only a short-time solution and the ultimate solution is reprograming to fully exploit the speed of third generation equipment. With this thought in mind, the configuration ordered was almost identical to our present RCA 301 configuration. At this time, questions as to our long-range needs have not been resolved, particularly the question of random access, core size, and the number and type of tape drives needed for future applications.

Another concern is the reliability and quality of both the Spectra 70 hardware and software. Both are new and unproven and in light of the troubles other manufacturers are having, it would not be unusual for an unsatisfactory performance level to occur.

It is estimated that in approximately 18 to 24 months we will have completed reprograming to COBOL, will have identified future applications and will have a firm idea as to our ultimate hardware needs. Additionally at that point in time the emulator feature will no longer be required.

Accordingly, it is recommended that the Spectra 70 be leased rather than purchased. At such time (estimated at 18 to 24 months above) as we have a clearer picture of our needs a decision should be made whether we are going to retain the Spectra 70 and to review the purchase of any or all of its components. The purchase option of 65 percent of rental costs can be exercised on components purchased.

Mr. BROOKS. What do you consider to be the most pressing problems for you to overcome in order to make better and more efficient use of the computer that you are now leasing?

Mr. TIERNEY. I believe that one of the most important problems is getting competent programmers. I think everybody has that problem in the automatic data processing field. I am not sure what the other problems are.

Mr. Schmid.

Mr. SCHMID. One of the principal problems we have, our Spectra 70, we acquired on July 1, and most of our programs are written in a language that was used on our old RCA-301. We are in the process now of converting our language to what is called COBOL and FORTRAN, which will speed up the processing by 25 percent. As soon as we get

over this hump, which will take some few months, we are going to be able to speed up and put more things on the computer.

As the Chairman said, we found it rather difficult to recruit trained people. Three-fourths of the people in our computer program operations are relatively new recruits who have the potential to be in this kind of a program, but we have to train them, Mr. Chairman. After we train them, we lose about half of them to other agencies and private industry. This has been a real problem, the personnel turnover.

Mr. BROOKS. This is a problem everybody is facing in this area.

G. PERSONNEL MANAGEMENT

Would you describe for the subcommittee the elements of your personnel management program?

Mr. TIERNEY. Of course, the personnel management is in the Office of the Managing Director and under the direct supervision of our Director of Personnel, Mr. Adams.

Personnel management is extremely important to us, Mr. Chairman, and we feel we are making every effort in this particular area to improve it. As a result of a Civil Service Commission study, they suggested certain areas of improvement, which are listed in our exhibits here, and as to all those areas we think we are making progress.

Mr. BROOKS. I would like to put in the record at this point exhibit E, without objection.

(Exhibit E follows:)

EXHIBIT E.—REPORT BY THE CIVIL SERVICE COMMISSION: "HIGHLIGHTS OF THE INTERSTATE COMMERCE COMMISSION PERSONNEL MANAGEMENT PROGRAM"

The Interstate Commerce Commission was last inspected during March and April 1964. This was a followup of the June 1963 inspection. The personnel management program has probably changed considerably since then.

The 1963 inspection identified specific achievements and weaknesses.

Favorable findings include such things as:

There was attention to planning for and acquiring human resources.

Efforts were being made to increase efficiency of operations and productivity of the work force.

Ongoing plans for improving work environment and expanding health services were evident.

There was compliance with legal and regulatory requirements in appointments, promotions, and pay.

Major weaknesses include:

Not using total ICC resources for recruitment.

Limited area for promotion and reassignment consideration.

Training and development activities narrow in scope.

Motivation and recognition devices not utilized sufficiently.

Long delays in making decisions regarding work organization and structuring of positions.

Lack of an effective communication device to help translate written personnel policies into actual programs in operation.

No systematic approach of evaluating and reporting on personnel management operations.

Had not established positive-action programs in public policy areas of special emphasis.

These weaknesses were caused by:

The lack of an effective center of authority for personnel management growing out of the basic nature of the Commission's form of organization. The yearly rotation of the Chairman and the fact that the Executive Director cannot, regardless of his personal ability, act as a true manager, creates the possibility of serious personnel management problems.

An unwillingness by managers to accept their responsibility for personnel management.

Interstate Commerce Commission was reorganized soon after our inspection report was issued; however, we don't know whether the reorganization solved any of the problems.

Mr. BROOKS. I have a copy of the 1964 personnel management program and the highlights on that inspection that was made originally in 1963. Their findings weren't too favorable. You might be fairly innocent of that. But the favorable findings were rather limited and the major weaknesses were pretty significant.

I wonder if you have had a current evaluation of those weaknesses. What have you done about those? Are you familiar with that document, Mr. Schmid?

Mr. SCHMID. Yes, I am.

Mr. BROOKS. I wish you would give us an analysis of what has been done to meet these specific problems. By now you should have most of them whipped if you can whip it.

Mr. SCHMID. Mr. Chairman, on recruitment, we were trying to recruit throughout the organization from our central offices. At their suggestion and working closely with them, we now use our regional managers in the field; we arrange more extensive interviews with the various colleges throughout the country; we do some advertising; we have utilized our field people all the way on recruitment.

On attorneys, for example, where we formerly sent out key people from Washington to various field offices, we now use our regional managers. We find we get a better cut of young attorneys. We find that the system is much improved.

The Civil Service hasn't been back to check on this, but I think when they do they will find we have pretty much adopted most of their suggestions for improving this one.

Mr. BROOKS. Would you give us a rundown on your efforts to meet the weaknesses pointed out at that time?

Mr. SCHMID. For the record or right now?

Mr. BROOKS. For the record.

Mr. SCHMID. Yes, sir. I certainly will.

(The information requested follows:)

MAJOR WEAKNESSES—CSC REPORTS OF 1963 AND 1964

1. NOT USING TOTAL ICC RESOURCES FOR RECRUITMENT

We have extended nationwide our clerical, attorney, accountant, and other specialty recruitment programs through use of our regional managers and field professional personnel. The regional managers direct the staff in their regions in contacting carrier manpower sources and academic institutions. Special attention is given to minority group recruiting. Use of paid advertising in the various trade journals has been helpful in locating tariff examiner and accountant personnel. We continue to use our executive and professional staffs in headquarters to help recruit for our positions.

2. LIMITED AREA FOR PROMOTION AND REASSIGNMENT CONSIDERATION

In the clerical and administrative areas, promotions continue to be made across bureau and office lines under our merit promotion plan. In the technical and professional area, movement is somewhat restricted because of the specialties involved. Accountants move up in our Bureau of Accounts. Economists, mathematicians, and statisticians move up in our Bureau of Economics. Tariff examiners move up in our Bureau of Traffic. Since the consolidation in 1965 of our former three Bureaus of Finance, Rates and Practices, and Operating

Rights into our present Office of Proceedings, the area has been increased for promotion and reassignment of the majority of our attorneys. In addition, promotion and reassignment of attorneys does take place across lines in bureaus and offices having attorney positions—the General Counsel's Office, the Secretary's Office, and the Bureau of Operations. Since the consolidation in 1967 of our car service and motor carrier functions in the Bureau of Operations following the transfer of our safety functions to DOT, the promotion and reassignment area has been broadened for car service, special agent, and motor carrier district supervisor personnel. Although there are area restrictions for promotion and reassignment depending upon professional and technical skills, at the executive levels the areas have been broadened. As a notable example, the present Assistant Managing Director was promoted from a motor carrier regional director position to a regional manager position; then to the position of Assistant Director, Bureau of Operations (which in 1967 included rail and motor functions); then to the present position of Assistant Managing Director.

3. TRAINING AND DEVELOPMENT ACTIVITIES NARROW IN SCOPE

A small, highly technical agency as the Commission must rely upon initial recruitment and selection of highly developed and skilled candidates to meet existing manpower needs. With limited availability of funds we restrict training and development activities to that which will meet the most urgent needs of the Commission. We use on-the-job, off-the-job, and classroom training to improve the performance of duties of employees in many activities such as executive development, broad economic regulation, legal technicalities, secretarial sciences, office machine maintenance and repair, statistics, English usage, and computer and automatic data processing. Courses in FORTRAN Programming have enabled new computer programmers to attain a higher degree of proficiency in a shorter period of time than would have been possible through on-the-job training. RCA Spectra 70 Programming enabled our programming staff to become more proficient in utilizing new computer equipment. University courses in transportation, accounting, statistics, and mathematics have assisted our cost analyst trainees to accelerate their performance. The Commission continues to emphasize self-development outside the Commission; however, training and development programs have been considerably extended since 1963-64.

4. MOTIVATION AND RECOGNITION DEVICES NOT UTILIZED SUFFICIENTLY

During fiscal year 1966, the Commission initiated a stepped-up suggestion system aimed at getting at least one suggestion for improvement from every 10 employees. Suggestions from employees on how we could reduce costs or do more work without increased resources, showed impressive gains—not only surpassing the 1-in-10 rate but an increase of over 800 percent in submissions over the previous year.

We inaugurated a new element in the awards program to recognize employees who excel in communication, courtesy, and service to the public. To date over 50 employees have been awarded special Commission certificates of excellence for their performance reflecting the public service goals.

Since 1963, we have emphasized recognition of employees whose work performance is considered above that ordinarily found in the position. Twice each year selected employees have been rewarded with high quality within-grade salary increases because of exceptional work performance. Since establishment of this program, over 165 employees have been so rewarded.

The Commission continues to give emphasis to the motivation and recognition of employees under the incentive awards program and by use of other recognition devices.

5. LONG DELAYS IN MAKING DECISIONS REGARDING WORK ORGANIZATION AND STRUCTURING OF POSITIONS

No doubt there have been delays in certain functional areas regarding work organization and structuring of positions. We believe it best to proceed with caution in some of these areas. In connection with career structuring the 1963 Civil Service Inspection Report referred specifically to the question of whether attorney assignments should be limited to one proceedings area or extended by establishing planned avenues of development across bureau lines. The question of specialist versus generalist has been a matter of serious consideration over

the past few years in connection with the processing of our ever-increasing formal proceedings caseload (rates, finance, and operating rights). However, the substantial increase in our caseload without an equivalent increase in personnel was a primary consideration in consolidating all of our proceedings work in a single Office of Proceedings and the use of attorneys in all specialty areas. We feel this refinement of our proceedings work over the past few years has been a good move and will result in continued greater production of cases.

The creation of the Department of Transportation and transfer of ICC safety functions to that agency resulted in our organizing and structuring in one Bureau of Operations, the positions in connection with economic regulation of rail, motor, water, and freight forwarder activities. In general, we believe we give careful consideration to the need for work organizational changes. When changes are deemed desirable, we move expeditiously and structure the positions as appropriate.

6. LACK OF AN EFFECTIVE COMMUNICATION DEVICE TO HELP TRANSLATE WRITTEN PERSONNEL POLICIES INTO ACTUAL PROGRAMS IN OPERATION

The Chairman and Vice Chairman have acquainted themselves with and given support to the current concepts of the Commission's personnel management program, its policies, and procedures. They make their views known to all bureau and office officials as appropriate occasions arise. The Managing Director effectively presents and supports the personnel program with top management and has provided the necessary leadership to place personnel programs into actual programs in operation.

In a small agency such as the ICC, effective communication devices are easily developed for the mutual exchange of information and ideas between management and employees up, down, and across organizational lines in the formulation and change of practices or procedures which affect the individual employee or group work situations. Information about new or revised personnel policies, procedures, changes, and development is promptly disseminated to management officials and appropriate employee organizations before they are made effective in order to obtain comments and suggestions. Such participation serves to help translate written personnel management policies into actual programs in operation when the regulations are promulgated.

The Vice Chairman meets each month with the Managing Director and the regulatory bureau heads to discuss problems and to give emphasis and support to ongoing programs. At these meetings, the Managing Director discusses new personnel management policies and reemphasizes those programs which have become lax. New or revised personnel management programs are discussed at the lowest levels through bureau and office supervisory conference devices in such a manner appropriate to reach the maximum number of employees.

Top management officials maintain an "open door" policy and employees are encouraged to use various channels of communication to discuss personnel policies and any problems they may have, including consultation with appropriate union representatives and members of the Personnel Office.

7. NO SYSTEMATIC APPROACH OF EVALUATING AND REPORTING ON PERSONNEL MANAGEMENT OPERATIONS

This Commission has a system, conducted by the Director of Personnel, of reviewing personnel operations and practices, evaluating their effectiveness, identifying problem areas, and implementing corrective action. This is done on a regular basis by onsite review and discussion with operating officials both in the field and in the headquarters. This system has resulted in greater awareness by supervisors of personnel management programs, techniques, problems, and approaches for solutions and improvement. Status reports and recommendations are made to the Managing Director.

In addition, we have monthly reports from regional managers and bureau and office heads which include personnel management problems. We have an action plan for equal employment opportunity which requires periodic reports from bureau and office heads on efforts taken to assure equal employment opportunity regardless of race, religion, color, sex, national origin, marital status, politics, physical handicap, and age.

8. HAD NOT ESTABLISHED POSITIVE-ACTION PROGRAMS IN PUBLIC POLICY AREAS OF SPECIAL EMPHASIS

At the time of the Civil Service Commission inspection in 1963, the program referred to was the "Equal Employment Opportunity Program". The Civil Service Commission's followup inspection report in 1964 indicated that the Interstate Commerce Commission has made much progress in this program. Since then they have approved our action plan for equal employment opportunity which also covers the Federal women's program. This Commission has cooperated fully in all public policy areas of special emphasis including (1) employment of the handicapped; (2) employment of the aged; (3) employment of the mentally retarded; (4) the Neighborhood Youth Corps; (5) Job Corps; (6) the economically disadvantaged through the Manpower Development Training Act; (7) the President's Youth Opportunity Campaign; (8) Operation "MUST" (maximum utilization of skills and training); and (9) employee-management cooperation.

H. GENERAL ACCOUNTING OFFICE REPORTS

Mr. BROOKS. Has the General Accounting Office issued any audit reports on the overall operations of your agency, that is, reports not directed at a functional program of the agency, but rather at the management and administration of the agency?

Mr. TIERNEY. The last report was in 1962. The investigation and audit by the General Accounting Office was in 1962.

Mr. BROOKS. I don't believe that would be current now.

Turning to your program breakdown—

Mr. THOMPSON. Mr. Chairman, before we leave this, may I ask a question?

Mr. BROOKS. Mr. Thompson.

Mr. THOMPSON. When DOT was formed, how many personnel were transferred from your agency to DOT?

Mr. TIERNEY. 430.

Mr. THOMPSON. What functions, basically, were transferred?

Mr. TIERNEY. Safety.

Mr. THOMPSON. These were primarily the safety people?

Mr. TIERNEY. Yes, sir.

Mr. THOMPSON. When they are transferred, there was no decrease in their employment status?

Mr. TIERNEY. No, sir. In some situations they improved.

Mr. SCHMID. Mr. Congressman, we also transferred a little better than \$5 million.

Mr. THOMPSON. Did that \$5 million represent only the salaries?

Mr. SCHMID. Salaries and related costs.

Mr. THOMPSON. In other words, there was a complete transfer of this 400-and-some-odd people and all the related costs there?

Mr. SCHMID. Yes, sir.

Mr. BROOKS. Subsequent to a report this committee issued on the ICC a couple of years ago, they sent us a 20-page letter and didn't agree with one recommendation we made on railroad safety. Twenty pages of why we didn't know what we were talking about and why the things they were doing were correct. Thank heaven they are not administering that any more. I don't think anybody can do a worse job in administering railroad safety. That is the way it came out, 20

pages of nothing that the railroad people said was true at all—that the ICC was right.

Mr. THOMPSON. I trust on the tariffs and other regulatory functions of the agency you have found there has been better cooperation?

Mr. BROOKS. Somewhat. We haven't really finished with them yet. We are just getting started.

Mr. THOMPSON. Those are all my questions.

Mr. BROOKS. Mrs. Heckler.

Mrs. HECKLER. I have some general questions, Mr. Chairman.

Mr. BROOKS. You go right ahead. For the committee's interest, we will ask the chairman to have the heads of his various programs give us a synopsis of those. I think timewise we can keep that in mind, but other than that now would be a good time for you to discuss your questions with the chairman.

Mrs. HECKLER. I must say, Mr. Tierney, my questions initially are prompted by having attended a convention of one of the nationwide motor carriers. I eavesdropped a little on their conversations and learned some of their complaints. I would like to mention a few of them to you.

The ICC supervises the rates charged by railroads, motor carriers and water carriers. Have you given any consideration to reducing the paperwork and the time required in handling the rate changes? Many of the complaints and criticisms that I heard involved what they considered excessive paperwork which seems to be generally multiplying. Have you considered perhaps establishing a block rate whereby carriers could have some discretion within a given range without having to file a rate change with the ICC?

Mr. TIERNEY. We have not to my knowledge, Mrs. Heckler. Without giving it some thought in depth, conceivably so many factors enter into our consideration as to whether or not a rate is reasonable or not, it would be very difficult to arrive at some sort of a block rate of reasonableness.

As we administer the act now, there is this area of reasonableness. We don't have a situation where a rate is automatically too high at this level or too low at this level. There is this great level of reasonableness on the high side and on the low side to permit competition within the area. But we have not considered a block rate.

The law as administered requires the filing of rates with the Commission. This, as far as rates are concerned, is where the paperwork is involved. The reason for that law is, of course, to avoid the problems that occurred way back in the 1880's which prompted regulation, that they be open published, and available for everyone to examine.

I might say there is much thought being given now, and I am sure we will make a lot of progress, to the simplification of rates.

One of our problems is that we have, I forget how many, trillions of rates on file, many of which are not being used by the carriers at all.

Eventually we hope—and this will take time, cooperation, and money not only in the rate bureaus of the carriers but the industries themselves—to cancel some of these rates that are not being used.

Mrs. HECKLER. Are you in the process of making changes in this direction now, or is this in the realm of conversation and speculation?

Mr. TIERNEY. This is in the realm of preliminary studies in this area.

Mrs. HECKLER. Is your Commission conducting studies now?

Mr. TIERNEY. Right now, on this business of tariff simplification, there is a study being conducted. The forum being used is the Transportation Association of America in which the Commission, other Commissions, the Department of Transportation, and industry are participating.

Mrs. HECKLER. Is it your opinion that the law, as it presently stands on the books, is needlessly complicated?

Mr. TIERNEY. With reference to—

Mrs. HECKLER. Rates.

Mr. TIERNEY. To rates?

Mrs. HECKLER. Rate change procedures.

Mr. TIERNEY. I think the law is very broad with respect to rates. Complicating the thing, of course, is the fact that so many rates in many instances are filed and are on file.

Mrs. HECKLER. This actually means that you have a wide area of discretion within the Commission to simplify procedures; is that right?

Mr. TIERNEY. When you get into the publication of rates, I would say no. As to the requirement that they all be published and open and every time a carrier wants to establish a new rate, I don't think we have any discretion as to that requirement.

Mrs. HECKLER. Beyond the question of the publication of the rates, concerning the structuring of the rates, if you wish to simplify the procedures, according to what I interpret as your answer, you have quite a bit of discretion, or the Commission does, that you could exercise as a matter of your own internal regulation; is that not so?

Mr. TIERNEY. Rates involving carriers that are not under our jurisdiction require a combined effort on the part of not only our Commission but the CAB and the FMC and industry itself.

Mrs. HECKLER. What is the nature of the preliminary study that you are making in this area?

Mr. TIERNEY. The study is directed toward the simplification of tariffs, and eventually being able to put them on computers.

Mrs. HECKLER. What steps have you taken to conduct this study? In other words, how are you doing it?

Mr. TIERNEY. It is being done now. It is at a preliminary discussion stage, and very preliminary at this particular point. The attempt is to get everybody together and communicating on it.

Mrs. HECKLER. What is the average time devoted to a rate change proceeding by the ICC, for example, a motor carrier or rail hearing or pipeline?

Mr. TIERNEY. We are required under the act generally to dispose of a case within 7 months.

Mr. CORBIN. Generally the average runs a little less than 7 months, but if I might just address myself to one other side, Mrs. Heckler, I think that what the motor carriers you were listening to didn't point out was the fact that they published thousands upon thousands of rates to which there are no protests and they go into effect automatically on the effective date. It is only a small portion of the rates that are published that are actually protested and suspended and then we have a formal proceeding on them.

Mrs. HECKLER. Mr. Chairman, will you furnish for the record statistics indicating the number of cases or petitions pending before the

ICC and the time it takes to dispose of them, or your past history on disposition of these petitions? Can you give us that information?

Mr. TIERNEY. We can do it right now.

Mrs. HECKLER. Please submit it for the record.

Mr. TIERNEY. Surely.

(The information requested follows:)

Total number of cases (including rate cases) on hand Mar. 31, 1968----- 5, 207
Average time required for disposition during fiscal year 1967 (months)--- 8. 7

Mr. TIERNEY. I might say there are roughly 5,200 cases pending before the Commission now, and our average time in disposing of them is 8 months.

Mr. THOMPSON. Is your caseload increasing?

Mr. TIERNEY. It has been decreasing for a variety of factors. The numbers are less, but at the same time the cases are becoming more complex and difficult.

Mr. THOMPSON. May I ask a question?

Back in 1940, we in Georgia, of course, were very upset by discriminatory rail rate structures primarily against the South. It would cost much more to ship a machine item to the North than it would to the South, and that was taken care of.

As I understand it, there is discrimination that takes place with regard to the division between several rail carriers in the money that is paid for a shipment. If something originates in Detroit and it is shipped to Dothan, Ala., for example, and several rail carriers have to handle it, the southern carriers tell me that they are not receiving a pro rata portion for the work they are doing. Do you know anything about this?

Mr. TIERNEY. There is a North-South divisions case pending before the Commission. I think that is in court now.

Mr. THOMPSON. Former Governor Sanders of Georgia is the attorney in this matter. Why does this exist? What is the rationale for paying more money to a northern carrier than to a southern carrier? It doesn't affect the shipper, the shipper can ship for the same price; it is simply a division of the money between the carriers.

What is the rationale on that, sir?

Mr. TIERNEY. Whether or not there is discrimination, of course, in a case like that is a question of fact. That was the question before the Commission in this case. We look at all of these aspects in these cases, and we come to a conclusion as to what is a fair division. And as in all these cases where we have East-West or North-South divisions, the carriers generally settle these matters themselves as a voluntary matter. If there is a dispute involved, under the act, the Commission has the authority in effect to decide the case to determine what are fair, reasonable, and nondiscriminatory divisions.

In these cases we have found that large amounts of money are involved. Irrespective of which way the Commission goes, it is generally appealed to the courts.

