

10/30/95

A-1271811

Backup presentation by Bob Allen
to myt. H+W proposals

The Railroad Employees National Health and Welfare Plan

Health Care Benefits Briefing

May 1995

Discussion Topics

- Background
- Trends in Cost Sharing

Background

Approaches to Control Rising Health Care Costs

- Employee premium sharing
 - ▶ On average, 18% of premium (employee coverage), 25% of premium (dependent coverage)
- Plan design modifications
 - ▶ About 50% of employers increased deductible amounts in each of the last 4 years; most commonly \$200/individual
- Migration to managed care programs
 - ▶ Movement away from traditional fee-for-service plans to managed care arrangements nearly doubled within past 5 years

*Sources: The Bureau of National Affairs, Health and Dental Benefits, 1992
Hay/Huggins Benefits Report, 1994
Sedgwick Noble Lowndes, 1994*

Trends in Cost Sharing

Cost-Sharing Initiatives – General Industry

Cost-sharing has increased for nearly half of employers in each of the last five years

	1989	1990	1991	1992*	1993*
Percent of employers increasing or instituting employee premium sharing	37%	38%	48%	44%	41%
Percent of employers increasing or instituting deductibles	35%	47%	73%	50%	47%

* Significant growth in managed care during 1992 – 1994

Source: US Chamber of Commerce, Employee Benefits Report 1992, 1993 and 1994

Cost-Sharing Initiatives – Collectively Bargained Plans

Cost-sharing has also impacted a significant percentage of collectively bargained plans

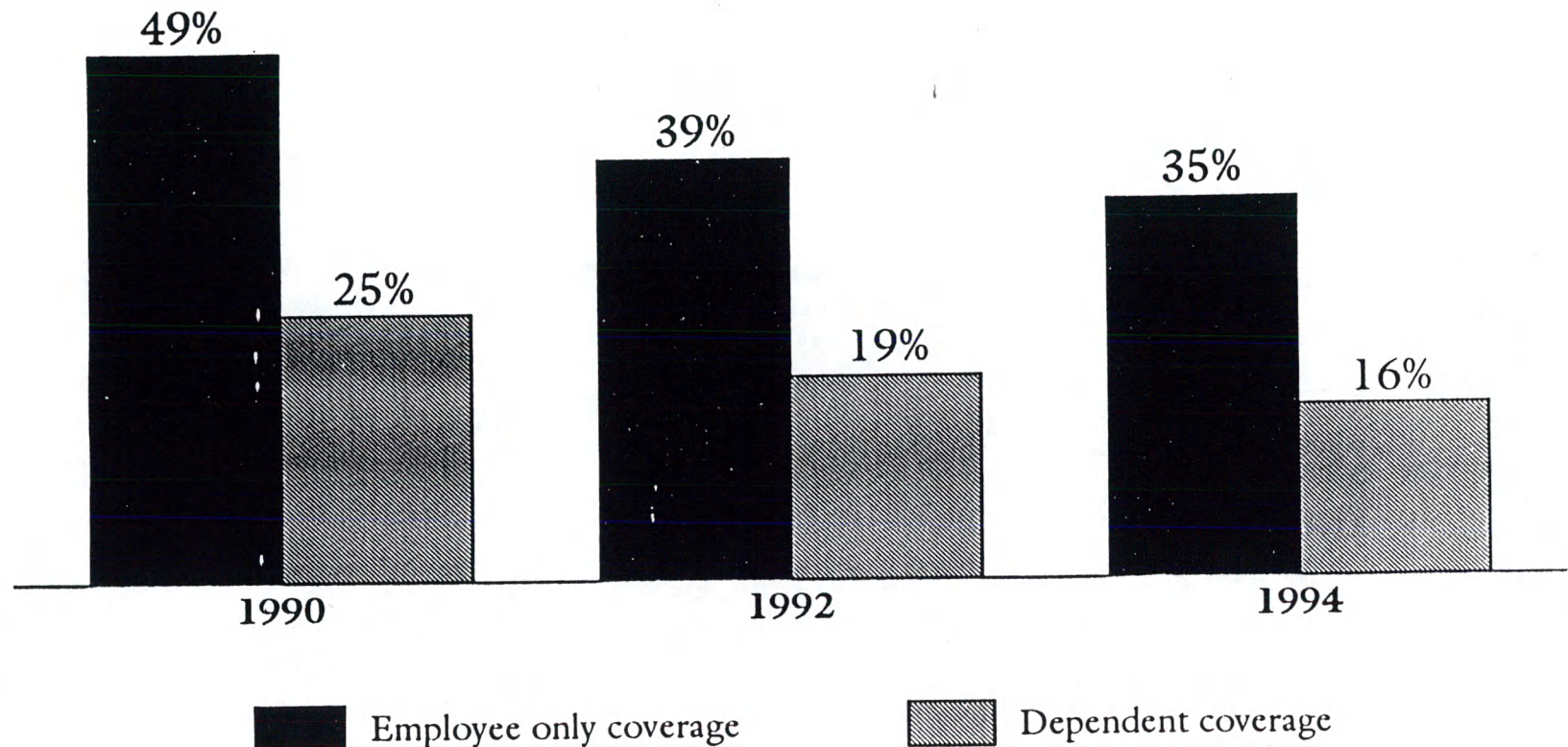
	1989	1992
Percent of plans	28% (employee coverage)	36%
requiring employee	44% (family coverage)	50%
premium sharing		

Note: Data reflects comprehensive medical plans

Source: BNA Collective Bargaining Negotiations and Contracts, Vol. 2

Prevalence of Employer Paid Medical Coverage 1989-1994 — General Industry

Fully employer-paid health care continues to decline



Source: Hay/Huggins Benefits Report, 1994

Employee Contributions – General Industry

In 1994, employees on average paid 18% of premium for single coverage, 25% of premium for family coverage

Percent of Premium paid by Employees	Percent of Employers Requiring	
	Employee only coverage	Family coverage
0%	35%	16%
1-4	3%	4%
5-9	11%	9%
10-14	13%	14%
15-19	11%	11%
20-24	10%	12%
25-29	6%	9%
30-39	5%	11%
40-49	2%	5%
50 or more	4%	9%

65%

Average contribution
18% of premium

84%

Average contribution
25% of premium

→ Railroad employees pay 1.7% of premium in 1995

Source: Hay/Huggins Benefits Report, 1994

Employee Contributions – General Industry

Employee contribution levels for indemnity medical plans 1991–1993

	General Industry*			Railroad Employees
	1991	1992	1993	(1991–1993)
Employee only coverage	\$31	\$37	\$56	\$0
Family coverage	\$92	\$101	\$225	\$0

* Average monthly contribution amounts

Source: *Foster Higgins National Survey of Employer Sponsored Plans 1993*
Foster Higgins Health Care Benefits Survey, Flexible Benefit Programs 1991 and 1992

Prevalence of Individual Deductibles 1989-1994

	<u>Collectively Bargained Plans</u>		<u>General Industry</u>
	1989	1992	1994
\$100 or Less	38%	25% ←	10% ←
\$101 - 199	48%*	23%	11%
\$200		21%	23%
Greater than \$200		18%	35%
Other (e.g., varies by pay)			21%

→ 1995 Railroad amount

* Includes 25% at \$150; 23% greater than \$150

Note: Family limits usually 2-3 times individual amount

Source: EBIC database, 1994

BNA Collective Bargaining Negotiations and Contracts, Vol. 2

Prevalence of Individual Out-of-Pocket Maximums 1989-1994

	Collectively Bargained Plans		General Industry
	1989	1992	1994
Less than \$1,000	29%	20%	12%
\$1,000			13%
\$1,001-\$1,499	31%*	48%*	16%
\$1,500		←	9% ←
\$1,501-\$1,999			12%
\$2,000			7%
Greater than \$2,000			13%
Other (e.g.; varies by pay)			16%

→ 1995 Railroad amount

* Amounts greater than \$1,000

Note: Family limits usually 2-3 times individual amount

Source: EBIC database, 1994

BNA Collective Bargaining Negotiations and Contracts, Vol. 2

Prevalence of Comprehensive Plan Coinsurance

Plan Coinsurance	Collectively Bargained Plans		General Industry
	1989	1992	1994
100%			
90%	10%	14%	7%
85%	15%	8% ←	4% ←
80%	74%	75%	87%
Less than 80%			2%

