

order, unless it found that public convenience and necessity did not require its continuance, or that continuance of that train would impair the ability of the carrier to meet its common carrier obligations, considering the overall financial condition of the carrier or carriers in question.

Third, that the Commission could attach to its orders, in these last train cases, where they ordered the continued operation of the train, that they could attach such conditions as they might presume to be just and reasonable to assure the preservation of a reasonable level of service for the train required to be continued.

Now, the end result of these provisions with respect to last train operations would be to make it more difficult to remove such unneeded and losing train and to authorize the Commission to impose upon the carrier what might prove to be burdensome and expensive conditions and to require the Commission to order the train to continue to operate for 1 year rather than leaving the duration of operation up to 1 year to the discretion of the Commission based upon the facts and circumstances of the case.

We do not think the fact that the train in question is the last train in any way justifies the imposition to these burdens by law. On the contrary, we agree with the statement of the full committee in 1958 that where passenger service, and that is, whether it be the first, the second, third, or last train, where passenger service cannot be made to pay its way because of lack of patronage at reasonable rates, discontinuance seems called for and we think such should be the case whether or not the train is a last train.

If the train cannot be made to pay its own way because of lack of patronage at reasonable rates, there should be no sanctity in the fact that happens to be a last train.

H.R. 18212 would also amend section 13(a)2 of the Interstate Commerce Commission by giving to the State regulatory authorities a 7-month period in which to dispose of petitions pending before them, rather than the 4 months that the present law provides. Here again we think that no case has been made to you for this provision. I do not think that there was any particular part of the ICC Chairman's statement that was directed to this point or that made any justification for this extension of time. It would simply mean more delay at the State level in the elimination of unneeded and losing passenger train service.

Then we come to a provision of H.R. 18212 that I for one have considerable difficulty understanding, and that is the provision that where a petition is filed with the Interstate Commerce Commission under section 13a(2), the discontinuance of the passenger train, and I presume the handling of the proceeding, would be subject to all of the provisions of section 13a(1).

Now, we do not see any necessity for this provision and as I have said, I am not sure I understand it.

The reason we see no necessity for it is that under the present law, where the railroad has gone to the State commission and has either been denied or the State commission has sat on it for 120 days without acting, and then the railroad files a petition under section 13a(2) with the Interstate Commerce Commission, the railroad cannot take