Mr. THOMPSON. Is it your testimony that when your agency becomes involved in this you attempt to have a distribution of the dollars involved on an equitable basis between the carriers dependent upon the amount of work they do and the number of miles over which the item travels on rails?

Mr. TIERNEY. That is correct.

Mr. THOMPSON. So the argument in this particular case is a question of fact and not a question of policy?

Mr. TIERNEY. Essentially it is a question of fact in this case. There have been some cases in the past where railroads in extremely precarious financial positions were involved, and that might be taken into consideration by the Commission, looking at our transportation system as a whole and the public interest as a whole. I don't know whether that was involved in this case or not.

Mr. THOMPSON. Do you at any time dictate to the various carriers the percentage that each carrier is going to have when an item is transferred from one carrier to another and it covers a long distance?

Mr. TIERNEY. No, sir. The only time we would get into a situation like that is in a divisions case where the carriers are unable to agree and they come to the Commission and ask us to settle the dispute.

Mrs. HECKLER. Mr. Tierney, regarding your field offices, what percentage of your total manpower is located in the field offices? What are their functions and has any consideration been given to consolidating them, to controlling more functions from Washington? In other words, is there any way to cut down on the paperwork and the manpower requirements in the field office activities or do you feel that that is one of the more efficient operations or most efficient operations of your total department?

Mr. TIERNEY. I will ask Mr. Schmid to get the figures on that. Generally speaking, I think our field organization is an efficient operation. We have had several reorganizations in the field for various reasons to make it an efficient operation, to improve management in the field. We reorganized in 1963 in that area and set up regional managers. We have reduced the number of field offices continuously since that time. Much of the reduction recently was attributable to the transfer of our safety work over to the Department of Transportation. With that many people gone we couldn't justify the number of offices we had, so we reduced them from seven to six.

But generally speaking, our field complement now is just as low as it possibly can be for us to carry out our responsibility.

Mrs. HECKLER. How much of the time and resources of the Commission are devoted to tariff questions?

Mr. TIERNEY. I just can't answer that question. I don't know whether we have a breakdown of figures on that.

Mrs. HECKLER. Does the personnel of the department which interprets and supervises tariff—

Mr. TIERNEY. That is our Bureau of Traffic Personnel—

Mr. SCHMID. 2,500.

Mr. TIERNEY. 2,500.

Mr. SCHMID. The total cost of that Bureau which deals mostly with tariffs is \$2,390,000.

Incidentally, in response to your earlier question, we have approximately 550 people in the field and about 1,300 here in Washington.

Mr. BROOKS. They testified earlier they have 1,840 onboard.

Mrs. HECKLER. In Washington?

Mr. BROOKS. No, total.

Mr. SCHMID. About 1,300 of them are in Washington.

Mrs. HECKLER. I just have one other question.

Regarding rail mergers, what measures has the ICC been able to take or is considering or taking at the present time to reduce the time and effort involved in the handling of a rail merger? It seems that the delays go on indefinitely.

Mr. TIERNEY. Mergers do take considerable time. We are using every effort we possibly can, at the same time retaining due process. This is where the problem is, Mrs. Heckler. But what we are doing more and more now is applying special staff groups to particular merger cases with the idea of assisting, for example, the hearing examiners, making sure they have enough staff, using our economic experts, our accounting experts to assist them in the analysis of the information.

The major merger cases are assigned to individual commissioners—this is recent, within the last year or two—for administrative control, to be sure that time schedules are kept as closely as they can, that there are no unusual delays.

We hope to improve as we go along to the extent that we can, within the Commission, conclude the cases as expeditiously as we can. Of course, after it gets out of the Commission, much of the delay is attributable to actions in the courts. I think in practically all of these cases, they eventually end up in the court somewhere because so much is involved and they have a tremendous impact on the economy.

Mrs. HECKLER. Thank you.

Mr. BROOKS. Thank you very much, Mrs. Heckler.

PART 2. PROGRAM REVIEW

Now, Mr. Chairman, turning to the program breakdown, I would appreciate a brief explanation of what each of the programs is and, briefly, how it is performed. You have four programs. We have already covered general support.

Mr. TIERNEY. That is correct, sir.

Mr. BROOKS. You may want to call on the people who run those programs and give us about 4 or 5 minutes on each one.

A. PROGRAM CATEGORY 1—REGULATION OF CARRIER RATES, PRACTICES, OPERATING AUTHORITIES, AND FINANCE

Mr. TIERNEY. We will start with activity 1, regulation of carrier rates, practices, et cetera.

Mr. BROOKS. That is exhibit F, and it is your program category 1. Without objection, I will put exhibit F in the record.

(Exhibit F follows:)

**EXHIBIT F—FACT SHEET—REGULATION OF CARRIER RATES, PRACTICES, OPERATING
AUTHORITIES, AND FINANCE**

100	DEPARTMENT OR AGENCY ICC	PROGRAM Regulation of Carrier Rates Practices, Operating Authorities CODE and Finance	SUBPROGRAM CODE
200	ANALYSIS AND CONTROL CODES		
300			
400	FISCAL YEAR 1968		
500		Unobligated Carryover	Appropriation or Current Year Request
500	"In house" inputs		Total Available <u>1/</u>
510	Personnel:		Total Obligated or Expended
511	Comp.		
512	Benefits		8,443,000
513	Travel		631,000
520	Expenses:		171,000
521	Communications		
522	Transportation		82,000
523	Printing		3,000
524	Supplies and Consum- able Materials		
530	Capital Equipment		319,000
540	Land and Structures		22,000
541	Additional Investment		
542	Rents		
550	Total		9,671,000
600	Funds distributed		
610	Contracts		
620	Grants		
630	Loans		
640	Benefits		
650	Other		
660	Total		
700	Total		Prior Fiscal Year
800	Input-output ratio		
810	1. Input		
811	1. Output		
820	2. Input		
821	2. Output		
830	3. Input		
831	3. Output		
840	4. Input		
841	4. Output		
850	5. Input		
851	5. Output		
860	6. Input		
861	6. Output		
870	7. Input		
871	7. Output		
880	8. Input		
881	8. Output		

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89-641-5 GPO

1/ Anticipates \$386,000 proposed supplemental appropriation for pay increases authorized by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

PROGRAM NO. 1—REGULATION OF CARRIER RATES, PRACTICES, OPERATING
AUTHORITIES, AND FINANCE

(a) The statutory authority for the program is the Interstate Commerce Act and related acts (49 U.S.C. 1, et seq.).

(b) The principal function of this activity is the processing to decision of all formal and certain informal proceedings arising or initiated under the provisions of the above acts dealing with the activities of rail, motor, and water carriers, brokers, freight forwarders, and pipelines. Most of these proceedings are initiated by carriers, shippers, associations, and other interested persons by the filing of various types of pleadings, including applications, complaints, petitions, tariffs, and protests. Others are initiated by the Commission on its own motion and include investigations and rulemaking proceedings.

Most of the less important proceedings are decided initially by boards of employees, with the right of the parties to appeal to a division of the Commission. The cases of General Transportation importance or of major importance are decided by the entire Commission or by one of the three divisions.

During the fiscal year ending June 30, 1967, the Commission disposed of 20,932 formal and informal proceedings in this activity. The number of persons engaged in the program total 732, with a budget allocation of \$9,671,000.

This program constitutes the backbone of the Commission's economic regulatory program; it is administered within the framework of the national transportation policy, all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the postal service, and the national defense.

The growing economy constantly demands increased transportation services. Public and private transportation requirements are met by the institution of new services or by extensions, realignments, or consolidations of the old ones. Continued economic regulation by the Commission is essential to the maintenance and growth of our existing transportation system—a system owned by private management operated at a profit and which pays huge taxes. Such regulation, of course, must be sufficiently flexible to respond to changing conditions, to advancing technology, and to the shifting requirements of commerce as it adapts to the social and productive needs of the American people.

(c) The person primarily in charge of this program at the staff operating level is Mr. Bertram E. Stillwell, Director, Office of Proceedings.

Mr. TIERNEY. If I might start with the Director of the Office of Proceedings, Mr. Chairman, Mr. Bertram Stillwell.

Mr. Stillwell is here, and he will explain very briefly the operations of this area.

Mr. BROOKS. Let me ask Mr. Cheseldine a couple of questions while Mr. Stillwell is getting organized. He is associated with you in your shop?

Mr. STILLWELL. He is the Chief Examiner in the Section of Hearings.

Mr. BROOKS. A year or so ago, Mr. Chairman and Mr. Cheseldine, the subcommittee reviewed the transcript in the *Southern Grain* case and, as I recall, the transcript alone was some 35,000 pages. This, of course, was an extreme case, an extreme example. But a review of other ICC proceedings suggests the possibility that these ICC hearing examiners admit almost all exhibits that are offered and permit cross-examination to continue ad infinitum. It just goes on and on and on. There are some people, hearing experts, who feel that the hearing examiners, in effect, lose control of the proceedings with the result that the hearings go on for months and the decisions in the cases are subjected to pretty extensive delays, and they are expensive for people, for litigants.

Mr. CHESELDINE. Admitting what you say, generally, I have to say this in the grain case. Examiner Boisseree is one of our most expe-

rienced examiners. If there was any delay or extension in that, it was not his fault but the parties involved.

We had a recent extensive P.C. & N. case involving more than 10,000 pages of testimony seeking motor carrier authority out of the Southeast into the Southwest. That case took almost a year to hear with hiatuses between sessions, and we had two of the most efficient examiners that we have on the staff on that case, but it took a year to hear. But they had to hear a thousand witnesses.

We always hear of complaints that we don't control, but the minute that we keep something out, then, we have the problem of we don't afford the parties due process of law.

Mr. BROOKS. Surely 35,000 pages of testimony is not necessary to make a decision. How much of that is really pertinent to what the examiner and what the Commission is later going to act on? I just cannot conceive of there being 35,000 pages of pertinent information on a decision of the type that was finally rendered.

Mr. CHESELDINE. The fact about what is brought into the record is not the examiner's fault. He can't keep stuff out that he doesn't know what it is about. Don't forget this, we have the most astute lawyers in the country presenting these cases, and as Judge Friendly said in one of his reports in the New York Central-Pennsylvania Railroad merger—it was one of the intermediate reports on the appeal before the Supreme Court—and he delved into 25 pages of argument of the parties and characterized the whole thing as merely jockeying for position. That is what goes on.

It is what is going on in the Rock Island merger case which has been going on for over a year.

Mr. BROOKS. Don't you think there ought to be some consideration given to not allowing, in effect, dilatory practices? They are just killing time and they make a fair decision more difficult. They obscure the facts by this mass of information which not many people are going to read and even fewer are going to understand.

I am just wondering if there might not be some way—you are the chief hearing examiner, you have been in this for a long time—if there might not be some way of changing this pattern of 10,000, 15,000, 20,000 pages of testimony and hearings that really are pretty much your just being tolerant.

Can't the examiner limit the amount of that material that can be put in the record? Mr. Tierney is not going to read it all.

Mr. CHESELDINE. We have been doing what we can, Mr. Chairman. I don't know how the testimony in the grain case was, but I know about these Southwestern cases. All the direct testimony or practically all of it was put in through written statements, and this hearing was set on the basis of cross examination.

We tried to cut it down this way. How can an examiner say when things become cumulative if we are dealing with operating rights that are up in the millions? If you say, "Cut it off, you have put in enough," then we deny the application, they come right back and say we shouldn't have told them to quit.

Mr. BROOKS. Federal judges have that feeling and they do it. I would think that examiners would not be jeopardizing their position if they accepted it for consideration, but don't make it a part of that big record if you have 14 statements saying essentially the same thing.

I do this on occasion here. You have difficulties occasionally between Members of Congress and witnesses when we are giving them a bad time. In those kinds of circumstances, sometimes those people bring in a big book and they want to put it in the record. I tell them we will appreciate that for the committee, we graciously take it, put it in a nice area where it can be considered at leisure. I don't print that as a part of the record because some third party might want to look at it.

If it is that thick and has this much of one viewpoint, one position, you will never get through it. I think it makes for a more objective hearing, for a fairer presentation of the facts, if they are in such shape that people—not just the members of the committee that are directly concerned or the members of your organization—but some third party can look at it and it makes sense. If it is 35,000 pages, you have created a beautiful document that has no usefulness to very many people.

I wish you would consider that. I just cannot believe that the public interest is necessarily served by allowing everybody in the world to fill up a record that really obscures the facts and makes more difficult a real evaluation of the varying viewpoints, presentations and issues of a given case.

Mr. CHESELDINE. I quite agree with you, sir, but I do again say that we are dealing with lawyers that are interested in the delay, in constant delay and waiting for the best opportunity for them to present their situation.

Mr. BROOKS. I would hope that the Commission would consider that. It might be—

Mr. STILLWELL. If I may, Mr. Chairman, Mr. Cheseldine has only dealt with some of these big cases, but we do have many procedures for modified procedure in the handling of cases with special procedures, by special orders, which the parties reduce their evidence to writing.

I would like to ask Mr. Cheseldine to expand on that. He is the expert in the field.

Mr. THOMPSON. I would imagine any time you could have agreement between the parties they could stipulate how these matters would be handled.

Basically, what you are saying is that one party would not agree to a stipulation and he wants to get it in the record primarily as a method of delaying the proceedings. And this is his purpose and intent.

If this is his purpose and intent, Mr. Chairman, I think you are absolutely right, that something should be done to put a stop to it, because it does clutter up the record and it is difficult for an observer, a casual observer, whether he be a Member of Congress—

Mr. BROOKS. Or a small litigant but a party in interest.

Mr. THOMPSON. That is right.

Mr. CHESELDINE. In the case you have been referring to there was a lot of money involved, and they are going to fight it right down the line.

If we don't hear it, they are going to court and it will be thrown back at us. That is what our problem is. You can't throw things out you don't know about.

Mr. BROOKS. You know that old saying, "Justice delayed is justice denied," and it certainly delays a lot of it.

Mr. CHESELDINE. I have been criticized by the Civil Service Commission for keeping my records down to a point that some people argued that I have already made up my mind and kept the record that way for that reason.

Mr. BROOKS. I wouldn't worry about that. Was your decision the right one?

Mr. CHESELDINE. As far as I am concerned.

Mr. BROOKS. You just saved a lot of money and a lot of bother. I would be more worried about the rightness of my decision than the rightness of letting everybody fill up the record so that nobody could question that decision.

Mr. CHESELDINE. Mr. Stillwell and I have both preached this at various conventions. They take it, they think it is nice, and they go back to their old practices.

Mr. BROOKS. I think you should consider the possibility of recommendations that would make it more practical to prepare these records and to hear these cases.

Mr. CHESELDINE. We have just put a new procedure into effect in the last 6 or 7 months. We are faced with a lot of what we call shotgun applications.

We now require the applicant to disclose his entire testimony in advance so that we can go to the hearing, hear those witness on cross-examination, hear the protestants and wrap the thing up in one hearing rather than having two or three.

Mr. BROOKS. Of course, I don't think that you as examiners are totally helpless when you have a hearing. You know, if I were a hearing examiner, I don't care how many million dollars were at stake, and the lawyers for one side or the other kept loading up that record, they would be jeopardizing my good nature.

I think that there is a way to get their attention. It is like telling them that anybody can do it in 50 pages, but it takes somebody with brains to do it in one. Just say, "Counselor, I know you are well informed because you are surely well paid, and maybe your client would encourage you to condense and capsule your comments into 10 or 20 pages instead of 10,000." This is the kind of comment that might get their attention. They would be trying to appeal that decision just as soon as I rendered it, and it wouldn't be taking me a whole lot of time.

I would be guilty, perhaps, of what you might have been accused. If they insist on just loading you up, tell them you won't allow it. I don't let agencies do that. We have some agencies that come in and bring big stacks of stuff, and they want to read page after page. Just stop them.

Mr. CHESELDINE. I don't say that the whole staff is perfect, I don't mean that. I don't say I am perfect. We are trying to do a job. We have some awfully tough cases involving a lot of money.

We also have a lot of small cases, and you can see from our production that we are getting them out. We are trying to improve our procedures, but for everything we think of, the lawyers seem to think of something to offset it.

We changed the application form; we have changed procedures. We have done almost everything. But they are one step ahead of us.

We just got instructions the other day to revise the rules again. We have changed them twice or three times in the last 7 years. They still try to get around them or have some excuse. Even the matter of postponement of hearings has gotten to the point where they know the one good reason that they have is somebody is sick.

So somebody has got to get sick. You know you can get a doctor's certificate for \$5 or \$10, so that doesn't do us much good.

Mr. BROOKS. Mr. Stillwell.

Mr. STILLWELL. The activities which the Office of Proceedings is engaged in consist generally of processing to decision all the formal cases and many of the informal cases of the Commission. They include applications for motor carrier operating rights, applications for water carrier operating rights, rate changes, temporary authorities of various kinds, and so forth. We do have a little jurisdiction of the rates of pipelines.

It is a big operation. It involves a large number of people. Included in the operation, of course, are the Commissioners and their staff, the staff of the Office of Proceedings, and the support staffs that are in the Bureau of Traffic and the Bureau of Accounts.

The Commission has no control for the most part over the number of proceedings which they are called upon to handle. Most of the proceedings are initiated by the carriers or by the shippers or by other people who are interested in some phase of our transportation activities.

We have no alternative but to process them and process them in the best way we can and in the fastest way we can. So we have set up an organization which we feel is very efficient.

The cases of major importance, general transportation importance, are decided at the Commission or the division level.

All the other cases which we call of minor and lesser importance are handled by review boards or decisional boards of employees. That includes the rate changes which are first handled by the Board of Suspension. It includes temporary authorities for motor carriers. It includes decisions in all the areas in which we operate by five review boards.

All the board actions are subject to an appeal. Any decision of our employee boards may be appealed to the appropriate division of the Commission, so we are able, through the employee board system, to move the cases at a fast pace and give a quick decision, and at the same time, preserve to them the right of appeal to the division or the Commission.

The cases come in very fast. We have big cases. We have small ones. We have a case which may involve a request for motor carrier authority that is unopposed. We can handle that very promptly. We use nothing but an order granting or denying it. That decision is made by an employee board.

Mr. BROOKS. Mr. Stillwell, could we give you the right to revise and extend your comments?

Mr. STILLWELL. Yes, sir.

Mr. BROOKS. At this point maybe we had better move on if we are going to hear from the other program directors, Mr. Chairman. Would you include, Mr. Stillwell, the number of personnel in your particular operations?

Mr. STILLWELL. Yes, sir. There are 732.

B. PROGRAM CATEGORY 2—COMPLIANCE

Mr. TIERNEY. We are down to compliance. Mr. Robert Pfahler, Director of our Bureau of Operations.

Mr. BROOKS. Before you proceed, I would put in Exhibit G and exhibits H and I at the appropriate points.
(Exhibit G follows:)

EXHIBIT G.—FACT SHEET—COMPLIANCE PROGRAM—ICC

DEPARTMENT OR AGENCY		PROGRAM	SUBPROGRAM		
100	ICC	Compliance			
200	CODE	CODE	CODE		
ANALYSIS AND CONTROL CODES					
300					
400	FISCAL YEAR 1968				
		Unobligated Carryover	Appropriation or Current Year Request	Total Available 1/	Total Obligated or Expended
500	"In house" inputs				
510	Personnel:				
511	Comp.			5,395,000	
512	Benefits			482,000	
513	Travel			438,000	
520	Expenses:				
521	Communications			65,000	
522	Transportation			20,000	
523	Printing				
524	Supplies and Consumable Materials			84,000	
530	Capital Equipment			15,000	
540	Land and Structures				
541	Additional Investment				
542	Rents				
550	Total			6,499,000	
600	Funds distributed				
610	Contracts				
620	Grants				
630	Loans				
640	Benefits				
650	Other				
660	Total				
700	Total				
				Prior Fiscal Year	
800	Input-output ratio				
810	1. Input				
811	1. Output				
820	2. Input				
821	2. Output				
830	3. Input				
831	3. Output				
840	4. Input				
841	4. Output				
860	5. Input				
851	5. Output				
860	6. Input				
861	6. Output				
870	7. Input				
871	7. Output				
880	8. Input				
881	8. Output				

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^{1/} Anticipates \$386,000 proposed supplemental appropriation for pay increases authorized by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

PROGRAM NO. 2—COMPLIANCE

a. The statutory authority for this program is the Interstate Commerce Act and related acts (49 U.S.C. secs. 1, et seq.) and the Commission's regulations (49 CFR 1000, et seq.).

b. The compliance program of the Commission is basically a field oriented program. In addition to the effort to detect unauthorized, illegal operators, the field staff members make compliance surveys on the properties of the regulated carriers to assure that they are in compliance with the provisions of the law and our regulations, and with their published tariffs. Where noncompliance is uncovered in the course of compliance surveys, the findings are handled administratively for correction or further investigation is conducted with a view toward formal action before the Commission or in the Federal courts.

Complaints are received from shippers, other carriers, State regulatory bodies, and the general public alleging violations of the laws or regulations. These allegations are investigated and handled for administrative correction; or where flagrant or continuing, become the subject of prosecution in the courts or proceedings before the Commission.

Substantial information is developed concerning violations of the law and regulations during our compliance surveys and complaint handling. Where violations are discovered, they are then assigned for thorough field investigations directed toward determining the degree of noncompliance by the carrier, and in some instances by the shipper. In the course of these investigations, persons are interviewed and evidence secured for consideration for formal legal enforcement action. The results of these investigations are then handled by the Commission's enforcement attorney staff and become the basis of civil or criminal proceedings in the Federal courts or are made the subject of a formal Commission proceeding.

Punishment and elimination of unlawful acts aids the public by removal of unfair competition and fosters a sound transport system.

The compliance program also includes the administration of the car service provisions of the act, and the Commission's agents in the field assure that there is equitable distribution and efficient use of the national rail car fleet.

Our compliance staff polices approximately 19,000 licensed motor carriers and brokers of passengers and property, ranging from small carriers with only a few vehicles operating from one or two terminals, to large carriers operating several thousand pieces of equipment in numerous States and utilizing hundreds of terminals; about 558 rail carriers operating over 26,000 stations and yards encompassing a car fleet of more than 1¼ million freight cars; 230 water carriers operating in coastal and inland waters service; and 89 freight forwarders with extensive operations.