→ 1995 Railroad amount

Source: EBIC database, 1994

BNA Collective Bargaining Negotiations and Contracts, Vol. 2

Typical Comprehensive Plan Design – 1994

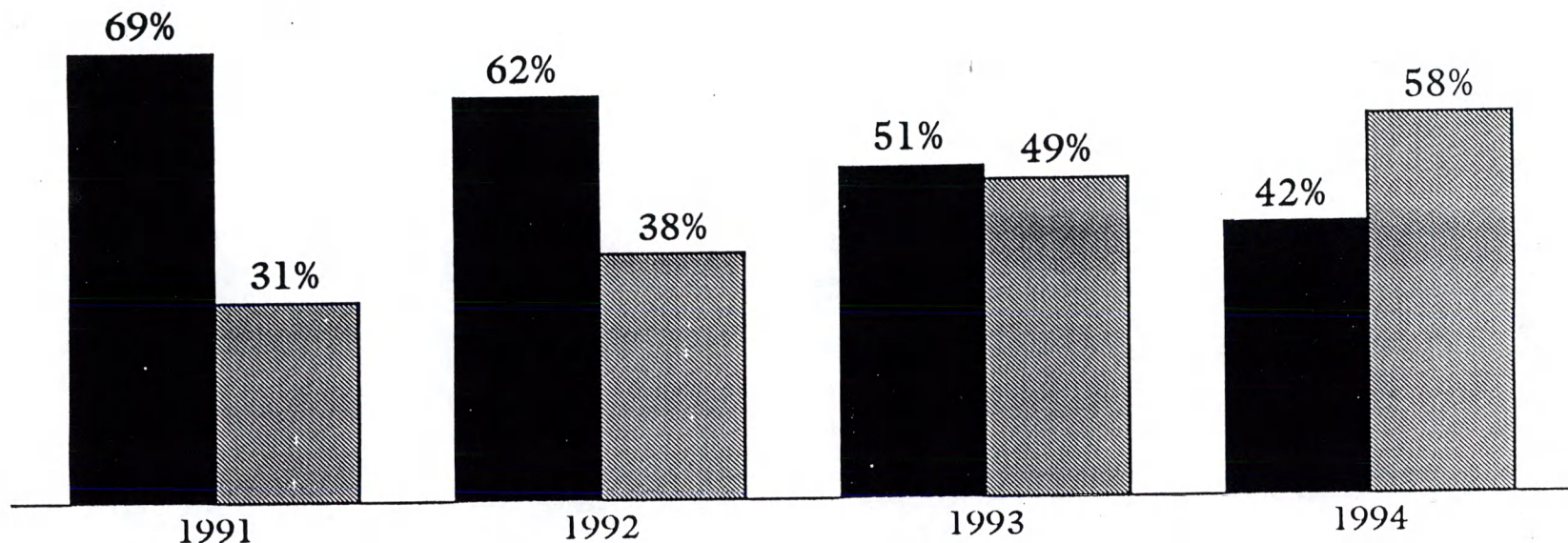
Annual Deductible	\$200 – \$300
Annual Out-of-Pocket Maximum	\$1,000 – \$2,000
General Coinsurance	80%, after deductible

Source: EBIC database, 1994

Prevalence of Managed Care Plans

Managed Care has grown as the primary source of employer sponsored medical benefits

Design of Primary Medical Plan*



* Plan that covers most employees



Traditional fee-for-service



Managed Care (HMO, PPO, POS)

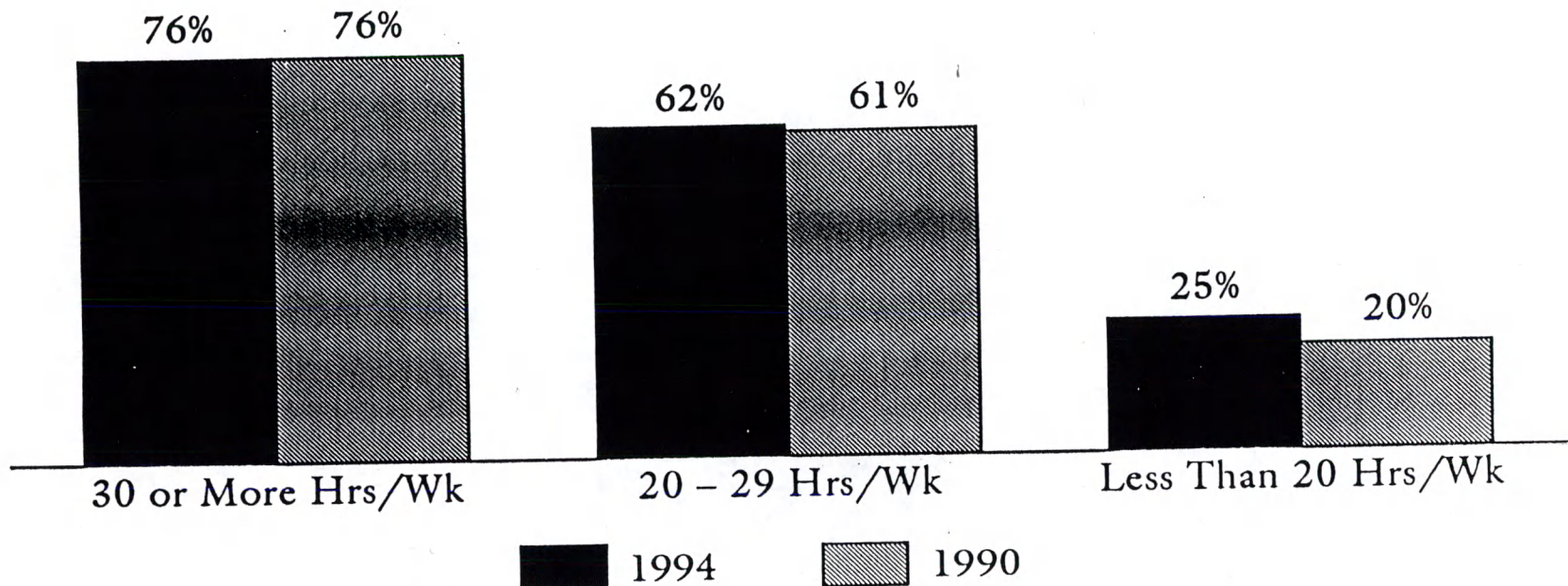
Source: Hay/Huggins Benefits Report, 1994

Typical Managed Care Plan Design – 1994

	In-Network	Out-of-Network
Annual Deductible	None	\$200 – \$300
Annual Out-of-Pocket Maximum	\$1,000 – \$2,000	\$1,000 – \$2,000
Hospitalization	90%	70%, after deductible
Doctors' Office Visit	100%, after flat dollar copay	70%, after deductible

Benefit Eligibility: Availability To Part-Time Employees — General Industry

Availability of medical benefits for part-time employees typically varies by the number of hours worked



Railroad employee benefit eligibility requirement is “performance of any compensated service in prior month”

Source: Hewitt Associates Survey of Benefits for Part-Time Employees, 1995

Historical Perspective

That was then

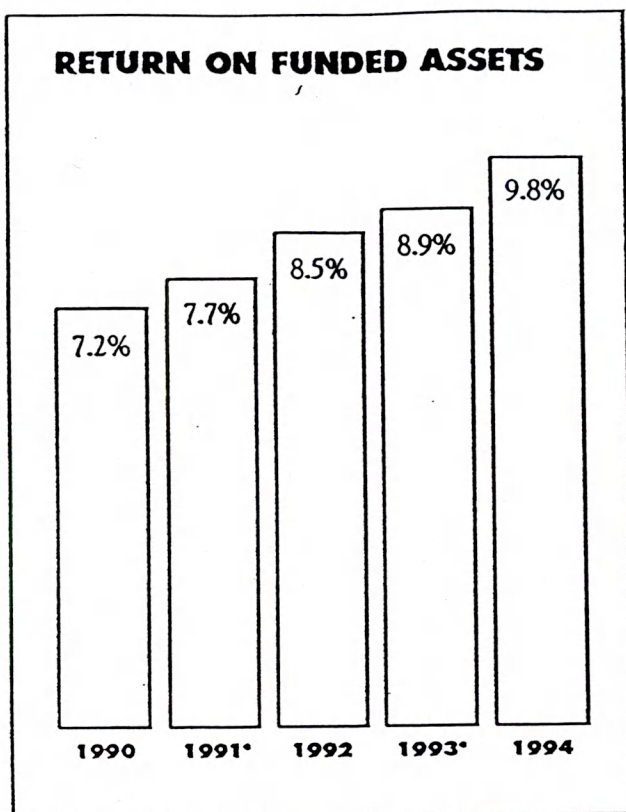
This is now

1990

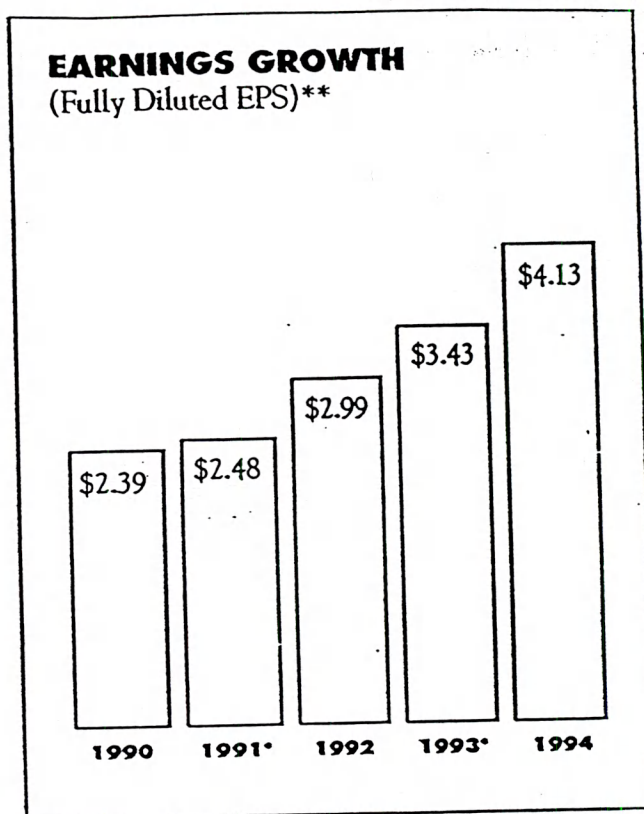
- Movement from basic benefits/major medical to comprehensive plans
- Elimination of first dollar (100%) coverage, adoption of 80% plan coinsurance
 - 20% employee copayment
- Employer cost-sharing through plan deductibles
 - Most commonly \$150/individual
- Employee out-of-pocket exposure limited to approximately \$1,000
- Trend toward direct employee cost-sharing
 - In general industry 49% of employers fully pay for individual coverage

- Movement towards managed care arrangement (HMO, PPO, POS)
 - From 31% in 1991 to 58% in 1994
- First dollar (100%) coverage for selected services under managed care arrangements, adoption of 70% plan coinsurance for out-of-network care; 80% coinsurance for comprehensive plans
- Continued increases in plan deductibles
 - Most commonly \$200 or more/individual
- Slight increase in employee exposure to out-of-pocket costs under comprehensive plans
 - Most commonly \$1,000 – \$2,000
- Trend toward direct employee cost sharing continues
 - In general industry 35% of employers (or less) fully pay for individual coverage

SHAREHOLDER PAYOUT



+6.9% +10.4 +4.7 +10.1 %
 36.1% over 4 years



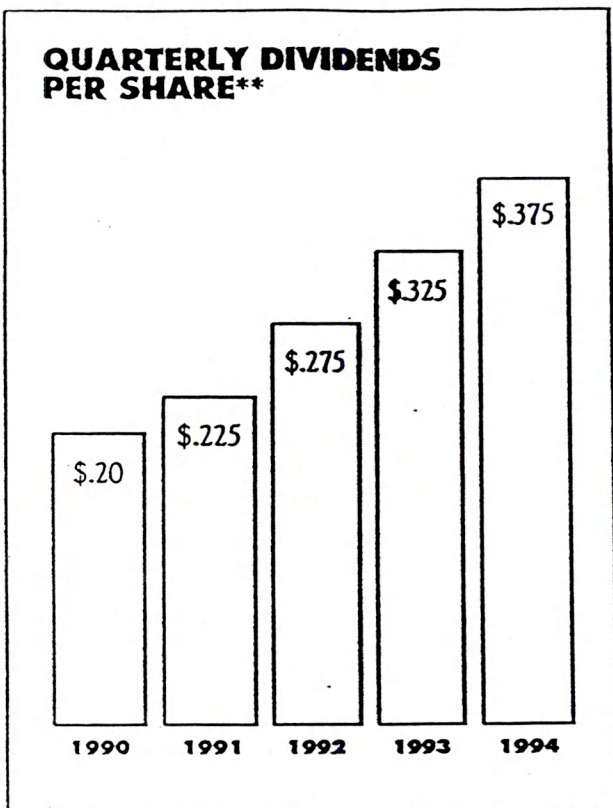
+3.8% +20.6 +14.7 +20.4 %
 +72.8% over 4 years

* Excludes special and unusual charges

** Adjusted for stock split

1994 Conrail Fact Book

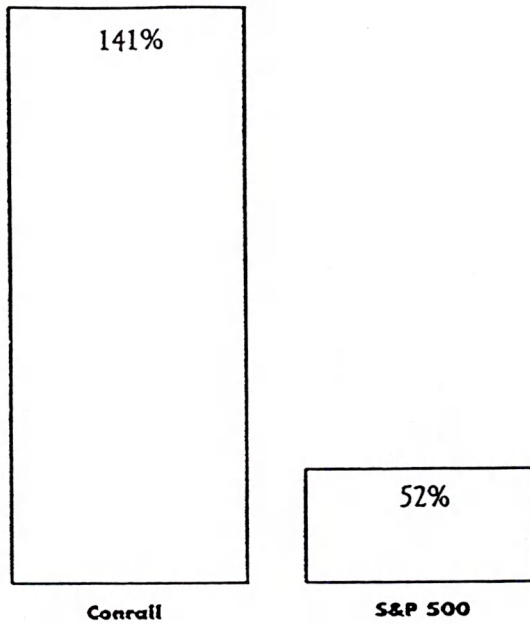
SHAREHOLDER PAYOUT



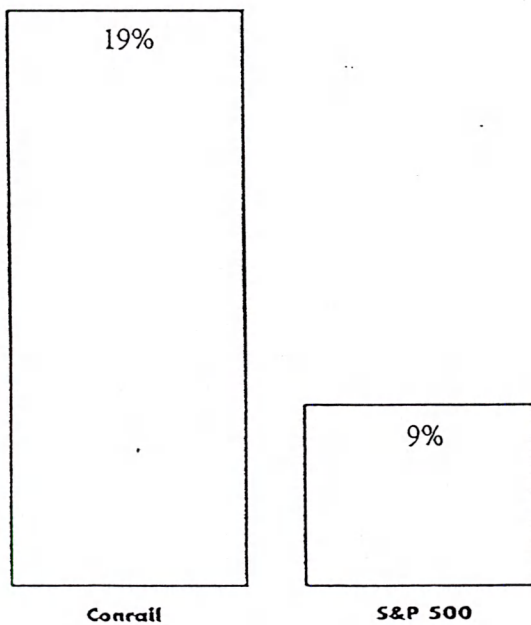
+12.5% +22.2 18.2 15.4%
+87.5% over 4 years

** Adjusted for stock split

TOTAL SHAREHOLDER RETURN



COMPOUNDED ANNUAL RETURN



Conrail: 4th-Quarter Revenue to Fall, But Operating Goal Is Reachable

By RIP WATSON

Journal of Commerce Staff

Conrail Inc. is expecting continued revenue declines in the fourth quarter, but holds out hope that it can reach its 1995 goal of driving its full-year operating ratio — expenses divided by revenue — below 80%.

Based on third-quarter earnings of \$116 million, or \$1.31 a share, on 3% lower revenue, the carrier will have to drive its fourth-quarter operating ratio to an all-time low of just over 73%, nearly a percentage point below the record final quarter of last year.

By comparison, Conrail's third-quarter operating ratio was 77.5%, a two-percentage-point drop. For the first nine months, the operating ratio stands at 81.7%, a drop of nearly three points.

Chief Financial Officer William Brown told securities analysts late Wednesday that the railroad was not backing off from its aggressive target of a 73.5% operating ratio for 1995.

Conrail expects revenue in the fourth quarter to decline by 1% to 2%, falling \$10 million to \$30 million from last year's \$986 million.

Company officials hedged on trends beyond the fourth quarter, saying mixed signals in the economy make predictions difficult.

One trend is clear for Conrail in 1995.

Earnings continue to improve, with a 9% increase in the third quarter and 30% for the year to date to \$266 million, or \$3.38 a share.

Year-to-date revenue is \$12 million below the same period in 1994, at \$2.735 billion.

Looking ahead, a 5% drop in volume in the fourth quarter is expected to be offset by unit revenue increases in the 3% range.

That would mirror the third quarter, when a traffic decline of 8% was offset by a 8% gain in revenue per unit.

During the third quarter, the only segment showing a favorable comparison was the unit-train group, with a 4% revenue increase driven by higher coal loadings for export and new long-haul coal business. The higher revenue was achieved despite a 6.5% drop in volume.

Intermodal revenue fell 8% as volume dropped 11%, while automotive business was down 3% in the revenue column and 0.5% in carloadings.

Other traffic, such as chemicals, was off 3% in revenue and 7% in carloads.

Expenses were reduced by \$40 million in the third quarter. A sharp 29% decline in materials and supplies spending that saved \$10 million, and a \$9 million decline in casualty and insurance costs, were the primary areas of improvement. Lower equipment-rental charges cut another \$5 million in expenses, which were down 5% overall.