The compliance program objectives for fiscal year 1968 are 10,530 compliance surveys, 3,661 initial investigations resulting from complaints or leads supplied by State agencies, and 1,109 final investigations instituted with a view toward formal enforcement action. It is anticipated that the investigative activities will result in the conclusion of 815 cases through prosecution in the courts or by prelitigation settlements of civil forfeiture claims plus about 200 formal Commission proceedings.

c. The investigatory portion of the compliance program is directed by Mr. Robert D. Pfahler, Director, Bureau of Operations; and the formal legal enforcement activities are headed by Mr. Bernard A. Gould, Director, Bureau of Enforcement.

Mr. PFAHLER. The compliance program is primarily a field program which might be related to the activities of a police department or the office of a prosecuting attorney. We are the compliance or enforcement branch of the Commission to make sure that the law, the Interstate Commerce Act and the related acts, and the Commission's regulations are complied with by the carriers and the shippers.

We are the eyes and ears of the Commissioners in the field so that they know what the carriers are doing. We detect completely unauthorized and illegal operators, and we make compliance surveys on the regulated carriers on their properties to assure that they are in compliance with the Interstate Commerce Act and with the related regulations.

These activities are primarily educational and aimed at voluntary compliance, but as we pick up willful violations in the course of our regular compliance surveys, evidence leading toward prosecution is obtained.

The findings normally are handled administratively for correction or where further investigations is necessary it is conducted with a view of action before the Commission or in the Federal courts. We receive complaints from shippers, other carriers, State regulatory bodies, and the general public alleging violations of the law.

Where these allegations are made, they are investigated and handled for administrative correction. Where they are flagrant or continuing, they become the subject of prosecution in courts or proceedings before the Commission.

We develop substantial information concerning violations, and where these are discovered they are assigned for thorough field investigations directed toward determining the degree of noncompliance by the carrier and in some instances by the shipper.

In the course of these investigations we interview people and get evidence for consideration of formal legal enforcement actions. The results of these investigations are then handled by the Commission's enforcement attorneys and become the basis of civil and criminal proceedings in the Federal courts or are made the subject of a formal Commission proceeding.

Mr. THOMPSON. If there are criminal proceedings, is this handled by your staff of attorneys or by the Attorney General's Office?

Mr. PFAHLER. We take it through preparing the pleadings, developing the evidence and then it is turned over to the U.S. attorney, sir.

Mr. THOMPSON. Is this true in a civil case?

Mr. PFAHLER. We use the civil forfeiture procedure partially. In some cases we have to go to court. Our compliance program also includes the administration of the car service provisions of the act. The Commission's agents in the field assure that there is equitable distribution and efficient use of the national railcar fleet.

Our compliance staff polices approximately 19,000 licensed motor carriers and brokers of passengers and property, ranging from small carriers with only a few vehicles operating from one or two terminals, to large carriers operating several thousand pieces of equipment in numerous States and utilizing hundreds of terminals; about 558 rail carriers operating over 26,000 stations and yards encompassing a car fleet of more than $13\frac{1}{4}$ million freight cars; 230 water carriers operating in coastal and inland water service; and 89 freight forwarders with extensive operations.

The compliance program objectives for fiscal year 1968 are 10,530 compliance surveys; 3,661 initial investigations resulting from complaints or leads supplied by State agencies; and 1,109 final investigations instituted with a view toward formal enforcement action.

It is anticipated that the investigative activities will result in the conclusion of 815 cases through prosecution in the courts or by prelitigation settlements of civil forfeiture claims plus about 200 formal Commission proceedings.

Mr. Brooks. Would you give us for the record examples of the type cases you have against the various types of carriers with which you are dealing?

Mr. PFAHLER. I would be glad to, sir.

(Information to be furnished by the Commission follows:)

The compliance program is directed chiefly toward promoting the following domestic surface transportation concepts and objectives: adequate, economical, and efficient transportation service; sound economic conditions in transportation; reasonable charges; prevention of unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices; and a transportation system adequate to meet vital national needs.

In order to achieve these objectives, our staff in the field conducts a number of types of investigations. One of the major investigatory processes is the compliance survey, aimed toward assuring compliance by those carriers whose operations are within the jurisdiction of the Commission. Compliance surveys are conducted in all areas of the carriers' economic operations, whether the carrier be rail, motor, water, or freight forwarder. In conducting these compliance surveys, our staff members physically visit carrier property to examine its records, including accounts, ledgers and journals, bills of lading and freight bills, and tariff charges. When discrepancies or violations are discovered, they are discussed with carrier officials; and an attempt is made to obtain voluntary compliance. In the event of flagrant, intentional, or continuing violations, the matter will be further investigated, documented, and prepared for enforcement action, either in the courts or in a proceeding before the Commission. Examples of violations disclosed by compliance surveys consist of operating beyond the scope of authority, extending credit beyond authorized limits, failure to timely handle c.o.d. remittances, rate and tariff violations, and the granting of concessions or rebates. Compliance surveys are initiated by the Commission's staff and are made periodically.

While compliance surveys are generally utilized to determine general compliance of carriers authorized by the Commission, road checks conducted at ports of entry, State weighing scales, or along major routes of commerce, with the assistance of the State enforcement agencies, are utilized to determine compliance by all motor carriers, whether authorized by the Commission or purportedly operating under an exemption or in private carriage. The purpose of the road check is to physically examine a commercial vehicle's lading being transported in interstate commerce and the bills of lading and other documents carried on the vehicle. Examples of violations and questionable operations developed through the road-check program would be clear-cut and undisguised operations without any authority; misdescription of freight; improper lease and interchange of vehicles by or between carriers; and unauthorized operations performed by means of questionable shipper leasing, buy and sell arrangements, agricultural cooperative associations, and shipper associations.

In addition to the above means for detecting possible unlawful operations, another source of such information is through complaints filed with the Commission by carriers, public regulatory agencies, and the general public. Upon receipt of complaint from these sources, generally an initial investigation is undertaken when the complaint covers an apparent violation of the law or a Commission regulation. When this investigation is undertaken, it may be physically conducted at a carrier's headquarters, at terminals or yards, or at a shipper's place of business. Those complaints received which cover matters not subject to our jurisdiction, such as intrastate shipments or adjudication of claims for loss and damage, are handled administratively by personal contact or correspondence with the carrier involved in an effort to informally resolve the cause of complaint. Advice is also given to the complainant as to other appropriate channels through which he might secure relief.

From the information developed through the summary investigations outlined above, a determination is made as to whether a more intensive investigation, looking toward enforcement action, is warranted. There are a number of yardsticks used by the investigating and enforcement staff to determine whether a complete investigation is appropriate. Generally before a final investigation is undertaken, the possibility of complete adjustment through administrative handling is ruled out. Violations may be flagrant and continuing. The respondent or respondents may have knowledge as to their unlawful activities but may, nevertheless, be unwilling voluntarily to comply or feel that further determination of the status of their operations in light of regulations should be tested in the courts or before the Commission.

The final investigation requires the utmost skillfulness and diligence on the part of the investigator. Many of the schemes and devices used by unlawful or

questionable carrier operators have become extremely sophisticated and are designed expertly to convey an appearance of legality. It is the investigator conducting a final investigation, then, who must dig beneath the surface of a questionable operation and from the evidence uncovered apply the basic criteria which have been developed through court and Commission proceedings and present these facts to the Commission's enforcement staff. The subterfuges used are varied. However, one scheme commonly used is referred to as a buy-and-sell arrangement, whereby a trucking operator alleges that he is the owner of the commodity being transported by the use of fictitious documents to indicate such ownership, when, in fact, the only profit to be realized from the transaction is compensation for transportation. To assist the Commission in dealing with the buy-and-sell problem, Congress, in 1958, incorporated the primary business test into section 203 (c) of the Interstate Commerce Act.

Another example is a subterfuge employed between the owner of trucking equipment and a shipper, whereby the trucker purportedly leases his equipment to the shipper to be used in private carriage. The lease, on its face, appears valid. However, the investigation frequently reveals that the shipper actually keeps two sets of records. One set is fictitious and is designed to indicate the arrangement to be lawful. However, the second set of records reveals that the truck owners were performing a for-hire transportation service identical to other common carriers.

An example of a railroad granting substantial monetary concessions from its published tariff rates involves the transportation of carload shipments of mixed merchandise for freight forwarders. The offense consists of the acceptance and immediate transportation by the railroad of individual cars containing freight forwarder shipments on each of several days during a week, and then consolidating seven to 10 cars of such shipments on a single shipping document at the end of the week for billing at the lower "battery shipment" freight rate. The carriers' tariffs normally require that all cars constituting a shipment be tendered for transportation on the same day in order to qualify for the "battery shipment" rate.

Many of the schemes and devices used by truck operators are devised in an attempt to take advantage of exemptions contained in part II of the Interstate Commerce Act. One such exemption is contained in section 203(b) (5). This allows a bona fide farm cooperative to engage in transportation on a limited basis for its members and some nonmembers without obtaining operating authority from the Commission. An example of this type of arrangement is where a truck operator, holding no operating authority from the Commission, organizes a cooperative by obtaining permission from a number of farmers to use their names in the formation of the cooperative. The truck operator then provides transportation services to shippers under the claimed exemption. In many instances the farmers never receive any benefit from the association.

The above are but a few of the types of methods utilized by truck operators and shippers to circumvent the requirements of the Interstate Commerce Act and the rules and regulations promulgated by the Commission. Often time-consuming and extensive investigations are required to obtain the necessary evidence to undertake enforcement action. This requires that an investigator locate the critical documents to support enforcement action at the carrier's or shipper's place of business or elsewhere. Often it is necessary to locate and question witnesses and secure statements, which, when pieced together with other documented evidence, reveal the true nature of the transportation operations being conducted.

As the modus operandi of the questionable and unlawful carrier becomes more sophisticated, there has been a reciprocal responsiveness on the part of the Commission's staff. Their skill and the time given over to enforcement work have had to increase as the schemes and devices have become more complicated. The expanded efforts of the Commission in its compliance role have achieved considerable success. As an example, a recent series of cases concluded in U.S. district courts involved carrier payments to sugar receivers for alleged split delivery cartage service which was paid for but not performed. The rebates involved in this illegal scheme amounted to over a half million dollars, and the investigation covered a period of about 2 years. Fines totalling in excess of \$450,000 were imposed against several rail and water carriers, sugar dealers, and cartage operators. Another recent case required about 2 months of investigation and concerned the failure of a rail carrier in the State of Washington to assess demurrage in accordance with the tariff's rules. This case resulted in fines totaling \$90,000 against the shipper (a large steel company) and the carrier.

Mr. BROOKS. How many people did you say were involved in your program?

Mr. PFAHLER. About 500.

Mr. BROOKS. Of that 500 employed in your total enforcement operation, how many investigators do you have in the field?

Mr. PFAHLER. There are 48 who are investigators as such, although the transportation technicians, of which we have 182, do some investigative work as part of their regular duties.

Mr. BROOKS. Our very able Republican counsel, Mr. Copenhaver, who has been studying other hearings, estimates you have 526—111 in Washington and 415 in the field—and a percentage of those who would be investigators would be across the board; some would be here and some would be in the field, correct?

Mr. PFAHLER. We have only one investigator in Washington; 47 investigators in the field.

Mr. BROOKS. Thank you, sir.

Mr. Chairman.

C. PROGRAM CATEGORY 3—SUPERVISION AND ANALYSIS OF CARRIER ACCOUNTING AND STATISTICS

Mr. TIERNEY. Next, Mr. Paolo, supervision and analysis of carrier accounting and statistics.

Mr. BROOKS. You are in the Bureau of Economics?

Mr. PAOLO. Bureau of Accounts.

Mr. SCHMID. Both the Bureau of Economics and the Bureau of Accounts are part of this activity.

Mr. BROOKS. That is where he was identified here, as the Bureau of Economics.

(Exhibit H follows:)

PROGRAM No. 3.—SUPERVISION AND ANALYSIS OF CARRIER ACCOUNTING AND STATISTICS

(a) The statutory authority for this program is the Interstate Commerce Act and related acts (49 U.S.C. sec. 1, et seq.).

(b) The principal functions relating to the supervision and analysis of carrier accounting and statistics consist of (1) developing, interpreting, and keeping up-to-date uniform systems of accounts prescribed for the several modes of transportation subject to the Commission's jurisdiction. There are 11 different accounting systems involved; (2) prescribing accounting and statistical reporting requirements of annual and periodical reports; (3) examining the accounts, records, reports, and financial statements of carriers to assure compliance with the accounting and reporting regulations; (4) compiling and publishing transportation, financial, and operating statistics; (5) performing work necessary for the finding of value of pipeline carrier property for ratemaking purposes; and (6) performing economic, mathematical, statistical, and related analytical work necessary to fulfill important aspects of the Commission's regulatory responsibilities.

Our accounting, reporting, and auditing activities are designed to insure uniformity in the application of carriers' accounting practices and accuracy in their results. This is essential so that the financial and statistical reports filed with the Commission are accurate and reflect factual financial and operating conditions. The benefits derived from these activities are many. The Commission relies on the accuracy of the statements, reports, and Commission compiled statistical publications in carrying out its many regulatory functions, including merger proceedings, rate proceedings, and other areas of responsibility. The public, including stockholders, ratepayers, and financial institutions, also depends upon the reliability of Commission published statements, the accuracy of which is essential to maintain the continuous integrity of reported data.

**EXHIBIT H.—FACT SHEET—SUPERVISION OF CARRIER ACCOUNTING AND STATISTICS—
INTERSTATE COMMERCE COMMISSION**

100	DEPARTMENT OR AGENCY ICC	PROGRAM Supervision and Analysis of Carrier Accounting & Statistics	SUBPROGRAM
200	CODE	CODE	CODE
300	ANALYSIS AND CONTROL CODES		
400	FISCAL YEAR 1968		
500		Unobligated Carryover	Appropriation or Current Year Request
			Total Available <u>1/</u>
			Total Obligated or Expended
500	"In house" inputs		
510	Personnel:		
511	Comp.		2,351,000
512	Benefits		182,000
513	Travel		142,000
520	Expenses:		
521	Communications		29,000
522	Transportation		3,000
523	Printing		17,000
524	Supplies and Consum- able Materials		33,000
530	Capital Equipment		6,000
540	Land and Structures		
541	Additional Investment		
542	Rents		
550	Total		2,763,000
600	Funds distributed		
610	Contracts		
620	Grants		
630	Loans		
640	Benefits		
650	Other		
660	Total		
700	Total		Prior Fiscal Year
800	Input-output ratio		
810	1. Input		
811	1. Output		
820	2. Input		
821	2. Output		
830	3. Input		
831	3. Output		
840	4. Input		
841	4. Output		
850	5. Input		
851	5. Output		
860	6. Input		
861	6. Output		
870	7. Input		
871	7. Output		
880	8. Input		
881	8. Output		

1/ Printed for use of House Government Activities Subcommittee, Chairman Jack Brooks
Anticipates \$366,000 proposed supplemental appropriation for pay increases authorized
by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

The economic activities are designed to meet the needs of the Commission for economic, statistical, and mathematical analyses, information and advice in proceedings support and policy development. This requires preparing economic, financial, and statistical studies and analyses of problems directly related to the function of economic regulation, and providing professional assistance and services to the Commission, hearing examiners, report writers, and others. These services include preparing expert testimony and exhibits for submission in proceedings; preparing economic and statistical evaluations of testimony and exhibits offered in evidence by parties to Commission proceedings; and preparing sampling guidelines and other criteria to facilitate development and review of official records by Commission and others involved in Commission proceedings.

(c) Mr. Matthew Paolo, Director of the Bureau of Accounts, has direct operational responsibility over the accounting, reporting, and auditing activities while Mr. Edward Margolin, Director of the Bureau of Economics, is responsible for the economic activities.

Mr. PAOLO. Mr. Chairman, this activity is generally in the supervision and analysis of carrier accounting and statistics.

The principal functions relate to developing, interpreting, and updating uniform systems of accounts which the Commission prescribes for the several modes of transportation.

We also develop and prescribe reporting systems by which we require the carriers to report financial and operating data to the Commission.

In addition, we audit and examine accounts, records, reports, and financial statements of the carriers to see that they are accurate and in compliance with our accounting regulations.

We also compile and publish financial and operating data of the industry for the Commission and the public use.

Another activity involves the evaluation of pipeline operating property for ratemaking purposes.

The last function, an important function, is the economic, mathematic and statistical analyses of many of the important facets of transportation for use by the Commission.

We have a staff of some 207 people doing this work. Approximately 120 of that staff are professionals, including accountants, auditors, engineers, economists, mathematicians, and statisticians. Sixty-five of our accountant-auditors are in the field examining and reviewing the records of the carriers.

I believe that basically explains very briefly the functions of this activity.

Mr. BROOKS. It is a good explanation. Apparently, you do a good bit of work that is of real benefit to carriers in evaluating what their costs are, what their profits are, where they are spending their money, and at the same time you can then compare those with other operators in overall statistics of benefit both to the public and to the transportation industry.

Mr. PAOLO. This is correct.

Mrs. HECKLER. Do you receive the financial reports from the carriers?

Mr. PAOLO. This is correct.

Mrs. HECKLER. Are they submitted according to a unified procedure?

Mr. PAOLO. Yes. We have formats for periodical reports such as quarterly reports of revenues and expenses, wage statistics and commodity statistics, and our annual report is a very comprehensive report of the entire operation.

It not only includes financial data but much statistical data. It gets into operations, the car miles; it gets into a number of areas, the number of units of equipment and the miles they operate; things of this nature.

Mrs. HECKLER. How much of this was put on ADP?

Mr. PAOLO. As Chairman Tierney explained we are working very hard in this area. Most of it now has been put on ADP. We are working on it very diligently.

Mrs. HECKLER. Are the financial reports of carriers put on ADP?

Mr. PAOLO. Yes, particularly in connection with the accumulation of this data for publication purposes and for analyses purposes. We make certain analyses through the computers.

Mrs. HECKLER. This is a very computer-minded subcommittee.
 Mr. BROOKS. Any questions, Mr. Thompson?
 Mr. THOMPSON. No questions.
 Mr. BROOKS. Thank you very much.

D. PROGRAM CATEGORY 4—SUPERVISION AND INTERPRETATION OF TARIFFS

Mr. TIERNEY. Next is Mr. Edward Cox, supervision and interpretation of tariffs. He is director of our Bureau of Traffic.
 (Exhibit I follows:)

EXHIBIT I.—FACT SHEET—SUPERVISION AND INTERPRETATION OF TARIFFS—ICC

DEPARTMENT OR AGENCY		PROGRAM	SUBPROGRAM		
100	ICC	Supervision and Interpretation of Tariffs			
200	CODE	CODE	CODE		
ANALYSIS AND CONTROL CODES					
FISCAL YEAR 1968					
		Unobligated Carryover	Appropriation or Current Year Request	Total Available 1/	Total Obligated or Expended
500	"In house" inputs				
510	Personnel:				
511	Comp.			1,585,000	
512	Benefits			119,000	
513	Travel			1,000	
520	Expenses:-				
521	Communications			21,000	
522	Transportation				
523	Printing				
524	Supplies and Consumable Materials			25,000	
530	Capital Equipment			6,000	
540	Land and Structures				
541	Additional Investment				
542	Rents				
550	Total			1,757,000	
600	Funds distributed				
610	Contracts				
620	Grants				
630	Loans				
640	Benefits				
650	Other				
660	Total				
700	Total			Prior Fiscal Year	
800	Input-output ratio				
810	1. Input				
811	1. Output				
820	2. Input				
821	2. Output				
830	3. Input				
831	3. Output				
840	4. Input				
841	4. Output				
850	5. Input				
851	5. Output				
860	6. Input				
861	6. Output				
870	7. Input				
871	7. Output				
880	8. Input				
881	8. Output				

Printed for use of House Government Activities Subcommittee, Chairman Jack Brooks

89-641-b GPO

1/ Anticipates \$386,000 proposed supplemental appropriation for pay increases authorized by P.L. 90-206 and the release of \$317,000 reserve required by P.L. 90-218.

PROGRAM NO. 4—SUPERVISION AND INTERPRETATION OF TARIFFS

(a) The statutory authority for this program is the Interstate Commerce Act and related acts (49 USC sec. 1, et seq.) and the Commission's regulations (49 CFR 1000, et seq.).

(b) The principal functions covered by this program are (1) to receive, examine, criticize, and file tariffs, schedules, contracts, section 22 quotations or tenders, for the transportation of passengers and property filed by carriers, and concurrences and powers of attorney filed by all carriers; (2) to secure compliance with the Interstate Commerce Act and rules of the Commission governing construction, filing, and posting of tariffs and schedules; (3) to review and dispose of applications for released rates authority filed under the provisions of section 20(11), and applications for special permission to establish rates, fares, and charges on less than statutory (30 days) notice or to depart from the Commission's rules governing the construction or filing of tariffs and schedules; (4) to check and prepare rate statements from tariffs and schedules for use of the Commission and its staff; (5) to handle informal complaints of shippers, passengers, and others, such as those seeking damages on account of misrouting, exaction of unjust or unreasonable charges, and claims for recovery of charges alleged to have been collected by carriers in excess of those legally applicable; and (6) to process applications submitted by carriers requesting authority to make reparations on past shipments.

It also maintains a public tariff file where all tariffs, section 22 quotations or tenders and contracts between freight forwarders and motor carriers are available for inspection by the public.

This program is operated totally in the public interest. The filing of rates and charges with the Commission is the very foundation for the legality of interstate surface transportation charges. The philosophies of reasonable and adequate service and the publication of exact charges for transport services are close to the heart of the regulatory process. Equality of treatment and protection from unfair or destructive competitive practices, unjust discrimination, and undue preferences or advantages for others are effected by this program.

(c) Mr. Edward H. Cox, Director of the Bureau of Traffic, has direct responsibility over this program.

Mr. Cox. This activity has to do with the supervision and interpretation of tariffs. Practically all of our activity is required by the statute itself.

The principal functions that are received, examined, criticized and filed are tariff publications, section 22 quotations, contracts between shippers and contract carriers and between freight forwarders and motor carriers. In other words, to police those requirements of the act which deal with the preparation, filing and interpretation of tariffs.

We also receive and process applications which are filed under section 20(11) of the act wherein the carriers seek authority to establish rates on a released evaluation basis; also application for special permission authority to establish rates, fares, and charges on less than statutory notice, and for waiver of the Commission's tariff rules in certain circumstances.

We also check and prepare rate statements for the Commission in connection with its work, particularly formal cases. We process and attempt to settle controversies between shippers and carriers on an informal basis regarding complaints that they might have about rates, service, the interpretation of tariffs and things of that kind.

We also process and dispose of applications to award reparations in certain types of cases where the applicable rates under the law have been applied but the carriers are prohibited from refunding any part of those, and where the carrier which has admitted that the rate applied is unjust or unlawful in some other respect has been willing to reduce the rate and then come to the Commission for authority to make

reparations, the difference between what he now considers the lawful rate and what was collected.