Chief Executive Officer David LeVan said Conrail will continue to leave an offer on the table to purchase a part of Southern Pacific Lines if customers want that to happen.

He would not specify how much support customers have shown for Conrail's proposal, which it advanced after Union Pacific announced its merger with SP.

UP rejected Conrail's offer in favor of a competing proposal from Burlington Northern Santa Fe.

Presented to Conrail on

10/24/95

A-12718/1

Merger Plan Draws Endorsements From 1,000 Customers, UP Chief Says

By RIP WATSON

Journal of Commerce Staff

Dick Davidson, president of Union Pacific Corp., said the company has lined up support from more than 1,000 customers for its planned merger with Southern Pacific Transportation Co.

Mr. Davidson's disclosure came as the company reported earnings of \$237 million, or \$1.15 a share, reflecting a 19% increase in profit from continuing operations and a 1% improvement from Union Pacific Resources Group, a former subsidiary that is being spun off from the parent.

The battle for the hearts, minds and pocketbooks of shippers has been closely watched because of the opposition the merger plan has drawn some from other railroads and some customers.

Terming the merger endorsements a "heartwarming outpouring of support," Mr. Davidson predicted that as many as 1,500 customers might support the \$5.4 billion deal.

Of some 300 major customers that generate more than 75% of UP rail revenue, more than one-third already have indicated support. The railroad is seeking to boost that number before the planned merger application filing on Dec. 1.

Seven state governors also have backed the deal.

Mr. Davidson used Thursday's meeting with securities analysts to respond to criticism of last month's trackage rights deal with Burlington Northern Santa Fe Corp.

Kansas City Southern Railway, which lost out in those negotiations, has questioned the fairness of the process, while other railroads continue a lower-key campaign to advance competing proposals that UP has rejected already.

"We treated each of them (companies seeking rights) fairly and negotiated in good faith," Mr. Davidson said.

Citing UP's experience with four mergers in less than 15 years, Mr. Davidson said, "We have absolute confidence we know how to pull this off successfully."

Chairman Drew Lewis said railroad customers will be better off in the long run because the merged company will offer more efficient service than the failing SP.

Earnings results, which were in line with analysts' expectations, were far less controversial.

Revenue was 22% higher at \$1.97 billion, while operating income was up 21% to \$281 million.

UP Railroad boosted operating income 23% to \$289 million, reflecting the incorporation of Chicago & North Western Transportation Co., which it acquired earlier this year. Revenue of \$1.63 billion was 24% higher.

**RULE 21
AWAY FROM HOME EXPENSES**

HEADQUARTERED EMPLOYEES

- 21.1 An employee taken off his assigned territory to work elsewhere will be furnished lodging and meals by the Company. If lodging and/or meals are not furnished by the Company, the employee will be compensated for actual meal and/or lodging expenses he may necessarily incur. This paragraph will not apply to an employee not being held away from assigned territory an unreasonable time beyond the evening meal hour.

**NON-HEADQUARTERED EMPLOYEES;
SYSTEM EQUIPMENT OPERATORS AND EMPLOYEES ON SYSTEM PRODUCTION
GANGS**

- 21.2 Employees assigned to positions on System Production Gangs or assigned to positions as System Equipment Operators will be allowed expenses as follows for each working day.
- i) Less than 10 miles, will receive \$0.00
 - ii) 10 miles but less than 20 miles, will receive \$4.00
 - iii) 20 miles but less than 30 miles, will receive \$8.00
 - iv) 30 miles but less than 50 miles, will receive \$12.25
- 21.3 Non-headquartered employees covered by this Rule required to travel more than 50 miles one way will be furnished lodging by the Carrier. Meals will be provided by the Carrier, or employees may be compensated for actual and reasonable meal expenses they necessarily incur, to a maximum of \$12.75 for each working day.
- 21.4 Travel from the temporary residence (hotel, motel, etc.) occupied pursuant to Rule 21.3 will be allowed as per Rule 21.2. The travel distance will not, when possible, exceed mileage from the nearest hotel, motel, etc., to the work location. However, in the event that reasonable lodging cannot be found in the immediate vicinity of the work location, it is agreed that additional payment of allowances for mileage as set forth in Rule 21.2 herein, will be allowed.
- 21.5 Travelling expenses will not be allowed for mileage when the Carrier provides transportation, nor will travel allowance be allowed when done during regularly assigned working hours.

- 21.6 An employee covered by Rule 21.3 i.e. an employee required to travel more than 50 miles one way, shall be allowed, on the first and last day of the assignment each week, an allowance when travelling outside of regular working hours to and from the work location on the basis of \$10.00 for each 50 miles or portion thereof. In addition, a travelling allowance for use of personal vehicle will be paid in accordance with Rule 22 at the actual allowance for mileage (21 cents per mile).
- 21.7 Employees covered by Rule 21.3 may, in lieu of away from home expenses, mileage, and travelling allowance, apply for and receive \$25.00 for each working day.

GENERAL PROVISIONS

- 21.8 When lodging is provided, it shall mean not more than two employees per room.
- 21.9 Bona fide receipts will be required with expense accounts, which are to be submitted on a bi-weekly basis.
- 21.10 Rule 21 shall not affect the present Arbitration Board No. 298 Award.

10/25/95 A-1271811
 BMW E Projections to Conrail

ECONOMIC PRJECTIONS FOR CONRAIL: 1994-1997 #1

	1994	1995Est	1996Est	1997Est
1. Operating Revenue (\$mil)	\$3,641	\$3,706	\$3,817	\$3,932
2. Employment	24,091	23,368	22,667	21,987
3. Average Compensation	\$45,643	\$50,207	\$55,228	\$60,751
4. Total Compensation Costs (\$mil)	\$1,100	\$1,173	\$1,252	\$1,336
5. Non-compensation operating expenses (\$mil)	\$1,943	\$1,943	\$1,943	\$1,943
6. Total Operating Expenses (\$mil)	\$3,043	\$3,116	\$3,195	\$3,279
7. Net Revenue From Operations (\$mil)	\$598	\$590	\$622	\$653
8. Operating Ratio (%)	83.58%	84.09%	83.70%	83.39%

Notes

1. AAR data, line 1. 1995 based upon 3 quarters.
2. AAR data, line 308
3. AAR data, line 329. All employees, incl. executives, and officials.
4. AAR data, line 316
5. Computed: 6-4 for 1994. Other years are constant.
6. AAR data, line 166. 195 based upon 3 quarters, which is 3.4% below 1994 results.
7. AAR data, line 29
8. AAR data, line 23

Assumptions:

1. Operating revenues rise 3 percent per year
2. Employment drops 3 percent per year.
3. Average compensation costs rise 10 percent per year:
 - a) 7% General Wage Increases
 - b) 3% COL that keep up with inflation
4. CPI rises 3% per year.
5. Non-labor/fringe operating expenses remain constant.
6. Total operating expenses rise

BMW E 10/25/95

ECONOMIC PRJECTIONS FOR CONRAIL: 1994-1997 #2

	1994	1995Est	1996Est	1997Est
1. Operating Revenue (\$mil)	\$3,641	\$3,706	\$3,817	\$3,932
2. Employment	24,091	23,368	22,667	21,987
3. Average Compensation	\$45,643	\$50,207	\$55,228	\$60,751
4. Total Compensation Costs (\$mil)	\$1,100	\$1,173	\$1,252	\$1,336
5. Non-compensation operating expenses (\$mil)	\$1,943	\$2,001	\$2,061	\$2,123
6. Total Operating Expenses (\$mil)	\$3,043	\$3,175	\$3,313	\$3,459
7. Net Revenue From Operations (\$mil)	\$598	\$531	\$504	\$473
8. Operating Ratio (%)	83.58%	85.66%	86.80%	87.98%

Notes

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5. Computed: 6-4 for 1994. Other years are increased by 3% per year for inflation.
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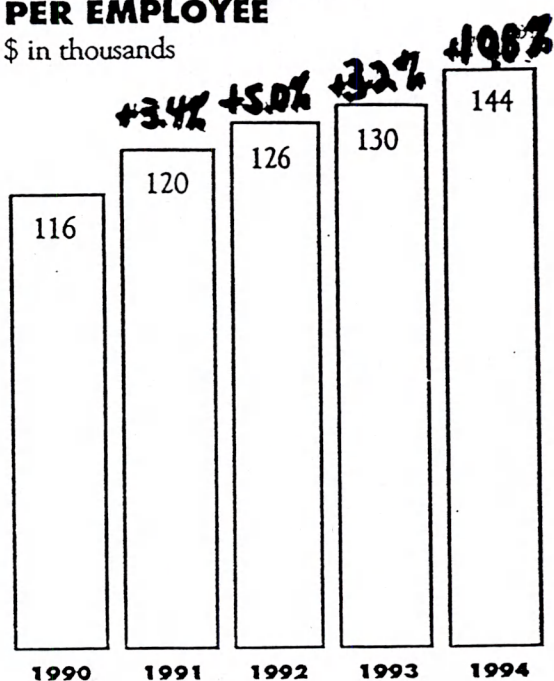
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4. CPI rises 3% per year.
5. Non-labor/fringe operating expenses ~~remain constant~~ rise 3%
6. Total operating expenses rise

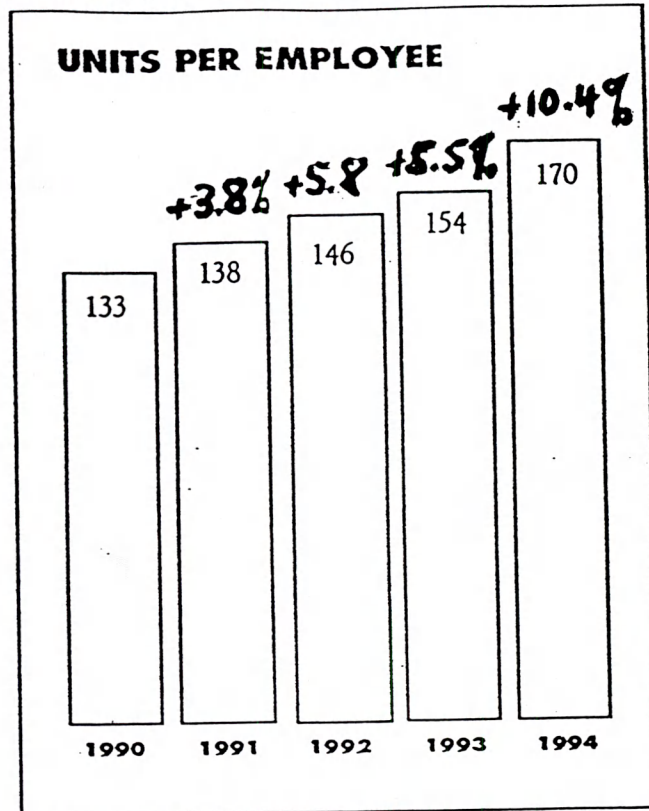
BMWE 10/25/95

LINE HAUL REVENUE PER EMPLOYEE

\$ in thousands



+24.1% change in 4 years



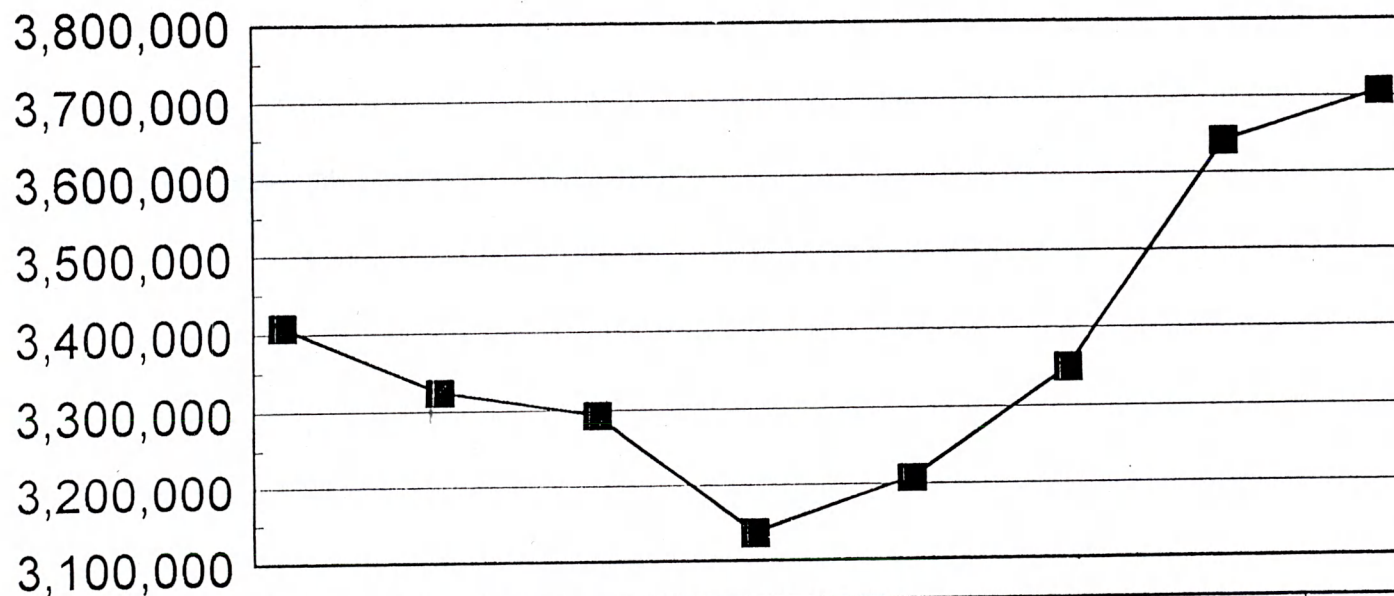
27.8% Productivity Improvement 1990-1994

1994 Contract Fact Book

Conrail 1988-1995

Operating Revenue (\$000)

(\$000's)

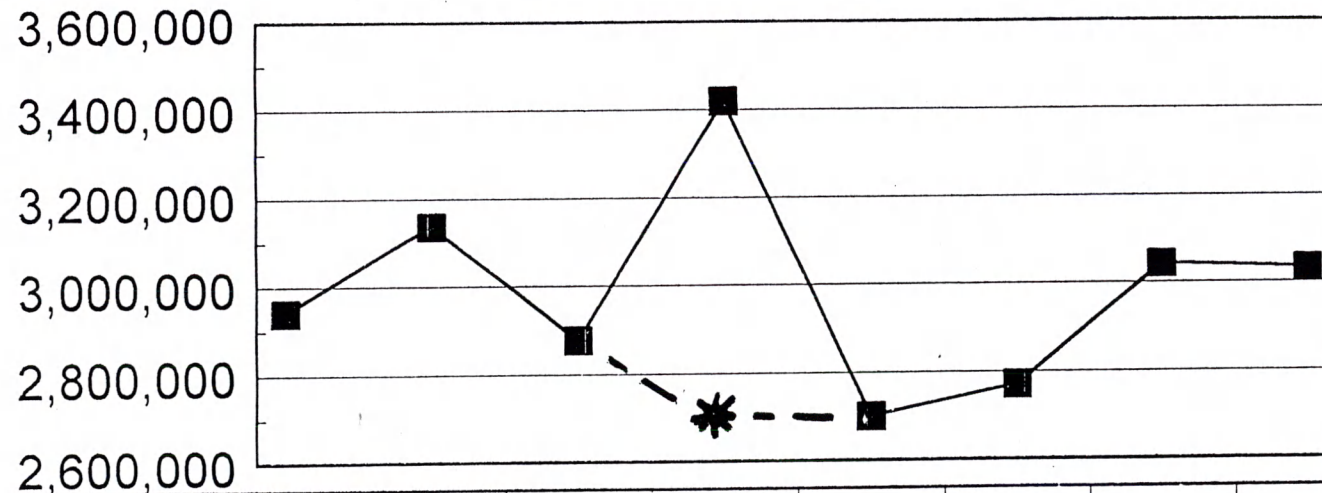


	1988	1989	1990	1991	1992	1993	1994	1995E
Operating Revenue ■	3,408,247	3,323,842	3,292,856	3,136,548	3,207,663	3,349,562	3,641,473	3,706,000

Conrail 1988-1995

Operating Expenses(\$000)