We also maintain a file of tariffs for the use of the public. Now the tariff filing requirements, the functions of this Bureau, are really the foundation of regulation. By requiring the carriers to file their rates and charges and to adhere strictly to them, the shippers, carriers and everyone else is informed as to what the carrier will charge for a given piece of transportation. It insures the establishment of just and reasonable rates, just treatment for everyone, avoiding unjust discrimination, prejudice and preference.

I think in a nutshell those are the functions of our Bureau.

Mr. Brooks. You have how many people in that Bureau?

Mr. Cox. I have 195 engaged in this type of work.

Mr. Brooks. Most of those are stationed here in Washington?

Mr. Cox. All in Washington. We have no field staff in our Bureau.

Mr. Brooks. Do you have any questions, Mrs. Heckler?

Mrs. HECKLER. No, I don't, Mr. Chairman.

Mr. Brooks. Mr. Thompson?

Mr. THOMPSON. No, sir.

Mr. Brooks. I want to thank you very much for a concise explanation of your function and that of your section.

Mr. Chairman—and I want to say to those of you who don't know that Mr. Tierney was a long time staff member of the Senate Government Operations Committee and is familiar with Government operations generally, and by now he is pretty familiar with the ICC—if they get tired of you down there, you might come back here and we will really give them a going over, Mr. Chairman.

It is a pleasure to have you here and your staff. I want to thank you for your cooperative attitude and your help in making substantial improvements in your operations.

Mr. TIERNEY. We are grateful for your letting us appear.

Mr. Brooks. The hearing is adjourned.

(Whereupon, at 12:15 p.m., the subcommittee was adjourned.)

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APPENDIXES

APPENDIX A.—WRITTEN RESPONSES OF THE INTERSTATE COMMERCE COMMISSION TO QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

I. GENERAL QUESTIONS AFFECTING THE AGENCY AS A WHOLE

A. *Justification of Personnel Not Chargeable to Specific Programs*

1. What are the total funds available to your agency as a whole for fiscal 1968? Our current appropriation (fiscal year 1968) is \$23,460,000. However, as a result of Public Law 90-218, \$317,000 of our total appropriation has been placed in reserve. This effectively reduced our appropriation to \$23,143,000. Authority has been requested to release the reserve so as to cover part of the increased costs resulting from the pay increase authorized by Public Law 90-206. Further, we have a supplemental appropriation of \$386,000 pending to cover the balance of our increased costs resulting from pay increases. Assuming the supplemental appropriation is enacted and the reserve is released as proposed, we would then have a total of \$23,846,000 available to fund the Commission.

2. How many employees does your agency employ?

The Commission's authorized position ceiling is 1,907.

3. What is the geographical extent of your operations?

The Commission's operations embrace the continental United States with field offices in every State, except Delaware, and Hawaii. In addition, we perform a small number of compliance inspections and investigations of carriers domiciled in Canada and Mexico, who engage in interstate or foreign commerce.

4. Under the program budgeting breakdown, do you have a support program covering the operations of your office as well as other policymaking personnel?

The Commission does not formally maintain a general support program in its budgetary breakdown. However, our tentative program structure does include two program categories, entitled "Executive and advisory functions" and "General management and administration." These two categories when combined do constitute for all practical purposes our general support program.

5. How much money is available in fiscal 1968 for expenditures under this support program?

Assuming our pending \$386,000 supplemental appropriation is approved and the \$317,000 reserve is released, the Commission will have \$3,155,832 available for support programs as identified above.

6. Briefly justify expenditures for the support program in terms of the nature and extent of your operations and responsibilities.

Included in the expenditures for the Commission's support program are those relating to the Chairman and the Vice Chairman and their staffs; the Office of the General Counsel; the Office of the Secretary; and the Office of the Managing Director, which includes the Sections of Personnel, Administrative Services, Systems Development, and Budget and Fiscal. The Chairman is the executive head of the Commission and is responsible for the overall management and functioning of the Commission and the formulation of plans and policies designed to increase the effectiveness of the Commission in the administration of the Interstate Commerce Act and related acts. The Office of the General Counsel defends Commission orders in the courts and advises the Commission and its staff on legal questions arising in Commission proceedings, as well as in the administration of its other responsibilities. The Office of the Secretary maintains the public records of proceedings, prepares certifications, copies or extracts from records filed with the Commission for use in judicial proceedings and other purposes, and maintains the official minutes of the Commission. These functions account for approximately one-third of the support program expenditure.

The Managing Director is responsible for the day-to-day administration of the Commission and the management of Commission operations. Included in his organization are two very substantial central support facilities which directly serve the substantive program operations. The Section of Administrative Services edits and prepares for publication (clerical and composition work) all of the Commission's reports and decisions. Under authority of the Joint Committee on Printing, it operates the Commission's class A printing plant which provides the printing services relating to the Commission's decisions and its other requirements. Additionally, that section provides the other normal procurement, contracting, and housekeeping services attendant to our organization. The Section of Systems Development, the addition to performing systems studies and analyses, operates the Commission's central data processing facility which includes our "Spectra 70" computer and electrical accounting equipment. These two facilities account for substantially more than a third of the support program expenditures. The remainder of the support program (less than one-third of the total expenditures) is accounted for by the Managing Director's immediate staff, including the regional managers, and the normal services required in the personnel management, budget, fiscal, mail, and related areas.

B. Budget Processes

7. Has your program breakdown been approved by the Bureau of the Budget?

No, our program breakdown has not yet been approved by the Bureau of the Budget. However, we are working with representatives of the Bureau of the Budget and are currently in the process of revising our present activity-oriented structure to conform to Bureau of the Budget requirements. When completed, it will be submitted to BOB for approval.

8. Does your program structure flow generally along functional lines of the agency?

Yes, our present program structure generally flows along the Commission's functional lines. Although the breakdown has not yet been approved by the Bureau of the Budget, we are utilizing our activity schedule, which is largely functionally oriented, as tentative program categories.

9. Has the program budgeting concept been fully implemented within your agency as yet in operational terms?

No, the program budgeting concept has not been fully implemented within the Commission. As you know, we were confronted with a consolidation of functions following the establishment of the Department of Transportation in 1967; and this budgeting concept did not become mandatory for the Commission until January 1, 1968. We are currently working with the Bureau of the Budget with the view of implementing it within the Commission as resources permit. Our present headquarters and field program evaluation system and our central status system which covers the proceedings activities utilize many of the principles envisioned by the program budgeting concept. We consider these systems as a fine base which with slight modifications should meet the BOB's requirements in this area. These systems provide a means to define program objectives, to measure accomplishments in relation to such established objectives, and seek to insure that the Commission's resources are applied in the most effective manner in carrying out assigned responsibilities. We are confident that through relatively minor refinements, our program evaluation and central status systems will meet the basic requirements of the planning, programing, and budgeting system contemplated by the President and the Bureau of the Budget.

10. To what extent do you believe that your new budget concept will improve the efficiency of agency operations?

Our budget concept and program evaluation systems outlined above have already been most effective in identifying problem areas, improving our use of manpower and other resources, and expediting the principal work of the Commission. We anticipate that implementation of the new budgeting concept will improve the Commission's efficiency to the extent that it will provide more meaningful and valid information upon which to base decisions concerning the allocation of the Commission's resources.

C. Accounting Systems Development

11. Has the GAO given its approval of your accounting system?

Yes, the Commission's accounting system was originally approved by the General Accounting Office in 1957. Our accounting system has since been revised with the assistance of GAO representatives and was submitted to the Comptroller General in March 1968 for approval.

12. Is the accounting system basically established in terms of accrual costs as the GAO and this subcommittee have recommended?

The accounting system has been basically established in terms of accrual costs, as recommended by the GAO and this subcommittee.

13. What is the target date for completely implementing an accrual accounting system throughout the agency?

The Commission has been on an accrual accounting system since 1957.

14. Is your accounting system output-oriented so that it will be on the same basis as budgeting and planning?

Our accounting system is oriented along organizational and program lines in order that costs may be identified for budgeting and planning purposes.

15. What basis do you use for establishing the charges for products or services provided to other agencies, and how are these handled in your accounting system?

Charges for products or services are established on the basis of actual costs plus an additional 10 percent allocated for administrative costs including depreciation of physical assets. The amounts are recorded as receivables in the general accounts.

16. Are capital assets, such as building and equipment items, formally recorded in the accounting system, and upon what basis are they depreciated?

Capitalized equipment is recorded as an asset when received and is accounted for at cost or appraised value at date of acquisition. Depreciation is based on the estimated life on a straight line basis.

17. Are the costs of the agency's physical assets considered in establishing the charges for services to other agencies?

Charges for services to other agencies are established on an actual cost basis plus an additional 10 percent to cover the cost of the Commission's physical assets and other overhead costs.

18. Are agency accounting reports used regularly in program management?

A series of regular accounting reports designed to meet the needs of all levels of management are used in program management.

19. Are agency accounting policies summarized in an accounting manual with which your staff accountants must comply?

Commission accounting policies and objectives are summarized in the accounting manual. Compliance with its provisions is mandatory for the accounting staff.

D. Management Information System

20. Do you have an automated management information system for your agency?

The Commission has implemented various automated management information systems utilized in the control, review, and planning of our activities.

21. In general, what functional areas are included in the management information system? (Examples: financial, planning, and program budgeting, inventory, personnel, etc.).

The functional areas of payroll, budget, fiscal accounting, leave administration, property inventory, personnel, and an extensive system for the management of the formal proceedings docket have been incorporated into our management information system.

22. Briefly describe the state of development of your system and how it operates.

The various systems described above are all operational but to some extent they operate as individual systems. Further integration of these systems toward a total systems approach is desirable and is currently under review. The central status system which is the system used to manage our formal proceedings docket has proved invaluable in the control and analysis of our primary area of work. Briefly, when a case is filed before this Commission certain pertinent data such as case number, date of filing, type of case, and organizational responsibility are entered into the computer system. As the case moves through various processing stages such as hearing, filing of briefs, issuance of examiner report, etc., such information is reported to the computer file. Through this system we are able to identify the status of a specific case, the number and identity of cases at a specific processing stage such as awaiting hearing, and the age of any case or a selected group of cases. From this file we produce monthly statistical analyses which reflect the overall status of the docket. Incorporated in the system is a series of target dates for each processing step. Each month the progress of all cases is measured against the target dates established for the

pertinent processing step to determine whether they are being processed within the time frame established. Any case which fails to meet the criteria established for individual steps will be printed out as a potential out-of-line condition for management review. The target date subsystem has been of particular benefit to expedite cases and reduce the so-called regulatory lag.

An additional subsystem analyses of all cases closed during the calendar and fiscal year to determine various statistical data such as processing times, annual volume, etc.

The central status system has proved of immeasurable benefit in our program to expedite cases, improve procedures, and identify needed organizational realignments.

23. Did you perform a "requirements" analysis of the entire agency, or just selected areas?

A "requirements" analysis of the entire agency has not been performed because our limited staff has been tied up in high-priority areas. However, several years ago Bureau of Standards' personnel surveyed and identified major areas which promised the greatest payoff.

24. To what extent have you considered the need of other agencies for exchanging information with your agency in the development of your system?

The exchange of information with other agencies and with industry (especially input from carriers) was one of the reasons for the installation of a compatible third-generation computer and its related hardware. The extensive use of COBOL programming language, which with minor changes allows the interchange of programs, makes us quite flexible in the exchange of information. We have also incorporated into our system standard coding procedure, when they existed such as the standard GSA location codes and the standard transportation commodity codes (STOC).

25. Are you developing a standard data base of information for the entire agency?

A standard data base of information is being studied. This data base which will contain all the information for financial control, personnel control, and to some extent budgeting is presently being designed. It will incorporate the existing payroll file, personnel and time and attendance file, fiscal accounting file, and the budget and fiscal file. This integrated file will then constitute a complete data base of information needed for the administrative and financial functions of the Commission.

Other data bases are being considered with the overall needs of the Commission in mind.

26. In reporting statistical information, what standards for coding are you using?

Where standard codes have been adopted by either Government agencies or by industry (AAR, ATA) then we have not hesitated to also adopt such codes. We are currently using the standard transportation commodity codes, standard point location codes, standard station numbers, etc.

27. Have you explored all of the information requirements common to your agency which might exist within the data base of other agencies?

We have investigated the majority of the obvious ones. We are currently exchanging or receiving data from Department of Transportation, Bureau of Census, Weather Bureau, NASA, and also many groups in private industry such as Association of American Railroads, American Trucking Association, and the Southwest Trucking Association.

28. Are you performing the work in-house, or are you utilizing contractor personnel?

All ADP functions of the Commission currently are performed in-house. We are not now utilizing contractor personnel except on a very limited basis for keypunching. However, several years ago we utilized professional ADP personnel from the Bureau of Standards in an advisory capacity and also to perform a general survey of the Commission's ADP requirements.

29. What main benefits do you feel your management information system will provide in the management of your agency's activities?

We believe our management information systems have provided us with tools needed for effective control over our principal workload and utilization of manpower and other resources. It enables us to measure operating performance against established goals, identifies critical problem areas, and is invaluable in carrying out our planning functions.

30. What is your estimated dollar cost for the completion and operation of the basic parts of your management information system?

We estimate our dollar cost for the ADP operations of our management information systems to be approximately \$75,000 per year.

31. At what level is the determination made concerning what is needed in the management information system?

The determination as to what is needed in the management information system is made by the managing director with final approval of the Chairman.

E. Internal auditing

32. Do you have a centrally organized internal audit system within your agency which operates independently of department and agency operations?

Yes, the Commission's internal audit functions are under the management of the Managing Director, who reports directly to the Chairman of the Commission. As was pointed out in the Committee on Government Operations eighth report at the 88th Congress, " * * * smaller agencies may not need internal management controls where management can be maintained on a day-to-day basis." In keeping with this philosophy, our internal audit functions are carried out in conjunction with other management controls. Included are our program evaluation process, our central status system, our field internal inspections, and our internal fiscal audits.

The program evaluation system provides the means to define program objectives and measures bureau and office accomplishments in relationship to such established objectives. Taking into consideration overall Commission goals, past performance, availability of resources, anticipated workload, etc., the system enables the Commission to make sound determinations concerning the efficient use of its resources. The system also monitors the performance of each program to determine problem areas, for example, duplication of effort, poor productivity, inefficient operations, backlogs, etc.

The Commission's proceedings activities are monitored regularly through our central status system. This system serves as the basic source of information concerning the progress of the Commission's decisional workload. Reports analyzing the status and progress of the docket in terms of volume, distribution among the various steps of processing, and elapsed time are prepared each month and circulated to top management.

The objectives of the field internal inspection program are to determine whether approved programs, policies, and instructions are understood by field officials and their staffs and whether they are being properly administered in the field. Central office inspections of technical program operations and field management are made to assure efficient and uniform administration and enforcement of the Interstate Commerce Act, related acts, and the Commission's regulations throughout the field establishment. Reports of these inspections are made to top management.

Finally, our internal fiscal audits are made of all bureaus and offices to determine compliance with fiscal accounting and reporting methods, time and attendance, leave, travel and other related fiscal matters. An example of the effectiveness of these fiscal audits is revealed by the results of the GAO audit of the pay of employees of the Commission for the period October 1, 1961, through June 30, 1965. The audit revealed only one error in salary payments (overpayment of \$371.20) during this period covering over \$80 million in disbursements.

33. Is your internal audit staff made up of persons with experience in accounting and auditing?

Yes, our internal audit staff includes persons with experience in accounting and auditing, as well as other management and substantive program areas.

34. Is the scope of review by the internal audit staff limited in any way?

The internal audit process, as described under item 32, encompasses all organizational entities of the Commission with the exception of the immediate offices of Commissioners. Internal written communications involved in the decisional process of the Commission (proceedings activities) are considered to be outside the scope of the internal audits.

35. Are all reports and recommendations of the internal audit staff submitted in full directly to the head of the agency?

Yes, reports of findings and recommendations of the internal audit staff are submitted directly to the Chairman and the Vice Chairman of the Commission. The underlying working papers and source documents are made available when requested.

36. Is the audit staff responsible to or subject to direction by any official who is also primarily responsible for an activity which might be audited?

No, the audit staff is responsible to and subject to direction by the Managing Director. This official is not responsible for any of the substantive program areas within the Commission.

37. Are the personnel assigned to the internal audit function adequately protected from recriminations and arbitrary personnel action that might result from an adverse effect of their reports upon other agency employees?

Yes, the personnel assigned to the internal audit function are adequately protected from recriminations and arbitrary personnel action because they are responsible to the Managing Director whose functions do not include the substantive program areas.

38. Are all reports and recommendations of the internal audit staff available to the Comptroller General and to appropriate congressional committees?

Yes, all reports and recommendations of the internal audit staff are available to the Comptroller General and to appropriate congressional committees. They have in fact been made available in the past.

F. Automatic data processing

39. Do you have a central organization in your agency which is responsible for ADP management?

Yes. In prior years there were three separate ADP activities in the Commission all located in subordinate bureaus. Subsequent reorganizations have centralized all data processing including management in the Office of the Managing Director.

40. Will you describe its functions?

The Section of Systems Development is responsible, under the Office of the Managing Director, for conducting studies to determine the feasibility of applying automatic and other data processing methods to the Commission's operations and work processes. Whenever potential applications are identified, it develops, validates and implements complete systems. It operates the physical data processing facility and provides automatic data processing services to the Commission and in certain instances to the public, on a reimbursable basis, in conjunction with the Commission's improved service to the public program. It also advises, assists, organizes, and conducts studies as required in the application of operations research techniques.

41. Who has the responsibility for deciding whether or not the use of a computer for a particular function within your agency is justified?

The responsibility for decision to use a computer for a specific application resides in various organizational levels depending upon the magnitude or complexity of the proposed application. For example, a decision on a relatively minor application may be made at the section chief level in the office of the managing director. Decisions on larger applications are made at the level of the managing director, the chairman or the entire commission, again depending upon the magnitude of the proposal.

42. On what basis is the decision made? Are there documented systems studies available for review in all cases?

The basis used for deciding whether to use a computer for a particular function varies for each function. Monetary savings, manpower savings, timeliness of data, availability of data, availability of computer time, availability of data processing manpower, existing priorities and present workloads and many other considerations can play a part in this decision.

The following is a list of general steps which are taken in most instances:

- (1) Determine a real need for the data.
- (2) Review the existing method of obtaining this data, if one already exists.
- (3) Determine if it is possible to obtain the required data by any other method and determine the cost and timeliness of such a method.
- (4) Determine the feasibility of obtaining the required data on the computer.
- (5) Project the costs involved in using the computer including the "on-going" cost of producing the data and the "one-time" cost of developing the computer system, i.e., programing, systems design, etc.

The above steps will present a factual picture of the present situation and all alternate avenues available from which a decision can be based. There are many tangibles and intangibles which could and usually do affect the steps taken and the decisions made.

There are documented studies available for most major systems. There are also some systems which have evolved from EAM operations which will not have documented studies. There are also projects especially in the area of support to scientific sampling, which by their nature are determinable without such studies. In such cases the feasibility of doing these operations manually is nonexistent.

43. Can you cite instances in which a request for a computer system was disapproved for lack of adequate justification?

If it is the intent of this question to define the term "computer system" as meaning computer hardware, we can cite no instance where a request was denied; inasmuch as the Commission has only one computer and its acquisition was fully justified.

If the question relates to a specific computer application, we can cite various proposed applications which were not approved on the basis of a feasibility study which indicated that the proposed system could not be justified from the standpoint of costs, benefits to be derived, the present state of the art or the need to use a computer to perform the specific function. Among these would be a full text legal retrieval system, motor carrier index, automated work measurement system for our printing plant, recordation of lien documents and a disposal schedule for tariffs.

44. Assuming the use of a computer has been fully justified by a proper study, are there procedures for determining whether the requirement can be satisfied by using (sharing) equipment already installed in your Agency? Will you describe the procedure?

Since the Commission has only one computer all computer systems are run in-house. In rare instances where a very powerful computer is needed to process a specific task we have made use of computers at the David Taylor Model Basin and the Harry Diamond Laboratories (formerly the Bureau of Standards).

45. To what extent have you been successful in getting the users to share equipment instead of acquiring their own?

Since we have one centralized computer no consideration would be given to a user acquiring his own computer.

46. Do you review the GSA lists of available excess equipment before going to the open market to acquire equipment?

GSA lists of available excess equipment are always checked before going to the market to acquire equipment.

47. Who makes the determination that excess equipment can or cannot do the job?

The final determination that excess equipment can or cannot do the job is made by the Managing Director.

48. What has been your experience in making use of excess equipment?

In one instance we were successful in obtaining 500 surplus magnetic tapes at a savings to this Commission of \$10,000. In other instances the specific piece of hardware we sought was not available or what was available was not compatible with our existing configuration or required extensive repairs.

49. Assuming it is necessary to acquire equipment from the commercial market, do you normally invite all qualified suppliers to submit proposals. What are the exceptions?

We make it a firm practice to solicit all qualified suppliers when ADP equipment is acquired. For example, we solicited proposals from 20 manufacturers at the time we acquired our present computer.

50. Who makes the final selection of equipment, and on what basis is the decision made?

The final selection of equipment is made by the Managing Director with the approval of the Chairman.

The basis used for selection of equipment is a combination of the following factors:

- (1) Ability of the bidder to meet minimum specifications presented in our letter soliciting bids.

- (2) Ability of the bidder to successfully run the benchmark problems that were made available to all interested bidders.

- (3) Comparison of run times on benchmark problems.

- (4) Critical review and evaluation of all proposals.

- (5) Comparison of cost to total "through-put" of the interested bidders.

The interested bidder must show the ability to meet the requirements of numbers (1) and (2) before numbers (3), (4), and (5) are evaluated.

51. Describe your program for evaluating the actual results of computer use against the results anticipated when the use of the computer was approved.

The evaluation of actual results of computer use against anticipated results is incorporated in various management review systems. The first level of review consists of monthly progress reports and monthly meetings held with ADP management personnel. In some critical areas, there are a series of weekly status reports. Additionally, the overall program evaluation system described previously provides an evaluation in depth of the effectiveness of various computer systems in meeting program goals. The budget process also provides a vehicle which is utilized to review the results of computer applications as well as the review of additional applications.

52. In general, have your computers produced the benefits that were expected? In general, our computer applications have produced the benefits expected such as a reduction in personnel in some areas, more timely and accurate data, and access to data which was previously unavailable to those in the decisionmaking process. However, we have not been entirely satisfied with the magnitude nor the time required to implement various systems.