\$ thousands



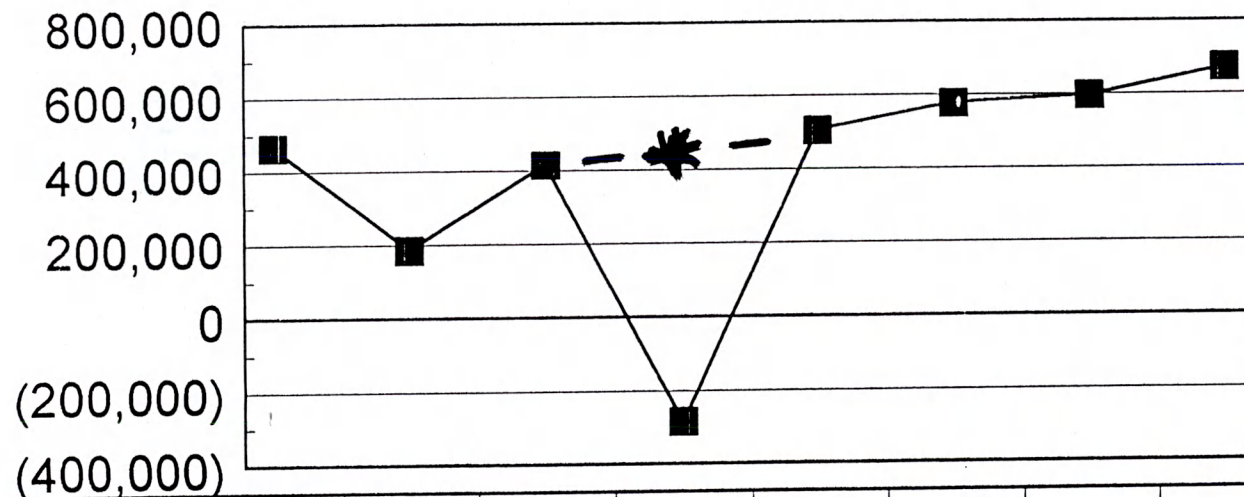
	1988	1989	1990	1991	1992	1993	1994	1995E
Operating Expenses (\$000) ■	2,941,871	3,137,726	2,877,546	3,419,640	2,701,613	2,771,531	3,043,338	3,033,300

NOTES: 1) 1991 INCLUDES \$719 MILLION IN "SPECIAL CHARGES."
WITHOUT THEM, THE CHART DOES NOT HAVE THE BLIP.
2) 1995 BASED ON TREND OF FIRST THREE QUARTERS.

Conrail 1988-1995

Net Revenue From Operations (\$000)

\$ thousands



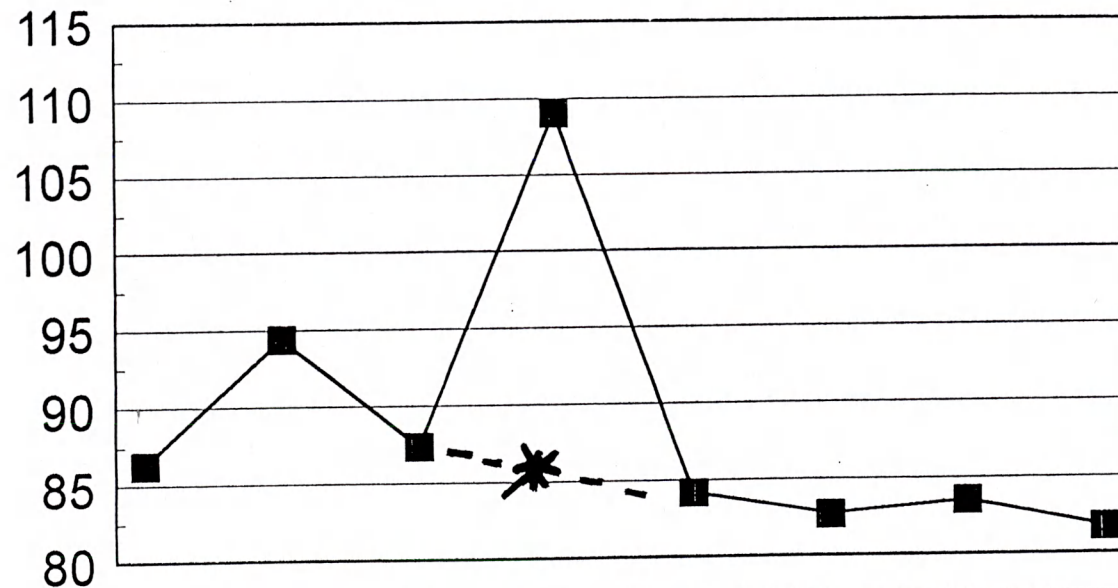
	1988	1989	1990	1991	1992	1993	1994	1995E
Net Revenue from Operations (000) ■	466,376	186,116	415,310	(283,092)	506,050	578,031	598,135	673,000

NOTES: 1) 1991 INCLUDES \$719 MILLION IN "SPECIAL CHARGES."
WITHOUT THEM, THE CHART DOES NOT HAVE THE BLIP.
2) 1995 BASED ON TREND OF FIRST THREE QUARTERS.

Conrail 1988-1995

Operating Ratio

Percent



	1988	1989	1990	1991	1992	1993	1994	1995E
Return on Equity (Percent) ■	86.32	94.40	87.39	109.03	84.22	82.74	83.57	81.80

Conrail 1989-1994

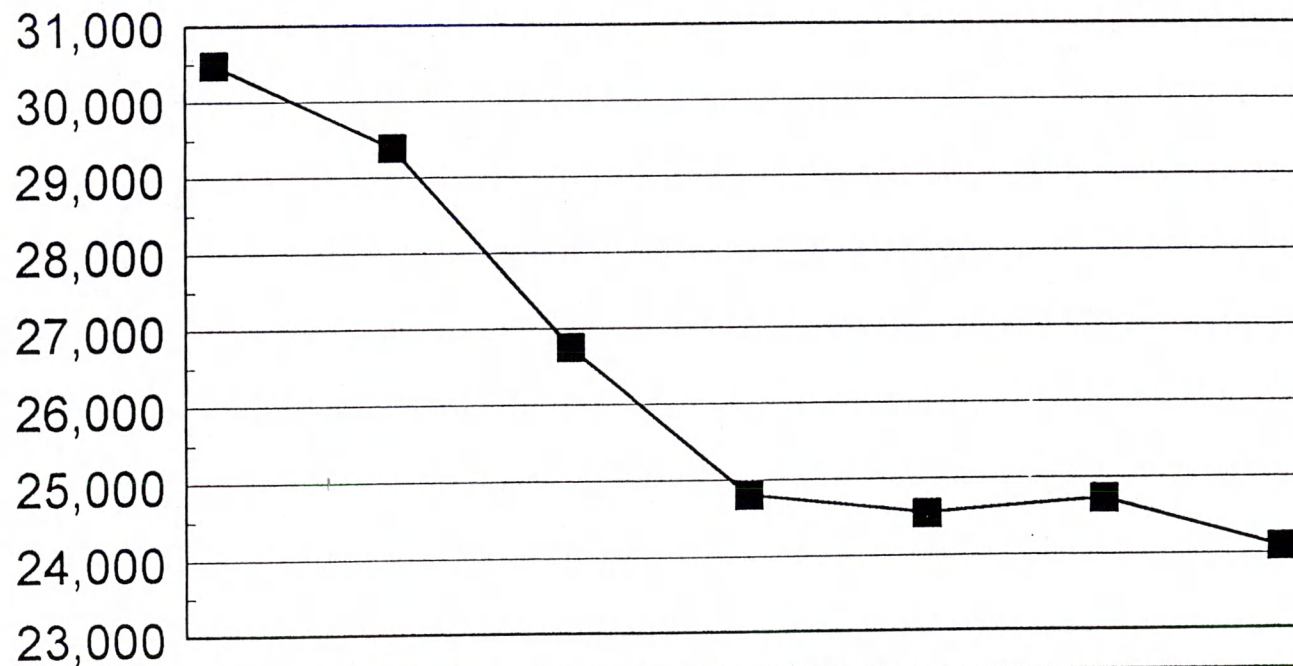
Percentage Declines in Employment



	1989	1990	1991	1992	1993	1994
% Declines in Employment ■	(3.6)	(9.0)	(7.3)	(1.0)	1 0.7 1	(2.6)

Conrail 1988-1994

EMPLOYMENT



	1988	1989	1990	1991	1992	1993	1994
Employment ■	30,487	29,394	26,753	24,801	24,551	24,728	24,091

10/25/95
Conrail Economic Publication
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Cost of Capital

T. K. Stacks
October 25, 1995

Corporate Goals (Assets)

Goal: “Superior Return on Assets”

◆ Earn Cost of Capital

Cost of Capital

- ◆ **What is capital?**
- ◆ **What is the cost of capital?**
- ◆ **Why must a company earn its cost of capital?**
- ◆ **How does a company earn its cost of capital?**

What is Capital?

Capital - Money people (investors) give to companies like Conrail and on which they expect to receive a return on that investment.

Capital Assets - Assets that a company would purchase with that money

- ◆ **capital spending for assets having long lives**
 - **locomotives, rolling stock, track, etc.**

What is the Cost of Capital?

Rate of return expected by investors, who decide to invest in a company, based on the level of the risk of the investment in that company

- ◆ economic cost of attracting and retaining various forms of capital from investors requiring a rate of return commensurate with the risk**

Weighted average cost of DEBT & EQUITY

What is the Cost of Capital?

Debt

- ◆ borrowing with payment of interest
 - interest expense is tax deductible
- ◆ least expensive source of capital BUT must pay interest (riskier)
- ◆ debt holders expect return equal to
 - risk-free rate (yield on U.S.Treasuries)
 - plus
 - a premium to reflect credit and default risk

What is the Cost of Capital?