53. How many computers do you now have, and how many of these are purchased?

The Commission has one computer. It was installed in July of 1967 on a leased basis.

54. Who makes the decision on whether computers are purchased or leased?

The decision whether a computer is purchased or leased is made by the Managing Director with the approval of the Chairman. Inherent in the decision is the length of time the computer configuration will be adequate for our needs. The decision to lease our present computer which was acquired in July of 1967 was based upon the concept that it was an interim acquisition since it provided an emulator feature which allowed us to run our existing programs until such time as they could be converted to higher level languages such as COBOL and FORTRAN. Also at the time of acquisition a complete picture of our future workload, particularly in the area of tariff computerization was not available.

55. Is your agency now using any leased ADP equipment? If so, how much longer do you expect to use it?

The Commission is currently leasing its Spectra 70 computer. We anticipate using it until all programs are converted to higher level languages and our future data processing needs are identified. At that time a decision will be made to exercise our purchase option (less the emulator feature) or replace the configuration with different hardware. We project this decision at approximately 1 year away.

56. Have you made use of third-party leasing arrangements? If so, what has been your experience with these arrangements?

The Commission has no third-party arrangements. The matter has been explored with various lessors but at the time they were not interested in acquiring the type of equipment we utilized.

57. To what extent have you developed standard systems or applications which are used by your computer installations?

Since we have only one computer installation, standardization across various computers is not a problem. However, we have standardized our programming languages by using COBOL or FORTRAN, with the major emphasis on COBOL. Additionally, we are experimenting with generalized information retrieval routines and the development of standard systems for processing of various statistical reports from carriers. In the development of our generalized information retrieval routines, we are utilizing a comprehensive software package obtained from NASA.

58. Will you describe the steps you have taken for the development of standard data elements for use by your department under the program recently established by Bureau of the Budget Circular A-86?

This agency has commented as appropriate on the various proposed standards that have been submitted for our recommendation. Additionally key personnel have participated with various groups in their review and establishment of standard codes or data elements. Any Federal standards established will be utilized in our systems as they have been in the past such as our adoption of the STCC commodity code.

59. What do you consider to be the most pressing problems that need to be overcome for you to make better and more efficient use of computers in your agency?

Our most pressing problem from an operational point of view is the phasing out of the emulation mode in running our programs. Attainment of this goal

will provide 25 percent more "through-put" in our existing system. From a personnel point of view, there is a need for better trained people, a reduction in the amount of turnover, a greater management knowledge on the part of ADP people and greater ADP knowledge on the part of operating and management personnel.

G. Personnel Management

60. Where is the responsibility placed for manpower planning in your agency?

The Managing Director has the manpower planning responsibility. However, it should be recognized that staff action is subject to approval of the Chairman. The Managing Director relies on the budget and fiscal office and the heads of bureaus and offices to develop and recommend manpower needs.

61. What manpower requirements are forecast for your agency and how are these determined?

Manpower requirements for fiscal year 1969 total 1,907 in our budget submittal, a decrease of 74 positions due to budgetary restrictions imposed by congressional and Executive actions during the current fiscal year. Forecasts for fiscal year 1970 are no less than the 1969 figure. Manpower requirements are determined through the budgetary process, in which the work objective submissions of the bureaus and offices are evaluated by the Managing Director and his staff. Program objectives and manpower requirements are discussed and critically reviewed in meetings with bureau and office representatives. The Managing Director then makes a determination of manpower needs which is submitted to the Chairman for approval.

Turnover figures for past years are studied and the impact of factors such as the draft is analyzed. On the basis of such studies, forecasts are regularly made for attorney, hearing examiner, accountant and auditor, tariff examiner, cost analyst, motor carrier district supervisor, stenographer, and typist needs.

62. Is the work in your agency organized with some consideration of the effect on position classification so that the mission can be accomplished with the minimum number and cost of positions?

Yes. For example, after the transfer of all safety functions to DOT in April 1967, we consolidated the remaining economic regulatory rail, motor, water, and freight forwarder functions of two bureaus into one Bureau of Operations. This eliminated one bureau head position and one assistant bureau head supergrade position immediately and led to the elimination of eight supervisory positions in the field on March 8, 1967, with position cost savings. Also in April 1967, we consolidated two western regions, eliminating one regional manager position and several subordinate positions and reducing our total number of regions and technical program operating districts to six. Since 1965, we have reduced from 10 bureaus to five and established one office resulting in the elimination of several top-level positions.

63. Is the classification of positions in your agency in accord with applicable Civil Service Commission standards?

Yes. The 1963 Civil Service inspection specifically found that we are in compliance with legal and regulatory requirements in appointments, promotions, and pay. The report stated that a review of 100 positions revealed no inaccurate grade allocations, confirming our adherence to pertinent civil service standards.

64. Has the agency established career possibilities to assist in development and advancement of employees?

Since mid-1961, our executive development program has effected a planned program for the identification, selection, and development of executives in grades GS-14 and above. More recently, we have up-dated the executive development program to incorporate the requirements of the Civil Service Commission's executive assignment system.

From time to time we have surveyed our employee rolls to identify (1) underutilized skills, and (2) employees with potential for additional skills. Employees underutilized with skill and who are shown to have the potential are reassigned to more meaningful duties in which advancement is possible. Efforts are also directed toward providing training to those with potential for learning new skills needed in the Commission.

We have a number of career ladders developed for occupational groups under the merit promotion programs. These ladders provide information to the employees on career opportunities in specialty fields.

65. Would you describe what means your agency uses to recruit quality personnel?

In recruiting quality personnel, we, of course, utilize the full resources and assistance of the Civil Service Commission. Further, we develop and use two

primary sources of labor: (1) academia; and (2) industry. We concentrate on those schools which offer such courses as will best qualify its students for transportation careers. We draw upon the assistance and advice of the teaching staff, and we actively recruit on-campus. Our field staff members assist our recruiting at schools, as well as in private industry.

We also recruit by advertising in selected professional and trade journals. Finally, we continuously strive throughout the year to establish satisfactory relationships with a number of high schools nationwide in order to secure the higher quality graduates for clerical positions. In short, we aggressively compete for talent.

66. Does your agency emphasize promotion of employees on the basis of merit?

The Commission has expressed clear policy to promote on merit and has adopted plans and procedures which implement that policy without regard to race, religion, color, sex, national origin, marital status, politics, physical handicap, and age. We have individual promotion plans covering every identifiable position category in the competitive service. We are convinced that our merit promotion program operates on merit and without bias, etc. This is confirmed somewhat by the absence of employee appeals.

67. How does your agency consider employee complaints, grievances, and appeals?

Our grievance procedure was carefully structured in consultation with the Civil Service Commission and it is in accord with the latter's approved procedures. Our procedure provides for three levels at which employee complaints are processed. We strive to resolve as many complaints as possible at level I, where face-to-face discussion between the employee and his various supervisors is encouraged.

Level II constitutes the formal, structured process where the grievance is referred to the Personnel Director for decision. It is at this level that the employee has a right to a hearing conducted by a trained impartial hearing officer. At levels I and II, the employee has a right to a representative of his own choice to assist him in processing his complaint.

Level III is a review by the Managing Director of the record made at levels I and II. The decision at this level is the final decision. This procedure is in accordance with the Civil Service Commission's instructions and it does not apply to those matters appealable to the Civil Service Commission; i.e., adverse actions, performance ratings, reduction in force, violations of merit promotion plans, discrimination complaints, and position classification.

Those matters not subject to the grievance procedure outlined above are handled under the Commission's appeal system, which provides for the employee (1) the right to reconsideration, with an impartial hearing, of any proposed adverse action (separation, suspension, change to lower grade, etc.); (2) the right to appeal the decision on reconsideration to higher authority (the Managing Director); (3) the right to a representative of his choice; and (4) the right to appeal to the Civil Service Commission.

68. Is personnel management considered to be an integral part of the mission of your agency?

Yes; personnel management is considered an integral part of overall management in accomplishing the Commission's mission. It is our philosophy that our human resources are our most valuable asset and that our manpower requirements are considered inseparable from the major objectives of the Commission. Recruiting, training and developing, and maintaining an efficient productive work force are the responsibility of each manager.

69. How does your agency treat equal employment opportunity and employment of the handicapped?

Equal employment opportunity is very important to us. It is inherent in our concept of "merit principles" and we have given considerable attention to this matter. The Civil Service Commission has approved our "action plan" for equal employment opportunity. The plan is all inclusive and is thoroughly understood and participated in at all levels of the Commission.

H. GAO Audit Reports

70. Has the General Accounting Office issued any audit reports on the overall operations of your agency; that is, reports not directed at a functional program of the agency, but rather at the management and administration of the agency?

The last reports of this nature that we are aware of were in 1962. One was entitled "Review of Selected Activities, Interstate Commerce Commission" and

another was entitled "Report on Review of Management of Selected Field Operations, Interstate Commerce Commission."

71. If so, to what extent have the recommendations contained in these reports been carried out?

All of the major recommendations contained in these reports have been implemented or disposed of in a manner acceptable to the GAO. Insofar as we are aware there are no items outstanding in such reports that require further action.

II. QUESTIONS ON AGENCY OPERATIONS AT THE PROGRAM LEVEL

Program No. 1.—Regulation of Carrier Rates, Practices, Operating Authorities, and Finance

1. What is the nature of and authority for this program?

This program, basically regulatory in nature, involves the formal economic regulatory functions of the Commission and is divided into three major categories: the regulation of rates, services, and related practices; the licensing of new operations; and the approval of certain carrier financial transactions. The Commission's jurisdiction and authority in these areas is spelled out in the Interstate Commerce Act and related acts (49 U.S.C. sec. 1, et seq.).

In the rate area, the proceedings, generally, involve the rates, fares, charges, and practices of rail carriers, express companies, pipelines (other than gas and water), motor carriers, water carriers, and freight forwarders, and the granting of relief from the antitrust laws to carriers party to collective ratemaking agreements. In addition, proceedings are handled which arise under a number of miscellaneous provisions of the Interstate Commerce Act and other related acts, such as the Railway Mail Service Pay Act.

Some of the more difficult proceedings in this area which require large expenditures of time and manpower are those where the carriers themselves are unable to agree on the manner in which their joint rates should be divided; the general rate increases of all modes of surface transportation; grain rates, port equalization proceedings; controversies involving intermodal competition; compensation to be paid railroads for transporting mail; and approval by the Commission of proposals by the Postmaster General to change the rates on postage, zone or zones, and the conditions of mailability of parcel post.

Our licensing activities stem from the statutory requirements that motor carriers, both common and contract, water carriers, freight forwarders, and brokers must obtain appropriate authority before instituting new interstate operations. In addition to the applications for operating authority, this area includes applications for exemption from economic regulation; investigation proceedings looking to the prescription of rules and regulations governing operations of such carriers, formal complaints and investigations concerning failure of carriers to comply with the provisions of the Interstate Commerce Act or any requirements established thereunder with respect to operating practices; the suspension, change or revocation of certificates, permits, and licenses; and the granting of temporary authorities for motor carrier service.

Motor carrier applications seeking new operating rights represent a substantial portion of the entire program. The motor carrier area of the work continues to show phenomenal growth as the need for further extension of motor carrier service keeps pace with the expanding national economy.

With respect to the regulation of carrier financial transactions, the finance area includes applications, investigations and complaints involving rail carriers, motor carriers, water carriers, and freight forwarders under various sections of the Interstate Commerce Act. These proceedings primarily involve permissive applications for authority to construct, acquire, or abandon lines of a railroad or the operation thereof; proposed discontinuances or changes in the operation by railroads of trains or ferries; approval for motor carriers or water carriers to enter into contracts and agreements for the pooling or division of traffic and earnings; authority for railroads, motor carriers, water carriers, or freight forwarders to consolidate, merge, transfer ownership, or acquire control of carriers, and, when directly related to such authority, the granting of certificates or permits to motor carriers in connection therewith; authority to issue securities or to assume obligation and liability with respect to securities of others; authority to sell securities without competitive bidding; authority to alter or modify outstanding securities and obligations; authority to hold the position of officer or director of more than one railroad; and formal investigations concerning possible violations of the act relating to the foregoing subjects; and under the provisions of the Uniform Bankruptcy Act, approval of plans of reorganization, submission

thereof, to creditors and stockholders for acceptance or rejection, recommendation of formulas for segregation of earnings, ratification of trustees, fixing of maximum limits of allowances to trustees and other parties in interest, and authorization or deposit agreement in connection with railroad, reorganization or receivership proceedings.

2. Who is the person primarily in charge of this program at the operative level (name and title)?

Bertram E. Stillwell, Director, Office of Proceedings.

3. How much money and capital equipment is available under this program for fiscal year 1968?

\$9,671,000 including \$22,000 for capital equipment.

4. Would you describe the output generated by this program?

The output generated by this program is the decision of the Commission in the proceedings described in response to question No. 1.

5. Can you quantify this output in any way?

Yes. For example in fiscal year 1967, this program disposed of more than 24,000 formal and informal matters which are enumerated in their different categories as follows:

Applications for permanent motor carrier certificates, motor contract carrier permits and broker licenses	6,986
Complaints, rulemaking and revocation proceedings	123
Applications for permanent water carrier operating rights	17
Applications for freight forwarder operating rights	21
Applications for "grandfather" and interim motor carrier operating rights filed under section 7(c) of the Transportation Act of 1958	5
Applications for "grandfather" certificates of registration under section 206(a) (7)	5
Applications for certificates of registration under section 206(a) (6)	52
Applications for temporary authority under section 210a(a)	5,507
Applications to deviate from regular routes	410
Proceedings to revoke operating rights without hearing	620
Applications under section 5(2) involving railroad properties not including those involving less than 25 miles of track	71
Certificates of convenience and necessity issued for abandonment of lines of railroads under section 1(18)	71
Certificates of convenience and necessity issued for construction of lines of railroad	35
Certificates of convenience and necessity issued for acquisition and operation of lines of railroad under section 1(18)	9
Train discontinuance proceedings under section 13(a)	167
Applications and petitions involving securities under sections 20a and 214	206
Finance applications, complaints, and investigations under section 5	314
Finance temporary authority applications under section 210a(b)	178
Applications for transfer or lease of operating rights under section 212(b) and section 206(a) (6) or (7)	878
Applications for transfer or lease of operating rights under section 312	7
Applications for transfer or lease of operating rights under section 410(g)	4
Applications for unification of water carriers under section 5(2)	1
Rate cases disposed of during the year, investigations, and suspensions	65
Formal complaints	82
Investigations	20
Ex parte proceedings	8
Fourth section applications	16
Petitions disposed of in all of the above categories	2,586
Board of Suspension—Protested rate proposals	4,549
Board of Suspension—Petitions	509
Fourth section Board applications	537
Fourth section Board petitions	41

6. Would you describe the principal operations that are involved in producing this output?

In the exercise of its quasi-judicial and quasi-legislative functions in the regulation of carrier rates, practices, operating authorities, and financial matters, proceedings before the Commission are instituted in several ways. For example, rates are filed by carriers—rail, motor, water, and freight forwarders subject to the Commission's jurisdiction—to which interested persons file protests. This brings into issue before the Commission the lawfulness of such pro-

posals, or the Commission may suspend a rate filing. In addition, the Commission may on its own motion institute an investigation into new or existing rates to determine their lawfulness. Also, complaints against an existing rate or practice may be filed by an affected party. In processing these cases, it is necessary to prepare and analyze cost data, cost studies, and formulas. Under other sections of the Interstate Commerce Act, carriers may seek relief from the provisions of the act under special circumstances by filing appropriate application, e.g., relief from those provisions of the act making it unlawful to charge more for a shorter than for a longer haul, or a greater compensation on a through rate than the aggregate of the intermediate rates.

In the operating rights area, applications for certificates or permits to conduct operations in for-hire motor carriage in interstate or foreign commerce as common or contract carriers, for licenses to conduct operations as brokers in arranging transportation by motor carriers in interstate or foreign commerce, to conduct operations as common or contract carriers by water, to operate as a freight forwarder in consolidating and distributing freight, to gain the benefit of certain exemptions from regulation provided for in the act, all are initiated by the filing of the interested party of an appropriate application. Also, formal complaints may be filed against carriers by persons alleging operations are unauthorized, or the Commission may institute an investigation proceeding on its own motion to determine the legality of a carrier's operations.

In the finance area, approval of the Commission is required for two or more carriers—rail, motor, or water—to consolidate or merge their properties and franchises into one company; for a carrier to purchase, lease, or operate the properties of another; for one carrier to acquire control of another through stock ownership; for a person to acquire control of two or more carriers; or for authority to abandon or extend lines of railroads. All such cases are initiated through the filing of appropriate applications by the carriers seeking this statutory approval. Additionally, formal complaints are filed charging unlawful control, i.e., realizing control without obtaining Commission approval, and investigations are instituted by the Commission where such unlawful control may be suspected. Train discontinuance proceedings are initiated by a railroad filing notices of its intent to discontinue or change its passenger operations or service and the Commission, in its discretion, may institute an investigation of such proposal. In connection with finance cases, accounting and financial analyses are prepared and considered in the disposition of proceedings. Issuance of securities by rail and motor carriers subject to the Commission's jurisdiction must be approved, and phases of the loan guarantee program are administered by the agency.

In all areas, rulemaking proceedings also are instituted and developed—either by the filing of appropriate petitions by interested persons or on the Commission's own initiative—looking toward the promulgation of a general rule applicable to a mode or group of carriers.

In adjudicating these proceedings before the Commission, two principal processing procedures are employed—oral hearing and modified procedure without oral hearing. At times a combination of the two procedures may be utilized. Whatever procedure is followed, the agency must insure adherence to the legal requirements of the Interstate Commerce Act and related statutes including the Administrative Procedure Act, all toward the end of promoting the public interest as dictated by the national transportation policy while, at the same time, protecting the rights of the individuals concerned.

If it is determined that an oral hearing is necessary, the proceeding is referred to a hearing examiner, appointed pursuant to the Administrative Procedure Act, who presides at the hearing in the matter. He governs the case during the course of the hearing, administers oaths to witnesses, makes rulings on evidence, receives exhibits, and generally is responsible for the compilation of the formal record upon which the agency's decision is based. A transcript of the record is made by a court reporter and all witnesses submit their evidence under oath. Both the proponents and opponents (applicants, protestants, complainants, defendants, respondents) are allowed to be represented by counsel at such oral hearings and each side is given an opportunity to adduce evidence through the direct and cross-examination of witnesses.

The hearing examiner functions as a trial judge, rules on the admissibility of evidence, and generally directs the course of the hearing. Subsequent to the close of the hearing and after the filing of briefs, if any, the hearing examiner reviews the record that has been compiled and based on such record issues his report in

the matter, making findings of fact, resolving any legal issues that are presented, and reaching an ultimate conclusion if the relief sought should be granted in whole or in part, or denied, and giving his reasons for such ultimate conclusions. Under the Commission's general rules of practice, persons who do not agree with this decision may file appropriate appeals in the form of exceptions to the examiner's recommendation, and other parties to the proceedings have an opportunity to reply thereto. These pleadings, together with the record in the case, are submitted to an appropriate appellate body for review and further decision. This may be an employee review board, composed of three senior staff attorneys, created pursuant to pertinent statutory authority; or, if the case is complex, precedential, or of national or general importance, it may be referred to the entire Commission, or to a division thereof composed of three Commissioners, for appellate review of the hearing examiner's decision. The appellate body may issue another report or a decision and order which, in effect, is an abbreviated decision, in those instances in which the hearing officer's treatment of the issues is adequate, and his decision is affirmed.

After decision by the Commission or a division thereof, depending on whether a change has been made to the initial recommendation of the hearing examiner, a further appeal in the nature of petitions for reconsideration, further hearing, oral argument, or some other relief may be filed. In all instances in which the intermediate relief is a decision by an employee board, petitions may be filed and any party before the Commission may have his case considered by the Commission or a division thereof.

Under the second named procedural method of disposing of the caseload—modified procedure—no oral hearing is held. Parties present their evidence in the case through the submission of verified (sworn) statements to the Commission. Opening statements are filed by the proponents of the relief sought, and opposing parties then are given an opportunity to file their verified statements; in turn, the parties filing the initial statements are given an opportunity to file rebuttal statements. Following the submission of these statements, the record is submitted usually to an employee board which issues the initial decision through, in some instances, an initial report under modified procedure may still be issued by a hearing examiner.

Following the issuance of the initial decision, the procedural relief and processing steps within the Commission are the same as outlined with respect to the oral hearing procedures. The evaluation, analysis of the record and pleadings, drafting of reports and orders is, almost exclusively, handled by attorneys other than hearing examiners. Each Commissioner also has his personal staff of attorneys to assist and advise him. All Commission decisions may be appealed to a court of law, and the processing of the case and the report of the agency must reflect all procedural and substantive safeguards, and contain adequate reasons, based on the record, for the conclusions reached.

In those cases in which an operating authority is authorized to be issued to an applicant after the application is finally adjudicated, a certificate, permit, or license is prepared and released upon receipt of evidence of public liability insurance for the protection of the public, cargo insurance (if applicable), designation of agent for service of process in those States in which the carrier will operate, and acceptable rate filings to cover the grants of authority. In those cases in which the transfer of an operating authority or mergers and consolidations of carriers are approved, appropriate operating authorities reflecting the approval are prepared upon compliance with the same regulations relating to the filing of insurance, designation of agents for services of process, and the filing of rates.

The support of all these functions requires docketing, service of orders, pleadings, notices, and decisions.

7. How many employees are involved in the program and in what general type of employment categories do they fall?

There are a total of 732 employees involved in this activity, of whom 403 are professional and 329 are clerical personnel.

Nine Commissioners are engaged in adjudicatory activities with a total staff of 77; 41 are professional and 36 are clerical employees.

The Office of Proceedings, which is the office primarily responsible for the adjudicating of all of the formal case work of the Commission, consists of 422 employees. Of these 268 are professional employees, i.e., attorneys or adjudicators, and the balance (154) are clerical personnel.

The Section of Cost Finding has 55 employees of whom 37 are professional (cost analysts) and 18 clerical personnel.

The Section of Financial Analysis has a staff of 11 of whom nine are professional and two clerical.

The Board of Suspension has 44 employees of whom 38 are professional and six are clerical personnel.

The Fourth Section Board has 11 employees of whom 10 are professional and one is clerical.

The Section of Records and Service in the Office of the Secretary has 112 employees, all of whom are clerical.

8. What is the grade structure and how many super grades—quota and non-quota—are involved?

This activity involves grades from GS-1 through GS-18.

There are 120 super grades in the Office of Proceedings; of these 109 are hearing examiners appointed pursuant to the Administrative Procedure Act, and are in the nonquota super grade structure; the other 11 super grades are quota positions. There are 134 attorneys assigned to the Office of Proceedings in grades GS-7 to GS-15 who are engaged in the preparation of reports and orders described in response to question No. 6 above, or are assigned to the employee boards. Assisting two of these boards are 12 adjudicators (who have legal or equivalent experience but are not required to be admitted to a bar).

The grade structure in the Commissioners' Offices is from GS-3 through GS-15.

The Section of Cost Finding has 37 cost analysts positions in grades GS-7 through GS-15; and 18 clerical positions in grades GS-2 through GS-7.

The Section of Financial Analysis has nine analysts in grades GS-9 through GS-15, and two clerical personnel.

The Board of Suspension grade structure is from grade GS-2 through GS-15.

The Fourth Section Board grade structure is from grade GS-5 through GS-14.

The Section of Records and Service grade structure is from grade GS-1 through GS-11.

9. What capital equipment, such as ADP, if any, do you rely upon to fulfill this program?

In addition to the usual office equipment, such as typewriters, files, office furniture, law books, etc., the Commission's centralized ADP facility is utilized.

10. Do you expect the expenditures or the benefits of the program to grow appreciably in the future?

Both the expenditures and benefits of the program will grow with the increase in population, the relocation of industries, and the expanding economy. The extent of the growth is a factor over which the agency has no control. An America on the move will demand more and better facilities and services at reasonable, nondiscriminatory rates. This demand will result in increased activity for the economic regulator—more applications for approval of new or additional operating authority; more applications for approval of consolidation of carriers and proposed corporate and financial structures; and more contested rate proposals. The increased activities will require more expenditures and will result in more benefits to the public.

11. At what level are the personnel responsible for the various parts of the program coordinated to determine if the program as a whole is being efficiently carried out?

The Director of the Office of the Proceedings.

12. Is there a continual program review within the agency, other than the annual budgetary review, to determine more effective and efficient ways to achieve these program objectives?

The Director with his principal assistants conducts a continuing program review to determine more effective and efficient ways to achieve the objectives. Another means is the Commission's central status system, under which each active case on the Commission's docket (as many as 8,500 cases) is controlled from date of filing to final decision including its exact processing stage and the date it reached that stage and preceding stages. Through the control devices incorporated in this system we can determine the age of any specific docket, series of dockets, or the entire docket. Additionally we can determine how long a specific case has been at a particular processing stage and by applying pre-programmed quality (elapsed time) criteria can identify and print out any out-of-line case for the review of management. Additionally, through accumulated listings of cases at a particular processing stage, we can detect possible trouble spots and initiate corrective action. Through statistical comparisons of elapsed processing times with prior periods, we are aware at all times of the actual condition of our docket both from a quality and quantity standpoint. We have found this system to be an effective control and planning tool and it has con-

tributed significantly to the more effective management of our primary workload, namely, formal proceedings cases.

13. To your knowledge, does this program duplicate or parallel work being done by any other agency?

I know of no program subject to our jurisdiction which duplicates, overlaps, or parallels work being done by any other agency. There are, of course, other agencies responsible for economic regulation, such as the Civil Aeronautics Board, the Maritime Commission, the Federal Power Commission, and others. However, their activities relate to transportation over which this Commission has no jurisdiction nor do they have jurisdiction over the transportation regulated by this agency.

14. Is your organizational structure such that the program is being carried out most efficiently and effectively?

Yes. We always are seeking ways to improve our practices and procedures. For many years, one of the Commission's most pressing problems has been how to cope with its huge caseload. In fiscal year 1966, 11,572 cases were filed with the Commission, and over 80 percent of those involved were motor carrier applications. Since 1961 the number of filings has increased by 60 percent, while the size of the staff has been reduced slightly. In spite of this, we have reduced the average time it takes to dispose of a formal proceeding.

We have greatly increased the number of cases being handled without oral hearings. Improvements have been made in our mostly widely used application form which have the effect of requiring those seeking motor carrier authority to prepare their cases more fully before filing their applications. In 1966, we adopted, for the first time, a schedule of filing fees. We have taken a number of steps to expedite the handling of cases.

One of our most successful innovations to deal with our workload has been the assignment of decisionmaking responsibility to three-man employee boards. Following amendment of the act in 1961, employee boards began handling contested as well as unopposed cases, and they have relieved the Commission of the responsibility of considering several thousand proceedings annually.

15. Are there any outstanding GAO reports on this program? If so, what is the status of the GAO recommendations the report contains?

No.

16. What significant problems, if any, are you facing in accomplishing the program objectives?

Some significant problems encountered in accomplishing the program objectives are in the legislative area. Included are needed changes in the act related to service. These involve substantive and procedural changes in those provisions concerned with train discontinuances and additional authority to encourage the handling of small shipments by motor carriers through control over through routes and joint rates.

SMALL SHIPMENTS

The Commission is very much concerned with improving the transportation system over which it has jurisdiction. One problem which we intend to continue to study intensively and in depth during 1968 is the transportation of small shipments. The number of informal shipper complaints about the deterioration of service for the movement of small shipments has been increasing sharply in the past year or two. The carriers, too, are unhappy about the situation, complaining that there is no profit in small shipment transportation. Whether the root of the problem lies in carrier practices, the rate structure, or somewhere else, we hope to find solutions.

Closely associated with the small shipment problem is the matter of motor carrier joint rates and through routes. Shippers need motor carrier service between widely scattered points, and must rely to a great extent upon the coordinated services of two or more carriers for the movement of any given shipment. The Commission now has no power to compel motor carriers to establish through routes and to publish joint rates, although it does have this power with respect to railroads and water carriers. Refusals on the part of motor carriers to handle shipments originating on the lines of other carriers are being brought to our attention with increasing frequency. We are convinced that if adequate motor service is to be made available to the Nation's small businesses, we must be in a position to require carriers to enter into through route arrangements where there is a public need for service. Legislation to remedy this matter is pending in both Houses of the Congress.

RAIL PASSENGER SERVICE

The Commission also is considering the matter of preserving railroad passenger service. Of particular concern to us are the present statutory provisions relating to the discontinuance of passenger trains. A railroad proposing a discontinuance must give the Commission at least 30 days' notice, and not less than 10 days before the effective date of the discontinuance the Commission must decide whether an investigation is warranted. We then can require the railroad to continue operations for a 4-month period. In this time, the Commission must decide whether the service should be continued for a period up to 1 year or discontinued. In proposals involving the elimination of a railroad's entire passenger operations, or a large segment thereof, we are faced with insufficient time to hear public and railroad witnesses and to make a truly informed decision in this 4-month period.

The Commission's jurisdiction in this area, including the 4-month time limit, was added to the Interstate Commerce Act in 1958, when the general railroad financial picture was not nearly so bright as it is today, when State action had prevented the discontinuance of many unprofitable trains, and when there was little evidence of the desire to abandon or restructure all service. Today the situation has changed. We have made specific legislative recommendations in this area.

RAILROAD MERGERS

The rail merger picture is far from complete. Extensive proposals to restructure the rail system in the West now are under active consideration. A number of vital aspects in the eastern rail situation are still pending. Taken together, these proposals involve nearly all of the major railroads in the United States. The ultimate disposition of these cases will, therefore, determine the structure of the rail system of this country for years to come.

TRANSPORTATION BY AGRICULTURAL COOPERATIVES

A strong prosperous common carrier is the backbone of this country's transport system. Regulated common carriers, charging rates which have been found to be just and reasonable, providing services which have been found to be required by the public convenience and necessity, and required by law to handle all the traffic tendered to them, constantly face competition from those whose operations, for one reason or another, are exempt from the Commission's economic regulation. One such group—the agricultural cooperatives—has recently achieved a substantial victory in the courts that enabled it to become a serious competitive threat to regulated carriers. It has been held that an agricultural cooperative may transport commodities having no relation to farming activities from persons who are not farmers to persons who are not farmers, so long as the transportation serves financially to support the cooperative's farm-related activities. Thus, an agricultural cooperative, after transporting its members' products in one direction, can use its vehicles for any other service whatever on the return haul. We believe that this poses a serious threat to common carriage in all modes. That agricultural cooperatives will attract significant volumes of traffic is indicated from the fact that the Department of Defense has commenced tendering shipments to them. We already have submitted for congressional consideration corrective legislation.

FREIGHT CAR SHORTAGES

As a result of a recently enacted statute (Public Law 89-340), the Commission has authority to prescribe "incentive per diem" charges which, it is hoped, will effectively stimulate individual railroads to build and maintain their fair share of the freight car fleet required to meet the demands of commerce and the national defense. Although the Commission is acting expeditiously, it is not realistic to expect that implementation of its authority under this statute will immediately "solve" the problem.

17. Do you administer any grants, loans, or other disbursed funds related to this program? If so, is the size of your administrative staff commensurate with the magnitude of the outlays?

Part V of the Interstate Commerce Act, enacted in 1958, permitted the Commission to guarantee loans to railroads. The provisions of that act terminated on June 30, 1963, except with respect to applications then pending and guarantees previously made. All applications pending on that date have been acted upon,

and the proceeds of all guaranteed loans have been disbursed. Petitions to modify the provisions of guaranteed loans previously made continue to be ruled upon and policing of the loans will continue until all loans are repaid. The staff is sufficient to administer the program.

18. If your appropriations were reduced, how would you absorb the cut—by an overall reduction, or by cutting or curtailing certain activities?

The decision as to how the Commission would absorb any reductions in appropriations is one made by the Commission. This program would, of course be guided by the approach decided upon in applying budgetary cuts.

19. If additional funds were available, what would you do with the new money? We would hire additional personnel to reduce backlogs, shorten the time necessary to process cases, and get into areas where additional personnel are required to make significant inroads, such as consolidation of motor carrier certificates.

Program No. 2.—Compliance

1. What is the nature of and authority for this program?

The National Transportation Policy (49 U.S.C. preceding sec. 1) declared by the Congress, requires that all provisions of the Interstate Commerce Act be enforced to meet the aims of that policy. Other than those provisions dealing with safety, the enforcement of that act, as well as the Elkins Act, parts of the Clayton Anti-Trust Act, and other supplementary legislation is the responsibility of the Commission. These statutes are codified in various sections of titles 2, 15, and 49 of the United States Code. The Commission's regulations promulgated thereunder are contained in various parts of title 49 of the Code of Federal Regulations. The compliance program is directed chiefly to promoting the following domestic, surface transportation concepts and objectives: adequate, economical, and efficient transportation service; sound economic conditions in transportation service; sound economic conditions in transportation; reasonable charges; prevention of unjust discrimination; undue preferences or advantages, and unfair or destructive competitive practices; and a transportation system adequate to meet vital national needs. Thus, we are authorized and obligated under these provisions, for example, to require that carriers obtain appropriate authority before instituting service and that thereafter they operate within the limits of their operating authorities, charge rates in accordance with their lawfully filed tariffs, and do not perform uncompensated services; that they do not unduly favor in service or charge any particular shipper but that all are treated alike; and that they maintain insurance for the protection of cargoes transported and to compensate the public for any personal injuries and property damage they may cause.

The broad terms and importance of this Congressional mandate require that there be maintained continuous contacts with carriers of all modes and all those most affected by the transportation industry and also requires cooperation by Commission personnel engaged in this program with regulatory personnel of the Department of Transportation, other Federal departments and agencies, and the various State governments in promoting the listed transportation goals not only with respect to matters which are within the Commission's jurisdiction but also "nonjurisdictional" matters where this Commission receives complaints or requests for information and assistance from the public or has uncovered information of use to such other governmental body.

2. Who is the person primarily in charge of this program at the operative level (name and title)?

The investigatory portion of the compliance program is directed by Robert D. Pfahler, Director, Bureau of Operations; and the formal legal enforcement activities are headed by Bernard A. Gould, Director, Bureau of Enforcement.

3. How much money and capital equipment is available under this program for fiscal 1968?

The Interstate Commerce Commission has set aside \$6,499,000 to conduct the compliance program and an additional \$15,527 for capital equipment.

4. Would you describe the output generated by this program?

The compliance program maintains continuous contact with domestic surface carriers of all modes, those most affected by the transportation industry, and state regulatory agencies. Inspections and investigations are conducted to determine the degree of compliance with the Interstate Commerce Act and related acts, with the rules promulgated pursuant thereto, and with published tariffs by carriers and shippers. Where noncompliance is uncovered in the course of regular compliance surveys by the field staff, the findings are handled administratively for correction or further investigation is instituted to determine whether

the evidence warrants formal action before the Commission or in the Federal courts.

Complaints are received from shippers, other carriers, state regulatory bodies, and the general public alleging violations of the law or regulations. These allegations are investigated; and where deviations from the law, regulations, or tariffs are found, they are given administrative handling for correction; or where flagrant or continuing, become the subject of prosecution in the courts or proceedings before the Commission.

A large volume of complaints is received covering matters over which the Commission has no jurisdiction. In those instances the staff members endeavor to reconcile the cause of complaints with the carrier or, when appropriate, refer it to an agency which has jurisdiction. For example, complaints covering safety matters are referred to the Department of Transportation, which now administers the Federal safety functions, and complaints covering interstate transportation are referred to the appropriate state regulatory authority.

Substantial information is developed concerning apparent violations of the law and regulations from our own findings during compliance surveys, from the handling of complaints, and from information supplied by state regulatory bodies. The violations uncovered are then assigned for thorough field investigations directed toward determining the degree of noncompliance by the carrier, and in some instances by the shipper. In the course of these investigations, persons are interviewed and evidence secured for consideration for formal enforcement action. The results of these investigations are then handled by the Commission's enforcement attorney staff and become the basis of civil or criminal proceedings in the Federal courts or are made the subject of a formal Commission proceeding. The compliance program also includes the administration of the car service provisions of the act, and the Commission's agents in the field assure that there is an equitable distribution and efficient use of the national rail car fleet.

5. Can you quantify this output in any way?

In carrying out the compliance program, our staff polices more than 19,000 licensed brokers and motor carriers of passengers and property ranging from small carriers with only a few vehicles operating from one or two terminals to large carriers operating several thousand pieces of equipment in numerous States and utilizing hundreds of terminals; about 558 rail carriers operating over 26,000 stations and yards encompassing a car fleet of more than 1¼ million freight cars; 230 water carriers operating in coastal and inland water service; and 89 freight forwarders with extensive operations. In addition to the authorized carriers, there are also innumerable illegal and questionable operators whose activities must be investigated to determine whether or not they are operating outside of the law.

In the investigative area, the compliance program objectives for fiscal year 1968 and 10,530 compliance surveys, 3,661 initial investigations resulting from complaints or leads supplied by State agencies, and 1,109 final investigations instituted with a view toward formal enforcement action. It is anticipated that the investigative activities will result in the conclusion of 815 cases through prosecutions in the courts or by prelitigation settlements of civil forfeiture claims, plus about 200 formal Commission proceedings.

The punishment, correction and elimination of unlawful acts aids the public by removal of inequities such as unfair competition. These efforts foster a sound transport system.

6. Would you describe the principal operations that are involved in producing this output?

In the conduct of the Commission's compliance program, several investigatory methods are utilized. Normally in dealing with authorized carriers, the field staff conducts compliance surveys on the carriers' property. These surveys consist of a visual inspection of the carriers' facilities, operations, and records. When discrepancies or violations are discovered, they are handled with carrier officials for correction if they can be handled administratively. If the violations are flagrant and continuing, documentation is made of the records for use in further investigation or for enforcement action.

Numerous investigations arise as a result of complaints from the shipping public, State enforcement agencies, or other carriers. When they cover matters subject to our jurisdiction, they are assigned for formal investigation. At this level the staff member must explore all details of the complaint with the respondent, the shippers involved, and possible witnesses. As a result of this formal investigation, a decision will be made by the field program directors as to whether

or not the matter should be handled administratively, by prosecution in the Federal courts, or as a formal case before the Commission. When flagrant and continuing violations are discovered, either as a result of a compliance survey or a complaint investigation, the report and documented evidence are submitted to the Commission's enforcement attorneys. The enforcement attorneys will review the report of investigation and documented evidence to get the past record of the respondents, and from the evidence submitted will prepare a memorandum of review which will outline the facts in support of a recommendation to proceed to the Federal courts or the Commission for formal proceedings, or whether the evidence and precedent cases would foreclose a successful prosecution of the case.

7. How many employees are involved in the program and in what general type of employment categories do they fall?

To carry out the compliance program the Commission has established 506 positions in the following categories:

Attorneys -----	50
Transportation technicians -----	182
Investigators -----	48
Clerical -----	226
Total positions -----	506

8. What is the grade structure and how many super grades—quota and nonquota—are involved?

The Commission's compliance activity has a quota of 4 super grades. There are no nonquota grades involved in this program. The grades distributed throughout the program are as follows:

Grade:	No. of positions
17 -----	2
16 -----	2
15 -----	11
14 -----	30
13 -----	35
12 -----	191
11 -----	11
10 -----	2
9 -----	1
8 -----	2
7 -----	5
6 -----	16
5 -----	125
4 -----	61
3 -----	12
Total positions -----	506

9. What capital equipment, such as ADP, if any, do you rely upon to fulfill this program?

The compliance program had no major items of capital equipment, such as ADP of its own, however, this equipment is available from a centralized position at headquarters. The only capital equipment utilized in the compliance program is typewriters, calculators, and similar office equipment.

Automobiles for use of the field staff are obtained from the General Services Administration on a lease basis.

10. Do you expect the expenditures or the benefits of the program to grow appreciably in the future?

The expenditures for the compliance program are made primarily for personal services and travel to enable the maintenance of an adequate staff with sufficient mobility to cover the widespread geographical locations in which the surface transportation industry operates. Transportation is a growing industry and will continue to grow as the country grows in population and industrial capacity.

There have been modest staff increases authorized by the Congress for compliance purposes throughout this century; and as further growth in the industry develops, it appears desirable that the compliance effort keep space of the industry regulated. However, it is not foreseen that there will be any large

additions of staff unless additional regulatory authority is assigned by the Congress.

The principal benefit from an effective compliance program is a national transportation system adequate to meet vital national needs and that the following domestic surface transportation concepts and objectives are met: adequate, economical, and efficient transportation service; sound economic conditions in the industry, reasonable charges; prevention of unjust discriminations; undue preferences or advantages; and unfair or destructive competitive practices. Our efforts are geared toward producing these benefits, and it is expected that these benefits will continue to accrue to the shipping public and the nation.

11. At what level are the personnel responsible for the various parts of the program coordinated to determine if the program as a whole is being efficiently carried out?

The compliance program in the field is administered in six geographical regions, and it is headed by a regional counsel and a regional director. Other staff members are located in the regional headquarters offices and in other offices located throughout each region. There are a total of 82 offices throughout the United States. The regional counsel coordinates the activities of the trial attorneys in their handling of formal actions before the Commission or in the Federal courts. The regional director coordinates investigative and administrative portions of the program at the field level. These field program directors, in turn, are responsible to their bureau directors in Washington, who assure that the entire program is coordinated and efficiently administered.

12. Is there a continual program review within the agency, other than the annual budgetary review, to determine more effective and efficient ways to achieve these program objectives?

In addition to the annual budgetary review, the compliance program is included in the Commission's intensive program evaluation system which is administered quarterly by the managing director to assure that program objectives are being adhered to and the goals set are being met. In each region there is a required internal inspection program, wherein the individual staff members and their office staffs are visited to determine their on-the-job performance and if they are properly performing their work. Additionally, Washington headquarters officials make internal inspection visits to the field offices to assure the effectiveness of the field inspection program. Quarterly reports are required from field staff members, which are utilized both at the regional office level and at the Washington headquarters level in the quarterly program evaluations. Statistical results of the compliance efforts are reviewed by both the regional program directors and by the Washington office staffs, with a view to ascertaining conformance with the established program objectives. In addition to the formal inspection and evaluation programs, there is a continuing dialog between the regional managers and the field program directors and between headquarters and the field on specific program and current problem areas. Monthly progress reports are received in Washington covering investigatory matters. When final investigations have been completed in the field, memorandums of review are prepared and submitted to Washington with the recommendations of the regional director and regional counsel as to whether or not the matter should be given further handling in the courts or before the Commission. These are reviewed in the Washington office so that there will be uniformity in the compliance program throughout the entire country.

13. To your knowledge, does this program duplicate or parallel work being done by any other agency?

There are no other agencies duplicating or paralleling the work being performed by the Commission's compliance program.

14. Is your organizational structure such that the program is being carried out most efficiently and effectively?

The Commission's organization has undergone several reorganizations and realignments, both in the field and at headquarters, during the past several years. These changes have assured both the efficiency and the effectiveness of the compliance program.

15. Are there any outstanding GAO reports on this program? If so, what is the status of the GAO recommendations the report contains?

No.

16. What significant problems, if any, are you facing in accomplishing the program objectives?

The significant, continuing problems being faced in accomplishing the compliance program objectives arise from the fact that there are many thousands of licensed carriers and uncounted numbers of unlicensed carriers subject to economic regulation by the Commission; the complexity of financial schemes and relations among carriers and shippers to disguise rebates, concessions, and misapplication of carrier rates or carrier funds; and the increasing sophistication of schemes to conduct unlawful motor carriage purportedly as exempt or private transportation and the ease and speed with which those schemes and relations can be changed to evade enforcement. Some of our current compliance problems are:

Inspection of records.—The Commission has ample power under the act to inspect the records of all transportation companies clearly subject to the provisions of the act. There are many motor carriers conducting operations purportedly under one of the exemptions in the act, or as private carriers. Where there is some reason to believe that a carrier does not qualify for an exemption, or is effecting a disguise of private carriage to hide unlawful for-hire carriage, investigation to reveal the true status often is hindered by refusal of the carrier to furnish information or to permit review of its records.

Compliance work in this field would be aided if the act permitted the Commission to inspect and copy such records of purported exempt and private motor carriers as bear upon their status under the act.

Small shipments.—One of the very serious problems confronting the Commission is the maintaining of adequate service to shippers and receivers of small quantities of freight, particularly where the goods are not profitable to handle or more to or from outlying locations. The burden of supplying this service has fallen principally upon motor common carriers either alone or in conjunction with freight forwarders.

Motor common carriers are required by the terms of their certificates to render a reasonably continuous and adequate service at all of their authorized points. Where the shipments can move from origin to destination by a single carrier, the Commission's present powers are generally adequate to cope with the problem. Recently the elimination from certificates of all restrictions that permitted only truckload service was ordered by the Commissioner, but the order is not yet effective. However, where the services of two or more motor carriers are required to effect delivery, the carriers lawfully may refuse to join their services.