Equity

- ◆ shareholders looking for stock price appreciation and dividends
- ◆ more expensive cost of capital BUT shareholders share risk of business downturn
- ◆ shareholders require a return (price appreciation and dividends) that compensates them for
 - the overall risk of the equity market
 - plus
 - the unique risks associated with the company

What is the Cost of Capital?

Cost of Debt = Average Interest Rate 8%
charged by bondholders
and banks

Cost of Equity = Average rate that equity 15%
investors could be
earning elsewhere

LT Treasury Rates 7.5%
+ Risk X.X%

CONRAIL AFTER TAX COST OF CAPITAL 11%

*Why must a company
earn its Cost of Capital?*

Constituents

Customers

Employees

Shareholders

Communities

Government

Shareholders

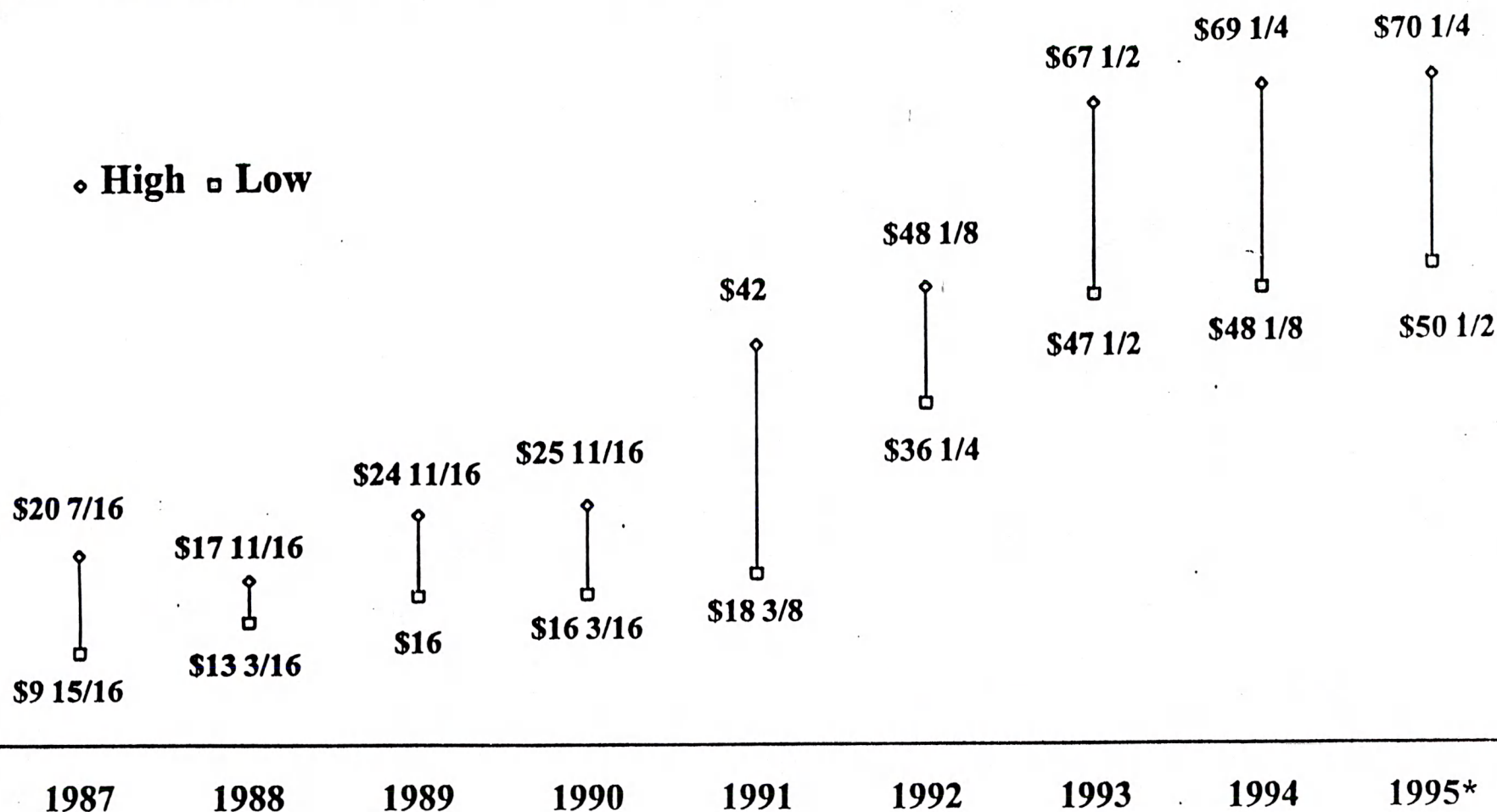
- ◆ **Own the Company**
- ◆ **Elect the Directors**
 - **Directors responsive to what shareholders want**

Shareholders

◆ Expectations

- Higher stock price
- Higher dividends

Conrail Stock Price

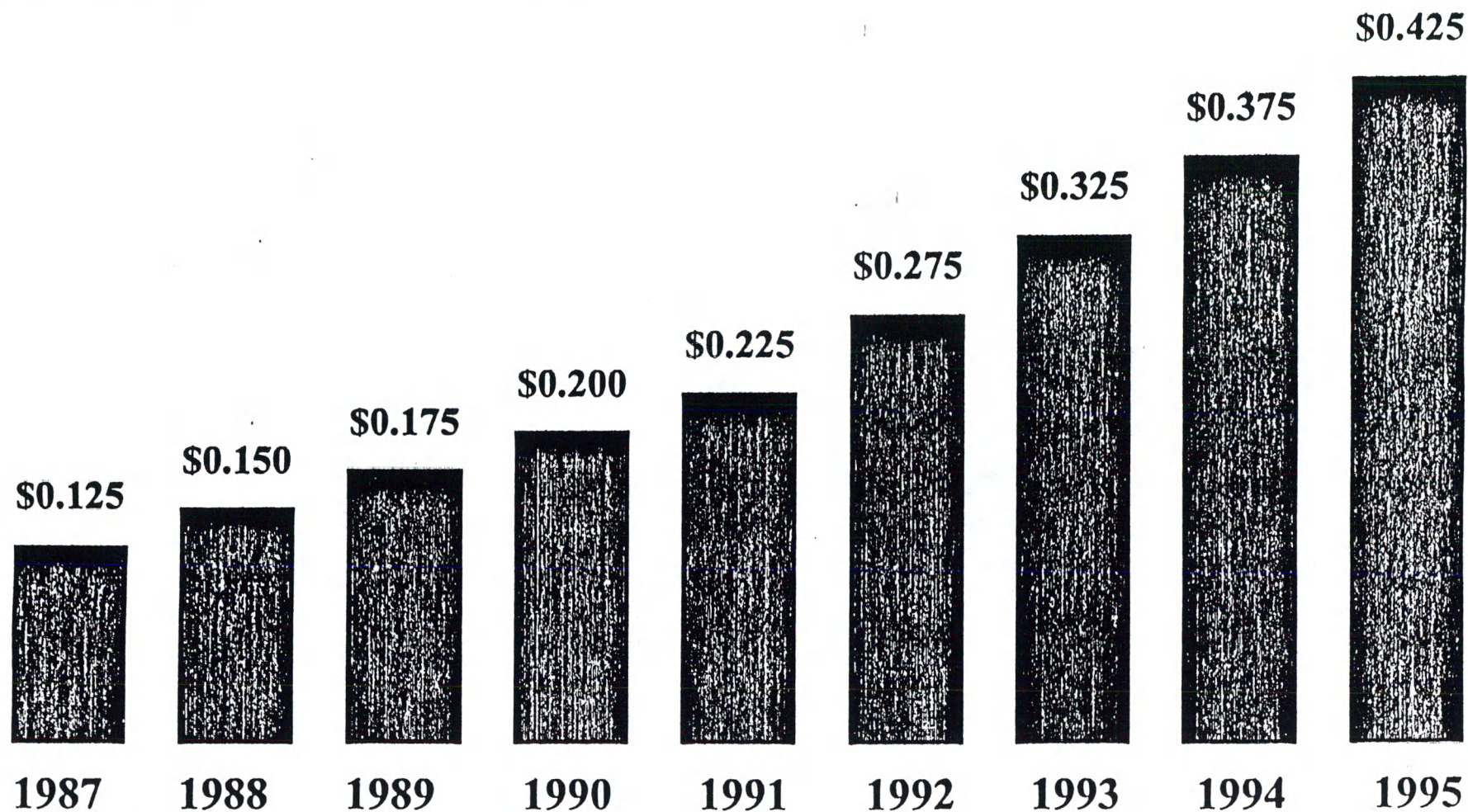


Reflects two-for-one stock split in 1992

* As of 9/30/95

Quarterly Dividends Per Share -- 1987-1995

8 year compounded annual growth rate = 16.5%



Long-Term Consequences of Not Earning the Cost of Capital

- ◆ **More difficult to reinvest in the Company**
- ◆ **Harder access to funds at less competitive rates**
- ◆ **Selling needed assets to raise cash**
- ◆ **Diminished investor confidence affects:**
 - **Retaining existing investors**
 - **Attracting new investors**
- ◆ **Eventually puts company out of business**

***How does a company
earn its cost of capital?***

Return on Funded Assets (ROFA)

◆ How can Conrail Improve ROFA?