The Commission has recommended to Congress that it be given authority to require motor common carriers to join in providing through service where this is shown to be in the public interest. Two pending bills, S. 751 and H.R. 6533, would carry out this recommendation. Enactment of this legislation would not solve the whole problem, but it would be of considerable assistance.

Agricultural cooperative associations.—The act exempts from economic regulation, in rather general terms, motor vehicles controlled and operated by farmer cooperative associations and federations of such associations. Over the past few years many complaints have been filed alleging the unlawful transportation of general freight by such associations and by persons purportedly qualifying as farmer cooperatives. In formal proceedings the Commission interpreted the exemption as applying only to farm-related commodities. This was upset in court proceedings which followed the view that non-farm-related commodities could be transported if this was incidental to the association's farm transportation and necessary to enable it to continue that transportation.

A considerable amount of very profitable truckload freight is being hauled by these associations at the expense of the common carriers upon which the public generally must depend for service. The problem of confining these associations, both the legitimate and the questionable ones, to "incidental and necessary" general freight hauling is a major one. Bills which would limit this exemption to the transportation of farm products, farm supplies, and other farm-related traffic, S. 752 and H.R. 6530, are now pending.

Suspension and revocation of motor carrier authority.—This enforcement measure is cumbersome because of the necessity for proving not only a willful violation of the act or of a regulation or operating authority, but also a willful failure of the carrier to correct the violation when ordered by the Commission to do so. These provisions would be strengthened by the enactment of legislation proposed in S. 753 and H.R. 6531 which presently are before the Congress.

17. Do you administer any grants, loans, or other disbursed funds related to this program? If so, is the size of your administrative staff commensurate with the magnitude of the outlays?

The Commission's compliance program does not administer any grants or other disbursed funds.

18. If your appropriations were reduced, how would you absorb the cut—by an overall reduction, or by cutting or curtailing certain activities?

The decision as to how the Commission would absorb any reductions in appropriations is one made by the Commission. This program would, of course, be guided by the approach decided upon in applying budgetary cuts.

19. If additional funds were available, what would you do with the new money?

Our present compliance efforts are very limited in view of the large numbers of authorized carriers and the extremely large numbers of locations from which they operate. Additionally, the completely illegal, unauthorized carriers have become much more knowledgeable as to the rules and regulations of the Commission and have developed highly sophisticated schemes and devices to circumvent the law. This results in the investigation being extensive and time consuming. If additional funds were available, we could provide additional staff and travel funds, which would make it possible to increase the frequency with which we are able to conduct compliance surveys of the individual carrier's operations and devote additional effort to the elimination of unlawful operations by both certificated and noncertificated carriers. This would materially improve our assurance of compliance with the laws and regulations by the carriers. Additionally, it would be possible to better serve the public with respect to jurisdictional and nonjurisdictional complaints. Despite our best efforts, we are unable to eliminate a backlog of such complaints throughout the Nation. More rapid handling of them would benefit the shipping public. Any increase in the investigatory efforts would produce a like change in the cases handled by the attorney staff.

*Program No. 3.—Supervision and analysis of carrier accounting and statistics
(Bureau of Accounts, Bureau of Economics)*

1. What is the nature of and authority for this program?

This activity is authorized under the Interstate Commerce Act (49 U.S.C. § 1, et seq.) and related statutes covering carrier accounting systems; prescription of accounts and inspection thereof; economic and statistical analyses; reporting requirements, including depreciation, destruction of records, and valuation of carrier property.

2. Who is the person primarily in charge of this program at the operative level (name and title)?

Matthew Paolo, Director, Bureau of Accounts.

Edward Margolin, Director, Bureau of Economics.

3. How much money and capital equipment is available under this program for fiscal year 1968?

For the fiscal year 1968, \$2,762,779 has been allotted to the operations covered under this program. Capital equipment involved is \$6,049.

4. Would you describe the output generated by this program?

Accounting rules and regulation; record retention regulations; reports on examination of accounts and records (audit); economic, statistical, and mathematical studies and analyses; probability sample programs, financial and statistical publications; depreciation studies; construction cost indexes for the railroad and pipeline industries; and annual reports on pipeline valuations.

5. Can you quantify this output in any way?

Yes; we have records of output in the several categories compiled monthly.

6. Would you describe the principal operations that are involved in producing this output?

Development of accounting rules and interpretation thereof; audit of the regulated industry accounts and records; compilation and publication of transportation statistics; the development of depreciation studies; statements regarding the valuation of pipeline property; and analyzing and evaluating economic and statistical data.

7. How many employees are involved in the program and in what general type of employment categories do they fall?

There are 207 employees involved in this program, of which 121 are professional accountants, economists, statisticians, transportation analysts, auditors, and engineers, and 86 subprofessional and clerical.

8. What is the grade structure and how many super grades—quota and non-quota—are involved?

The professional employees range from GS-7 through GS-17. Subprofessional and clerical employees are grades GS-1 through GS-13. There are two bureaus involved, each staffed with one GS-17 and one GS-16. (All four are within the quota.)

9. What capital equipment, such as ADP, if any, do you rely upon to fulfill this program?

Autos are leased from GSA. ADP equipment is centralized under general management and administration.

10. Do you expect the expenditures or the benefits of the program to grow appreciably in the future?

Barring any unforeseen developments, we do not expect the expenditures to grow appreciably in the near future. The program has been beneficial to the Commission and to the general public for many years. We anticipate continued growth in the benefits in light of the increasing complexity of economic issues, in general, and in the transportation industry, in particular. Transportation is one of the largest industries in our national economy, encompassing approximately one-sixth of our gross national product.

11. At what level are the personnel responsible for the various parts of the program coordinated to determine if the program as a whole is being efficiently carried out?

Director, Bureau of Accounts.

Director, Bureau of Economics.

12. Is there a continual program review within the agency, other than the annual budgetary review, to determine more effective and efficient ways to achieve these program objectives?

At the activity level, there is a continuous program review of the work production and processes by the Bureau Directors, the responsible section chiefs, and field program directors. The Bureau of Accounts operates an internal inspection plan throughout its field offices to improve the quality of the output. The operation of all the Commission's programs are included in the Commission's intensive quarterly program evaluation, which is conducted by the managing director's office.

13. To your knowledge, does this program duplicate or parallel work being done by any other agency?

No.

14. Is your organizational structure such that the program is being carried out most efficiently and effectively?

The organizational structure is subject to continuing review to assure flexibility and responsiveness to the Commission need. No change from the present structure appears to be needed at this time.

15. Are there any outstanding GAO reports on this program? If so, what is the status of the GAO recommendations the report contains?

No.

16. What significant problems, if any, are you facing in accomplishing the program objectives?

Budgetary limitations in our vital programs. (See 19 below.)

17. Do you administer any grants, loans, or other disbursed funds related to this program? If so, is the size of your administrative staff commensurate with the magnitude of the outlays?

No.

18. If your appropriations were reduced, how would you absorb the cut—by an overall reduction, or by cutting or curtailing certain activities?

The decision as to how the Commission would absorb any reductions in appropriations is one made by the Commission. This program would, of course, be guided by the approach decided upon in applying budgetary cuts.

19. If additional funds were available, what would you do with the new money?

We would employ additional engineers for our valuation program and auditors for examination of accounts and records of the regulated industry, and the accounting examination of the financial reports filed by the industry. We also would recruit personnel for needed economic, mathematical, and statistical analyses.

Program No. 4.—Supervision and interpretation of tariffs

1. What is the nature of and authority for this program?

Most of this program is required by the provisions of section 6, section 20(11), section 22, and section 409, and related sections of the Interstate Commerce Act. These sections require the filing of tariffs, contracts, concurrences, and powers of attorney, section 22 quotations or tenders, and permit the filing of applications for waiver of the provisions of section 20(11) relating to released rates authority, and section 6 and related sections of the act relating to authority to establish rates, fares, or charges upon less than statutory notice, or depart from the Commission's established tariff publishing rules.

2. Who is the person primarily in charge of this program at the operative level (name and title)?

Mr. Edward H. Cox, Director, Bureau of Traffic.

3. How much money and capital equipment is available under this program for fiscal year 1968?

A total of \$1,757,136, which includes \$6,000 for capital equipment is available for fiscal 1968.

4. Would you describe the output generated by this program?

Most of this activity is required by statutory provisions and includes certain support activity. The Bureau must receive and handle all matters for which it is responsible and performs such duties as are required by the statute and as are delegated to it by the Commission. It examines tariffs for form, construction, and compliance with Commission orders and the statute. It receives quotations and tenders filed under section 22 of the act for the U.S. Government and makes them available for public inspection, and receives and examines contracts between (1) motor contract carriers and shippers, and (2) contracts between freight forwarders and motor carriers. It considers and disposes of applications for authority to limit the carriers liability which are filed under the provisions of section 20(11) of the act and receives, analyzes, and disposes of applications filed under section 6 and related sections of the act for authority to make changes in rates on less than statutory notice and to depart from the Commission's tariff publishing rules.

It also provides rate information and interpretations of published tariffs and schedules for the Commission and its staff; assists in the settlement of informal complaints between shippers and carriers of controversies involving the proper interpretations of tariffs; and processes reparation applications.

It maintains a file of tariffs and other material which is available for inspection by the public at all times.

5. Can you quantify this output in any way?

In fiscal year 1967, there were 215,540 tariffs and schedules received. Of this number, 24,582 were criticized for failure to comply with the Commission's tariff publishing rules and other matters, and 3,703 were rejected for failure to give statutory notice, failure to comply with orders of the Commission and for other reasons. There were 9,336 powers of attorney and concurrences filed, of which 1,857 were criticized for failure to be filed in the proper form or to be properly executed. Thirty thousand eight hundred and thirty-two quotations of reduced rates filed pursuant to section 22 for transportation of property for the U.S. Government were filed and made available for public inspection.

Six thousand seven hundred and eighteen special permission applications were analyzed and disposed of, and 83 released rate applications were disposed of.

There were 2,259 informal complaints regarding rates, service, and other matters disposed of, and 465 applications by carriers subject to parts I and III of the act for authority to award reparation. The reparation involved in these applications and approved totaled \$1,202,266.

6. Would you describe the principal operations that are involved in producing this output?

a. Examination of tariffs, schedules, and contracts for compliance with the provisions of the act, the Commission's tariff publishing rules, and orders of the Commission.

b. Examination of all powers of attorney, concurrences and section 22 quotations or tenders for compliance with the statute and the Commission's regulations as to form and execution.

c. Applications for authority under section 20(11) of the act are analyzed by a member of the staff to determine the merits of the application and to make a recommendation to the Released Rates Board for disposition. The Released

Rates Board then considers the application and supporting data and enters an order either granting or denying the application.

d. Special permission applications are received and analyzed by staff members and a recommendation is made to the Special Permission Board for disposition of the application. The application and the recommendation are considered by the Special Permission Board which then issues an order either granting or denying the application.

e. Informal complaints of shippers, passengers, and others involving rates, failure to give service, and other similar matters are examined by the staff and as a result of their independent research, the interested parties are advised of the informal views of the Commission regarding the matters under consideration.

f. Special docket applications submitted by parts I and III carriers for authority to make reparation on past shipments where lawfully applicable rates have been assessed but which the carriers and shippers believe to be unreasonable, are analyzed and considered and a recommendation submitted to the Commission for disposition of the application. An order is then entered by the Commission either granting or denying the application.

7. How many employees are involved in the program and in what general type of employment categories do they fall?

There are 195 employees involved in this program. They fall in the following general type of categories:

Tariff examiners, tariff analysts, and supervisory staff	68
Rate examiners, rate analysts, and supervisory staff	60
Clerical staff	60
Administrative	7
Total	195

8. What is the grade structure and how many super grades—quota and non-quota—are involved?

There are two super grades involved, one GS-17 and one GS-16. Both are within the quota assigned to the Commission. The following shows the grade structure:

GS-17	1
GS-16	1
GS-15	2
GS-14	2
GS-13	5
GS-12	4
GS-11	11
GS-10	21
GS-9	51
GS-8	35
GS-7	3
GS-6	12
GS-5	8
GS-4	28
GS-3	9
GS-2	2
Total	195

9. What capital equipment, such as ADP, if any, do you rely upon to fulfill this program?

None.

10. Do you expect the expenditures or the benefits of the program to grow appreciably in the future?

The regulated carriers and the shipping and traveling public are responsible for the greater portion of the workload of this Bureau. There have been continuing increases in some areas of this program, and it is assumed that these increases will continue. The expenditures and benefits may be expected to increase commensurate with the increased activity.

11. At what level are the personnel responsible for the various parts of the program coordinated to determine if the program as a whole is being efficiently carried out?

Under the general direction of the Director, two assistant directors (GS-15), chiefs of their respective sections and their assistants, are responsible to see that the program is carried out efficiently.

12. Is there a continual program review within the agency, other than the annual budgetary review, to determine more effective and efficient ways to achieve these program objectives?

There is a continuing work evaluation review within the agency through the program evaluation process. In addition, the Bureau of Traffic has had a continual study of its workload for many years to see that improvements in internal procedures are considered and put into effect and that manpower is utilized in the most efficient and effective ways at all times.

13. To your knowledge, does this program duplicate or parallel work being done by any other agency?

No.

14. Is your organizational structure such that the program is being carried out most efficiently and effectively?

The organizational structure is constantly being appraised and evaluated and recommendations are made, and implemented so that at all times the program is being carried out in the most efficient and effective manner. It is believed the present organizational structure is such that it results in the most efficient and effective use of manpower to attain the objectives of the program.

16. What significant problems, if any, are you facing in accomplishing the program objectives?

This Bureau in the operation of this program is in the nature of a service bureau inasmuch as it is not in a position to control its workload in any respect. It must receive and handle all matters for which it is responsible and perform such duties as are delegated to it by the Commission and statutory provisions. The regulated carriers and the shipping and traveling public are responsible for the greater portion of the workload governed by this program. The work product embraced in other activities of the Commission ultimately has to be translated into tariff publication, and increased workload in these areas result in increased work in this particular program. When this occurs, the present staff engaged in these activities is hardpressed to cope with the workload and to afford the carriers and the shipping public the service to which they are entitled.

17. Do you administer any grants, loans, or other disbursed funds related to this program? If so, is the size of your administrative staff commensurate with the magnitude of the outlays?

No.

18. If your appropriations were reduced, how would you absorb the cut—by an overall reduction, or by cutting or curtailing certain activities?

The decision as to how the Commission would absorb any reductions in appropriations is one made by the Commission. This program would, of course, be guided by the approach decided upon in applying budgetary cuts.

19. If additional funds were available, what would you do with the new money?

Increase the staff in certain areas. This would afford them additional time in order to more thoroughly perform their duties and would result in a better work product which would be of benefit both to the regulated carriers and to the shipping public.

GENERAL ADMINISTRATIVE SUPPORT PROGRAM

(Includes executive and advisory functions and general management and administration subprograms)

1. What is the nature of and authority for this program?

The nature of this program is that of providing executive direction, legal counsel, and ministerial support services to the Interstate Commerce Commission and that of providing day-to-day administration and management of the Commission's operations. Its authority can be found in the Interstate Commerce Act and various Commission minutes.

2. Who is the person primarily in charge of this program at the operative level (name and title)?

The functions assigned to the executive and advisory subprogram are those relating to the duties performed by the Chairman and Vice Chairman and their staffs, the Office of the General Counsel, and the Office of the Secretary. The

current Chairman is Paul J. Tierney. The Vice Chairman is Mrs. Virginia Mae Brown. The General Counsel is Robert W. Ginnane, and the Secretary is H. Neil Garson. Bernard F. Schmid, Managing Director, is in charge of the general management and administration subprogram. He is assisted by Chief of Administrative Services William M. Rowe, Budget and Fiscal Officer George J. Lotito, Director of Personnel Curtis F. Adams, and Chief of Systems Development Robert J. Hartel, who are in charge of the units which support the overall management and administration of the Commission's work.

3. How much money and capital equipment is available under this program for fiscal 1968?

A total of approximately \$3,156,000 which includes \$11,000 for capital equipment is available under this program for fiscal 1968.

4. Would you describe the output generated by this program?

Executive direction and advisory services are a continuing function and not conducive to output measurement. However, the Office of the General Counsel, as principal legal counsel to the Commission and its members, prepares advisory opinions reflecting legal research and analyses on such difficult questions as the Commission and its members may submit. As counsel defending the orders of the Commission before the appropriate reviewing courts, the Office of the General Counsel prepares and serves whatever pleadings and briefs the cases may require and presents oral argument before the courts. The Secretary is the official responsible for the issuance of orders and decisions, custodian of official records, processing of official documents, and for service on parties. The library, reference services, and mailroom are other services assigned to the Secretary. In addition to overall management and special management studies, evaluations, and analyses, the output generated by this program is that of the usual administrative support program, including budget, fiscal, personnel, administrative, and ADP operations.

5. Can you quantify this output in any way?

The output generated by the Office of the General Counsel can be quantified. During fiscal year 1968, it is anticipated that approximately 290 opinions to the Commission or its members will be prepared. It is anticipated that approximately 112 court cases will be processed by this Office. The output associated with the Office of the Secretary can be quantified. For example, approximately 1,700,000 notices, reports, and so forth, will be received and served; 2 million pieces of mail processed; 11,000 dockets made up; and 9,000 pages of decisions will be digested during 1968. Further, many areas in the general management and administration subprogram can be quantified, such as pages printed, vouchers audited, personnel actions, and so forth.

6. Would you describe the principal operations that are involved in producing this output?

Executive direction and legal counsel services are the principal operations involved in producing this output insofar as the Chairman, Vice Chairman, and General Counsel are concerned. The Secretary handles the ministerial duties associated with service of process, issuance of decisions, and so forth. In the general management and administration subprogram, the principal operations involved in producing this output are those employed in the science of management: (1) budget process, (2) personnel management, (3) administrative services, (4) automatic data-processing operations, (5) program evaluation, and (6) internal audit.

7. How many employees are involved in the program and in what general type of employment categories do they fall?

Executive and advisory subprogram

A total of 86 employees are involved in this subprogram. The general type of employment categories in which they fall is as follows:

Chairman and vice chairman-----	2	Public information officer-----	1
Attorney-Adviser-----	14	Public information specialist-----	3
Chief of Section-----	1	Secretary and Assistant Secre-	
Congressional Liaison Officer-----	1	tary-----	2
Deputy and Associate General		Special Assistant to the Chair-	
Counsel-----	3	man-----	1
General Counsel-----	1	Trial Attorney-----	10
Legislative Attorney-----	2	Nonprofessional staff--secretarial	
Librarian-----	2	and clerical services-----	42
Minute clerk-----	1		

General management and administration subprogram

A total of 181 employees are involved in this program. The employment categories in which they fall are as follows:

Managing Director-----	1	Internal auditor-----	2
Assistant Managing Director----	1	Program analyst-----	2
Special Assistant-----	1	Classification specialist-----	3
Regional manager-----	6	Employee development officer-----	1
Budget and fiscal officer-----	1	Placement specialist-----	4
Assistant budget and fiscal officer--	1	Staff nurse-----	1
Chief of section-----	2	Operations research analyst-----	1
Assistant chief of section-----	1	Computer programmer-----	5
Assistant to the chief-----	1	Computer specialist-----	3
Assistant accounting and fiscal		Computer systems analyst-----	5
officer-----	1	Computer systems operator-----	4
Director of personnel-----	1	Computer aid-----	1
Assistant director of personnel-----	1	Card punch supervisor-----	3
Confidential assistant-----	1	Card punch operator-----	16
Management technician-----	3	Wage Board printing plant staff----	29
Management specialist-----	1	Nonprofessional staff—secretarial,	
Budget analyst-----	3	clerical, and administrative serv-	
Management analyst-----	2	ices-----	72
Fiscal assistant-----	1		

8. What are the grade structure and how many super grades—quota and non-quota—are involved?

Executive and advisory subprogram

The grade structure for the 86 in this subprogram is as follows:

Chairman (Presidential appoin-		GS-12-----	4
tee)-----	1	GS-11-----	9
Vice Chairman (Presidential ap-		GS-9-----	6
pointee)-----	1	GS-8-----	3
GS-18-----	1	GS-7-----	7
GS-17-----	1	GS-6-----	11
GS-16-----	4	GS-5-----	7
GS-15-----	14	GS-4-----	8
GS-14-----	4	GS-3-----	3
GS-13-----	2		

The following six positions are supergrade levels, and are within the quota assigned to the Commission:

General Counsel-----	1	GS-18	Secretary-----	1	GS-16
Deputy General Counsel-----	1	GS-17	Congressional Liaison Officer--	1	GS-16
Associate General Counsel----	2	GS-16			

General management and administration subprogram

The grade structure for the 181 employees in this subprogram is as follows:

GS-18-----	1	GS-8-----	3
GS-17-----	1	GS-7-----	15
GS-15-----	11	GS-6-----	8
GS-14-----	3	GS-5-----	29
GS-13-----	8	GS-4-----	14
GS-12-----	12	GS-3-----	19
GS-11-----	14	Wage Board-----	29
GS-9-----	14		

The following two positions are supergrade levels, and are within the quota assigned to the Commission:

Managing Director-----	1	GS-18	Assistant Managing Director--	1	GS-17
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9. What capital equipment, such as ADP, if any, do you rely upon to fulfill this program?

We rely heavily upon ADP equipment to furnish management information data such as the central status report concerning caseload, payroll records, accounting records, and inventory control. Also, it should be noted that all ADP and printing services are located within this program to provide central services for the substantive operating programs of the entire Commission.

10. Do you expect the expenditures or the benefits of the program to grow appreciably in the future?

While the expenditures for this program will probably remain constant for the foreseeable future, it is hoped that substantial benefit to the transportation industry and the shipping public will accrue through better utilization of the entire Commission's resources, all resulting from responsible executive direction and overall management.

11. At what level are the personnel responsible for the various parts of the program coordinated to determine if the program as a whole is being efficiently carried out?

The Chairman as executive head of the Commission coordinates the various parts of the executive and advisory subprogram in order to assure that the program as a whole is being efficiently carried out. Management aspects of the program are coordinated by the Managing Director for the Chairman. Further, as the chief administrative officer of the Commission, the Managing Director coordinates the various parts of the management and administrative subprogram to assure that the program as a whole is being efficiently carried out.

12. Is there a continual program review within the agency, other than the annual budgetary review, to determine more effective and efficient ways to achieve these program objectives?

The executive and supervisory personnel associated with this program exercise continuous review and evaluation in order to determine the most effective and efficient ways to achieve the program objectives. For example, the Commission's several bureaus and the Office of the Secretary are covered by the program evaluation system. This system provides a means to identify and define program objectives, measure accomplishments in relation to such established objectives, and seeks to insure that the Commission's resources are applied in the most effective manner. The proceedings operations are closely reviewed through the central status system. Further, the Managing Director continually reviews and evaluates for the Chairman all Commission programs as well as the areas under his immediate supervision in order to determine the most effective and efficient ways to achieve the program objectives.

13. To your knowledge, does this program duplicate or parallel work being done by any other agency?

This program does not duplicate work being done by any other agency.

14. Is your organizational structure such that the program is being carried out most efficiently and effectively?

In our judgment, the organizational structure is such that this program is being carried out in the most efficient and effective manner possible. We continually strive, however, to effect improvements that will increase efficiency and economy in our organization and operations.

15. Are there any outstanding GAO reports on this program? If so, what is the status of the GAO recommendations the report contains?

There are no outstanding GAO reports on this program.

16. What significant problems, if any, are you facing in accomplishing the program objectives?

Proceedings before the Commission and suits challenging the Commission's actions are becoming increasingly complex. Hence, executive direction and advisory services to the Commission have likewise increased in complexity.

17. Do you administer any grants, loans, or other disbursed funds related to this program? If so, is the size of your administrative staff commensurate with the magnitude of the outlays?

No grants, loans, or disbursed funds are administered that relate to this program.

18. If your appropriation were reduced, how would you absorb the cut—by an overall reduction, or by cutting or curtailing certain activities?

During the past several years, the Commission has done much to improve its way of doing business. We have made major reorganizations and instituted far-reaching procedural innovations in order to meet our responsibilities within tight budgetary restrictions. The luxuries, such as specialization, enjoyed by most agencies, have been foregone in an effort to handle our mounting workload. We are now at the point where we have exhausted major avenues of self-help. This was pointed out to the Bureau of the Budget in our budget transmittal letter and reiterated to the BOB staff during the budget hearing that we have cut our programs to the point that further reductions would seriously impair the Commission's ability to carry out its legislative responsibilities. Despite our appeals to the BOB, our end of fiscal year 1968 position ceiling was reduced by 74 positions, and our 1969 allowance was established at the same reduced level. It was the Commission's position that it would not jeopardize all of its programs by across-the-board reductions. Thus it was necessary to eliminate one program in its entirety and drastically reduce two others. The situation has not changed. If further reductions are imposed, the Commission will have to reevaluate its remaining programs and apply the reduction in those areas having the lowest priority. Although we have not yet curtailed any of the resources available to the proceedings area, we can hardly escape such action if further substantial reductions are made. This, of course, will only jeopardize our ability to cope with the heavy proceedings caseload and will undoubtedly cause delays in processing cases to conclusion.

19. If additional funds were available, what would you do with the new money?

Because of the increasing complexity of the proceedings before the Commission and the suits challenging the Commission's actions, additional funds being made available for this program would be used to hire two additional attorneys and supporting personnel for the Office of the General Counsel. All other functions of this program relate to the present level of substantive operations of the Commission. Additional funds would not be required unless our present level of substantive operations would appreciably increase.

APPENDIX B.—MINIMUM LIMITS OF INSURANCE ON MOTOR CARRIERS

As a matter of law, a common carrier subject to economic regulation under the Interstate Commerce Act is liable for the full actual loss, damage, or injury to the cargo transported. (49 U.S.C. 20(11)). The statute confers no jurisdiction on the Commission to determine the question of carrier liability. This question is reserved to the courts.

Under title 49 United States Code, section 315, and the Commission's regulations (49 CFR 1043), motor carriers subject to our jurisdiction are required to maintain minimum limits of insurance as follows:

Kind of equipment	Limit for bodily injuries to or death of 1 person	Limit for bodily injuries to or death of all persons injured or killed in any 1 accident (subject to a maximum of \$25,000 for bodily injuries to or death of 1 person)	Limit for loss or damage in any 1 accident to property of others (excluding cargo)
Passenger equipment (seating capacity):			
7 passengers or less.....	\$25,000	\$100,000	\$10,000
8 to 12 passengers, inclusive.....	25,000	150,000	10,000
13 to 20 passengers, inclusive.....	25,000	200,000	10,000
21 to 30 passengers, inclusive.....	25,000	250,000	10,000
31 passengers or more.....	25,000	300,000	10,000
Freight equipment: All motor vehicles used in the transportation of property.....	25,000	100,000	10,000

Further, motor common carriers of property (with exception as to certain relatively low-value commodities, such as those generally moved in bulk) are required to maintain security sufficient to compensate shippers for loss or damage to cargo as follows:

One thousand dollars for loss or damage to cargo carried on any motor vehicle; and

Two thousand dollars for loss or damage, or aggregate of losses or damages, to cargo occurring at any one time or place.

The Bureau of Operations (and its predecessors) has from time to time conducted informal studies examining the above-stated minimum limits to determine whether they are adequate for sufficient protection to the public. The BI/PD limits have been increased twice since enactment of the Motor Carrier Act (known as part II of the Interstate Commerce Act) in 1935. The present minimum requirements were adopted in 1957. The cargo limits have not been revised since 1936, but we have a pending study of this which will be presented to the Commission for decision later this year. We anticipate the study to be supported by a recommended increase in the cargo limits.

As a practical matter, almost all of the approximately 19,000 motor carriers subject to our jurisdiction maintain substantially in excess of the minimum limits described above. The cost of the excess insurance is relatively insignificant above and beyond the cost of the basic coverage. Not all States require motor carriers to carry minimum amounts of insurance, but of those which do, our BI/PD minimums are well above those of every State, except Alaska (\$100,000/\$300,000 and \$10,000) and Minnesota (which recently went to \$50,000/\$200,000 and \$15,000). Four States have slightly higher minimums for motor carriers of explosives. However, our investigation of the latter feature reveals no justification for a higher minimum for this class of carrier.

Our studies in this area have been informally conducted by our section of insurance and the field staff as appropriate. A recent survey of insurance companies indicates the average bodily injury claim from all vehicular accidents is \$1,300 and property damage average claim is \$175. Insurance companies whose business is predominantly motor carrier insurance reflect an average bodily injury claim of \$1,800 and property damage claim of \$400. Further, studies by the insurance industry indicate that less than three-fourths of 1 percent of all bodily injury claims resulted in payments exceeding \$25,000 per person. Accordingly, our minimum limits seem to provide more than adequate protection for the public in the vast majority of cases.

Our general view is that we cannot guarantee the existence of insurance to cover all possible claims. This would require minimum insurance of astronomical figures. Basically, we attempt to protect the vast majority of claimants for losses incurred of average and well-above-average damages. Paramountly, we are protecting the public against frequency of losses rather than the occasional rarity of catastrophic loss.

Undoubtedly, some judgments have been obtained in excess of our minimum requirements, but presumably the motor carrier involved either carried higher limits voluntarily or was financially able to pay the claim.

As to cargo claims, it is interesting to note from statistics recently published by the ATA National Freight Claim Council covering loss and damage freight claim statistics for 1967 as reported by 77 motor common carriers of freight, a total of approximately 34 million claims were paid in 1967 covering every possible cause of loss, damage, or injury to the property. The average amount paid for each claim was less than \$40. Accordingly, we feel that the Commission's \$1,000 minimum on cargo protection is sufficient to afford protection for the average claim for loss or damage. However, we may consider increasing the cargo minimums later this year. The mere shrinkage of the dollar since 1936 may prompt such consideration. It is interesting to note that the \$1,000 minimum protection required under our regulations has no exceptions as to cause. Therefore, if a shipper establishes that the loss or damage occurred while the shipment was in the carrier's possession, the carrier is liable for full loss under the law and the shipper is further protected up to the \$1,000 minimum even if the loss or damage resulted from an act of God.

Under our rules, a motor carrier is required to file evidence of insurance at least up to the minimum limit by means of a certificate such as is attached here for your convenience. Further, the motor carrier's insurance policy is endorsed (example attached) so as to guarantee protection to the public up to the minimum limits at least. This endorsement makes the insurance company responsible for any judgment recovered against the motor carrier arising from the use of motor vehicles operating under ICC authority. Any limitations in the basic policy are negated, as respects the public. Limitations or conditions, such as deductibles, schedule of equipment, territorial limitations, etc., cannot be used as a defense to a claim presented under the ICC filing.

Probably one of the most dramatic examples of benefit to the public from our minimum cargo insurance requirements was seen in the bankruptcy and liquidation of Yale Transport, Inc., in 1965-66: Yale failed, bankruptcy proceedings ensued. In liquidation, it was revealed that approximately 16,000 loss and damage claims were pending and there were insufficient funds to pay them. Under the ICC filing, the insurer promptly proceeded to handle all the cargo claims. Approximately 2,000 remain to be settled. Yale carried a \$5,000 deductible in its cargo policy. Notwithstanding this contractual agreement between the insurer and the motor carrier, the claimants were fully paid for their losses and damages up to the \$1,000 minimum in each case. Only 50 of the 16,000 claims exceed the \$1,000 minimum, but the aggregate of all the claims exceeds well over \$1 million.

It is critical to the public that under our insurance program the insurance companies who file with the ICC remain financially sound. Therefore, to assure the public of as complete protection as possible, the Commission investigates, analyzes, and determines the acceptability of insurance companies. Any company which, in our opinion, does not possess adequate financial strength, satisfactory reputation, or general business acumen is disqualified or refused approval. Upon disqualification, all existing insurance filings for such company must be replaced by an acceptable insurer.

For the period 1960 through 1967, the insurance industry encountered 138 company bankruptcies. None of these companies were qualified with this Commission at the time of bankruptcy because of our having disqualified them from 1 to 4 years prior thereto. We have withdrawn the acceptances of over 50 companies and refused initial approval to more than 30 companies since 1960.

The Commission receives and answers thousands of inquiries regarding motor carrier insurance annually. We have received no complaints from the public regarding the inability to collect on a claim against a regulated motor carrier since 1957.

Thousands of motor carriers operate in interstate or foreign commerce under one or more of the exemptions of section 203(b) of the act. These are not subject to our insurance regulations. Private carriers of property by motor vehicle are likewise not subject to our insurance regulations. We do receive complaints regarding the lack, or inadequacy of insurance on such carriers, but are without jurisdiction to remedy such cases.

Form B. M. C. 91 (Rev. '57)

To be sent to—

**INTERSTATE COMMERCE
COMMISSION**Bureau of Motor Carriers
Washington 25, D. C.

Received:

Date

**MOTOR CARRIER AUTOMOBILE BODILY INJURY
LIABILITY AND PROPERTY DAMAGE LIABILITY
CERTIFICATE OF INSURANCE**

filed with

INTERSTATE COMMERCE COMMISSIONBureau of Motor Carriers
Washington, D. C.

(Executed in Triplicate)

Interstate Commerce
Commission Docket No.

MC

This is to certify, That the

(hereinafter called Company) of

has issued to

of

(NAME OF COMPANY)

(HOME OFFICE ADDRESS OF COMPANY)

(NAME OF MOTOR CARRIER)

(ADDRESS OF MOTOR CARRIER)

a policy or policies of Automobile Bodily Injury Liability and Property Damage Liability Insurance which, by the attachment of endorsement, form number B.M.C. 90, approved by the Interstate Commerce Commission, has or have been amended to provide the coverage or security for the protection of the public required with respect to the operation, maintenance, or use of motor vehicles under certificate of public convenience and necessity or permit issued to the insured by the Interstate Commerce Commission or otherwise in transportation subject to Part II of the Interstate Commerce Act and the pertinent rules and regulations of the Interstate Commerce Commission, regardless of whether such motor vehicles are specifically described in the policy or policies or not. The liability of the Company extends to all losses, damages, injuries, or deaths whether occurring on the route or in the territory authorized to be served by the insured or elsewhere. Whenever requested by the Commission, the Company agrees to furnish to the Commission a duplicate original of said policy or policies and all endorsements thereon.

The endorsement described herein may not be cancelled without cancellation of the policy (or policies) to which it is attached. Such cancellation may be effected by the Company or the Insured giving thirty (30) days' notice in writing to the Interstate Commerce Commission at its office in Washington, D. C., said thirty (30) days' notice to commence to run from the date notice is actually received at the office of said Commission.

Effective from (12:01 a.m., standard time at the address of the Insured as stated in said policy or policies) and continuing until cancelled as provided in the rules and regulations under section 215.

Countersigned at

STREET ADDRESS

CITY

STATE

Date

Insurance Company File No.

(POLICY NUMBER)

(ISSUING OFFICE — FULL NAME OF AGENCY OR BRANCH)

NBCU 2055H

(SIGNATURE OF AUTHORIZED REPRESENTATIVE)

Form B.M.C. 34 (Rev. '57)

To be sent to —

**INTERSTATE COMMERCE
COMMISSION**Bureau of Motor Carriers
Washington 25, D. C.

Received:

Date.....

**MOTOR CARRIER CARGO LIABILITY
CERTIFICATE OF INSURANCE**

filed with

INTERSTATE COMMERCE COMMISSION
Bureau of Motor Carriers
Washington, D. C.

(Executed in Triplicate)

Interstate Commerce
Commission Docket No.

MC.....

This is to certify, That the..... (NAME OF COMPANY).....

(hereinafter called Company) of..... (HOME OFFICE ADDRESS OF COMPANY).....

has issued to..... (NAME OF MOTOR CARRIER).....

of..... (ADDRESS OF MOTOR CARRIER).....

a policy or policies of Cargo Insurance which, by the attachment of endorsement, form number B.M.C. 32, approved by the Interstate Commerce Commission, has or have been amended to provide compensation for loss of or damage to all property belonging to shippers or consignees and coming into the possession of the Insured in connection with its transportation service under certificate of public convenience and necessity issued to the Insured by the Interstate Commerce Commission or otherwise under Part II of the Interstate Commerce Act; and the pertinent rules and regulations of the Interstate Commerce Commission, regardless of whether the motor vehicles, terminals, warehouses, and other facilities used in connection with the transportation service are located in the territory described in the policy or policies or not. The liability of the Company extends to such losses or damages whether occurring on the route or in the territory authorized to be served by the Insured or elsewhere.

Wherever requested by the Commission, the Company agrees to furnish to the Commission a duplicate original of said policy or policies and a² endorsement thereon.

The endorsement described herein may not be cancelled without cancellation of the policy (or policies) to which it is attached. Such cancellation may be effected by the Company or the Insured giving thirty (30) days' notice in writing to the Interstate Commerce Commission at its office in Washington, D. C., said thirty (30) days' notice to commence to run from the date notice is actually received at the office of said Commission.

Effective from..... (12:01 a.m. standard time at the address of the Insured as stated in said policy or policies)
and continuing until cancelled as provided in the rules and regulations under section 215.

Counter-signed at..... STREET ADDRESS..... CITY..... STATE..... Date.....

..... (ISSUING OFFICE — FULL NAME OF AGENCY OR BRANCH).....

Insurance Company File No. (POLICY NUMBER)..... (SIGNATURE OF AUTHORIZED REPRESENTATIVE).....

MC 2439 (Ed. 1-64) U. S. D. C.

The policy to which this endorsement is attached is an automobile bodily injury and property damage liability policy and is hereby amended to assure compliance by the insured, as a motor carrier of passengers or property, with section 215 of the Interstate Commerce Act and the pertinent rules and regulations of the Interstate Commerce Commission.

In consideration of the premium stated in the policy to which this endorsement is attached, the company hereby agrees to pay, within the limits of liability hereinafter provided, any final judgment recovered against the insured for bodily injury to or death of any person, or loss of or damage to property of others (excluding injury to or death of the insured's employees while engaged in the course of their employment, and property transported by the insured, designated as "cargo"), resulting from negligence in the operation, maintenance, or use of motor vehicles under certificate of public convenience and necessity or permit issued to the insured by the Interstate Commerce Commission, or otherwise in transportation in interstate or foreign commerce subject to part II of the Interstate Commerce Act, regardless of whether such motor vehicles are specifically described in the policy or not.

The liability of the company extends to such bodily injuries and deaths and losses and damages whether occurring on the route or in the territory authorized to be served by the insured or elsewhere.

Within the limits of liability hereinafter provided it is further understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement, by the insured, shall relieve the company from liability hereunder or from the payment of any such final judgment, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the company, and the insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts provided in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

The company shall not be liable for amounts in excess of the following for each accident:

[illegible]

SCHEDULE OF LIMITS

MOTOR CARRIERS-BODILY INJURY LIABILITY-PROPERTY DAMAGE LIABILITY

Kind of equipment	Limit for bodily injuries to or death of 1 person	Limit for bodily injuries to or death of all persons injured or killed in any 1 accident (subject to a maximum of \$25,000 for bodily injuries to or death of 1 person)	Limit for loss or damage in any 1 accident to property of others (excluding cargo)
(1)	(2)	(3)	(4)
Passenger equipment (seating capacity):			
7 passengers or less	\$25,000	\$100,000	\$10,000
8 to 12 passengers, inclusive	25,000	150,000	10,000
13 to 20 passengers, inclusive	25,000	200,000	10,000
21 to 30 passengers, inclusive	25,000	250,000	10,000
31 passengers or more	25,000	300,000	10,000
Freight equipment: All motor vehicles used in the transportation of property.	25,000	100,000	10,000

Whenever required by the Commission, the company agrees to furnish to the Commission a duplicate original of said policy and all endorsements thereon. This endorsement may not be canceled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured, giving 30 days' notice in writing to the Interstate Commerce Commission at its office in Washington, D.C., said 30 days' notice to commence to run from the date notice is actually received in the Office of said Commission.

Attached to and forming part of policy No. _____ issued by _____ of _____ (herein called company) of _____ day of _____, this _____

Dated at _____, 19____ Countersigned by _____ (Authorized company representative)

Form BMC-32. ENDORSEMENT FOR MOTOR COMMON CARRIER POLICIES OF INSURANCE FOR CARGO LIABILITY UNDER SECTION 215, INTERSTATE COMMERCE ACT

The policy to which this endorsement is attached is a cargo insurance policy, and is hereby amended to assure compliance by the insured, as a common carrier of property by motor vehicle, with section 215 of the Interstate Commerce Act, with reference to making compensation to shippers or consignees for all property belonging to shippers or consignees coming into the possession of such carrier in connection with its transportation service, and with the pertinent rules and regulations of the Interstate Commerce Commission.

In consideration of the premium stated in the policy to which this endorsement is attached, the company hereby agrees to pay, within the limits of liability

SCHEDULE OF LIMITS

MOTOR CARRIERS-BODILY INJURY LIABILITY-PROPERTY DAMAGE LIABILITY

Kind of equipment	Limit for bodily injuries to or death of 1 person	Limit for bodily injuries to or death of all persons injured or killed in any 1 accident (subject to a maximum of \$25,000 for bodily injuries to or death of 1 person)	Limit for loss or damage in any 1 accident to property of others (excluding cargo)
(1)	(2)	(3)	(4)
Passenger equipment (seating capacity):			
7 passengers or less	\$25,000	\$100,000	\$10,000
8 to 12 passengers, inclusive	25,000	150,000	10,000
13 to 20 passengers, inclusive	25,000	200,000	10,000
21 to 30 passengers, inclusive	25,000	250,000	10,000
31 passengers or more	25,000	300,000	10,000
Freight equipment: All motor vehicles used in the transportation of property	25,000	100,000	10,000

Whenever required by the Commission, the company agrees to furnish to the Commission a duplicate original of said policy and all endorsements thereon.

This endorsement may not be canceled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured giving 30 days' notice in writing to the Interstate Commerce Commission at its office in Washington, D.C., said 30 days' notice to commence to run from the date notice is actually received in the Office of said Commission.

Attached to and forming part of policy No. _____ issued by _____

to _____ (herein called company) of _____ of _____

Dated at _____, this _____ day of _____, 19____

Countersigned by _____ (Authorized company representative)

Form BMC-32.

ENDORSEMENT FOR MOTOR COMMON CARRIER POLICIES OF INSURANCE FOR CARGO LIABILITY UNDER SECTION 215, INTERSTATE COMMERCE ACT

The policy to which this endorsement is attached is a cargo insurance policy, and is hereby amended to assure compliance by the insured, as a common carrier of property by motor vehicle, with section 215 of the Interstate Commerce Act, with reference to making compensation to shippers or consignees for all property belonging to shippers or consignees coming into the possession of such carrier in connection with its transportation service, and with the pertinent rules and regulations of the Interstate Commerce Commission.

In consideration of the premium stated in the policy to which this endorsement is attached, the company hereby agrees to pay, within the limits of liability

hereinafter provided, any shipper or consignee or all loss of our damage to all property belonging to such shipper or consignee, and coming into the possession of the insured in connection with its transportation service, for which loss or damage the insured may be held legally liable, regardless of whether the motor vehicles, terminals, warehouses, and other facilities used in connection with the transportation of the property hereby insured are specifically described in the policy or not. The liability of the company extends to such losses or damages whether occurring on the route or in the territory authorized to be served by the insured or elsewhere, except as follows:

 (Name as exceptions only States in which the insured's operations are covered by other insurance)

Within the limits of liability hereinafter provided it is further understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement by the insured, shall affect in any way the right of any shipper or consignee, or relieve the company from liability for the payment of any claim for which the insured may be held legally liable to compensate shippers or consignees, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any loss or damage involving a breach of the terms of the policy and for any payment that the company would not have been obligated to make under the provisions of the policy, except for the agreement contained in this endorsement.

The liability of the company for the limits provided in this endorsement shall be a continuing one notwithstanding any recovery hereunder. The company shall not be liable for an amount in excess of \$2,000, in respect of any loss of or damage to or aggregate of losses or damages of or to the property hereby insured occurring at any one time and place, nor in any event for an amount in excess of \$1,000, in respect of the loss of or damage to such property carried on any one motor vehicle, whether or not such losses or damages occur while such property is on a motor vehicle or otherwise.

Whenever requested by the Commission, the company agrees to furnish to the Commission a duplicate original of said policy and all endorsements thereon.

This endorsement may not be canceled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured giving 30 days' notice in writing to the Interstate Commerce Commission at its office in Washington, D.C., said 30 days' notice to commence to run from the date notice is actually received at the Office of said Commission.

Attached to and forming part of policy No. _____, issued by the _____
 _____ (herein called company) of _____

to _____ of _____
 Dated at _____, this _____ day of _____
 _____, 19____

Countersigned by _____
 (Authorized company representative)