- **Improve Earnings**

$$ROFA = \frac{\text{Operating Income}}{\text{Assets}}$$

Revenue

Expenses

- **Improve Utilization of Existing Assets**
- **Eliminate Assets**
 - **no longer required for operations**
 - **that don't earn cost of capital**
- **Control Capital Spending**

Profitability

Reduce operating ratio

◆ Revenue

■ Increase volume

❖ Economic growth

❖ Market share gains

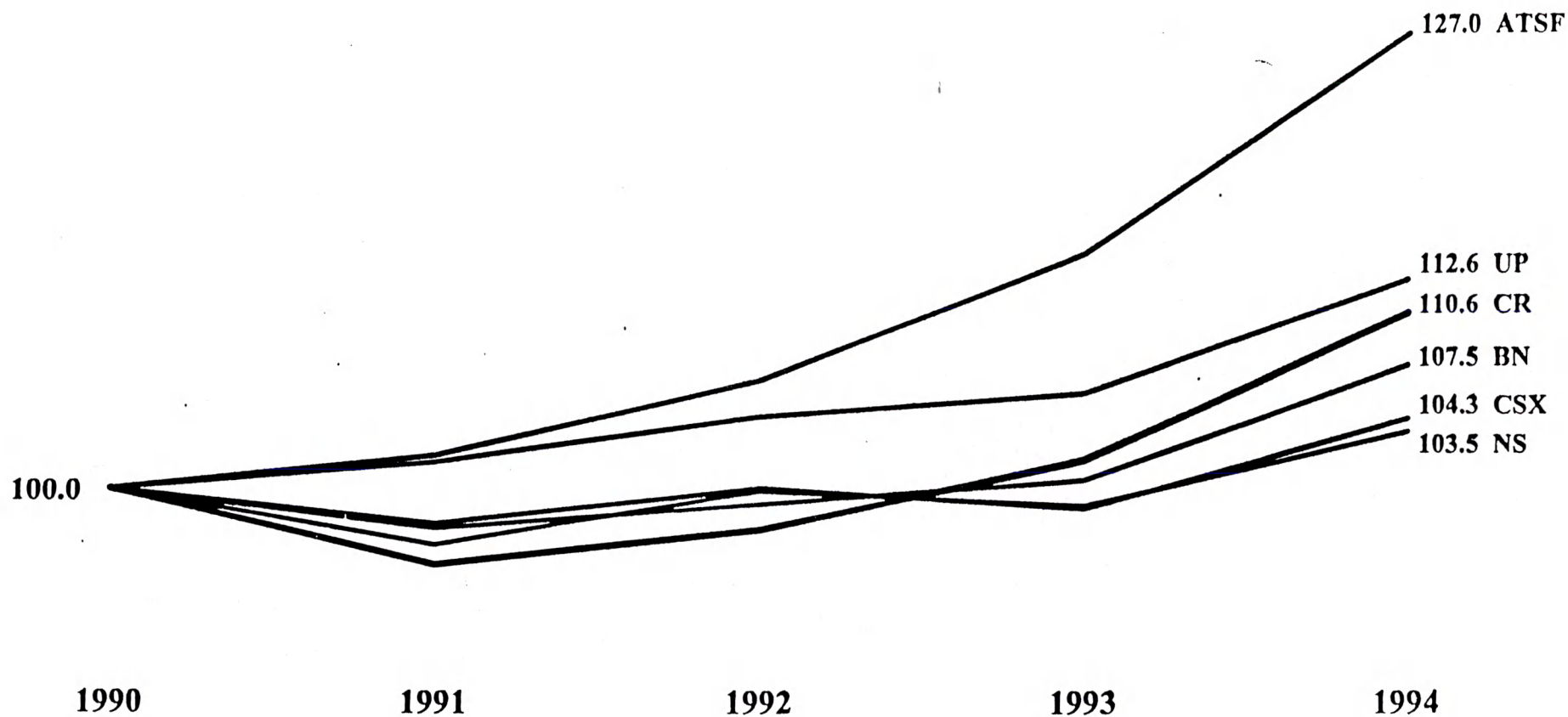
■ Raise prices

◆ Expenses

■ Reduce operating expenses

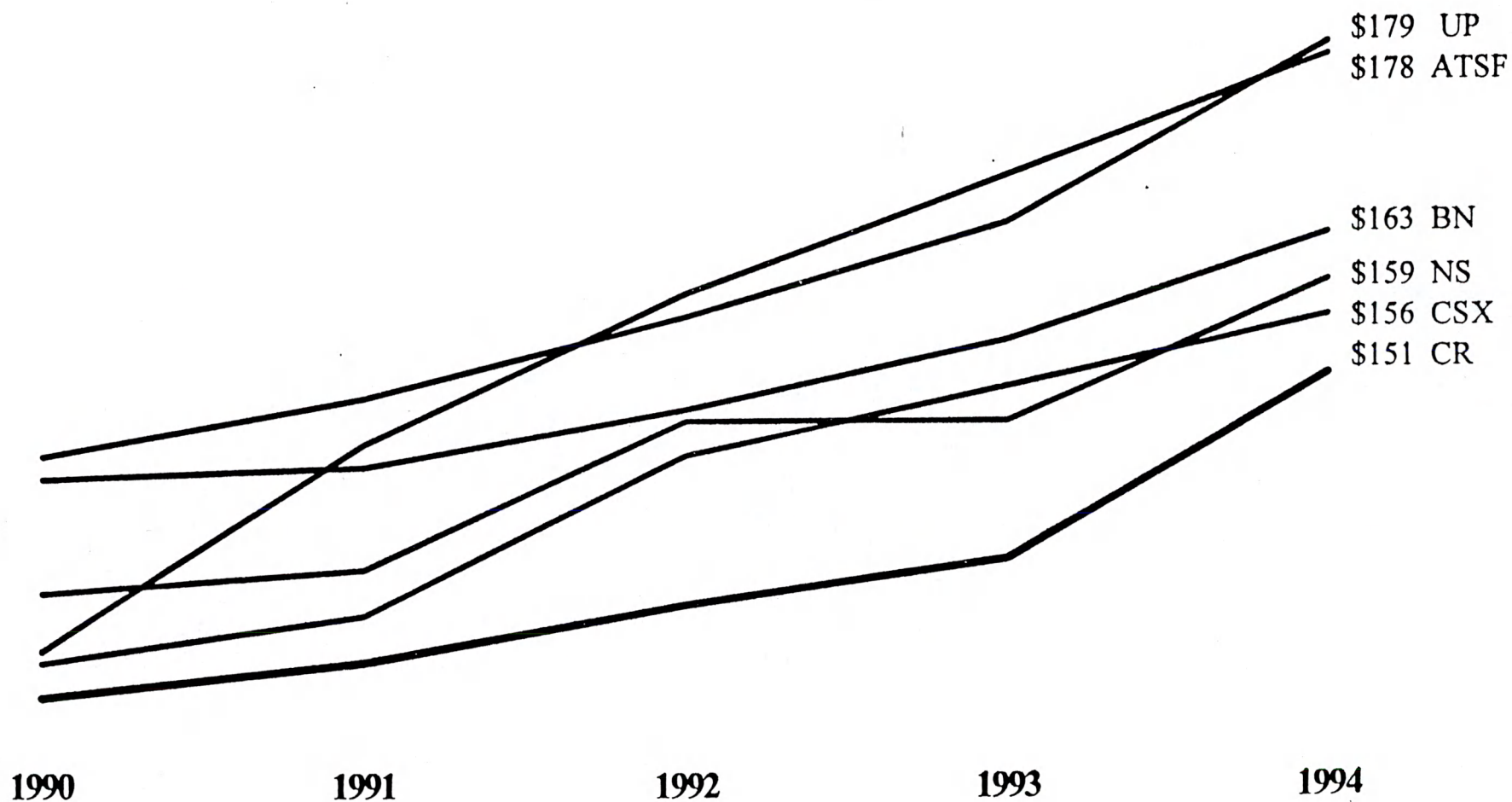
Total Operating Revenues

(Index: 1990 = 100)



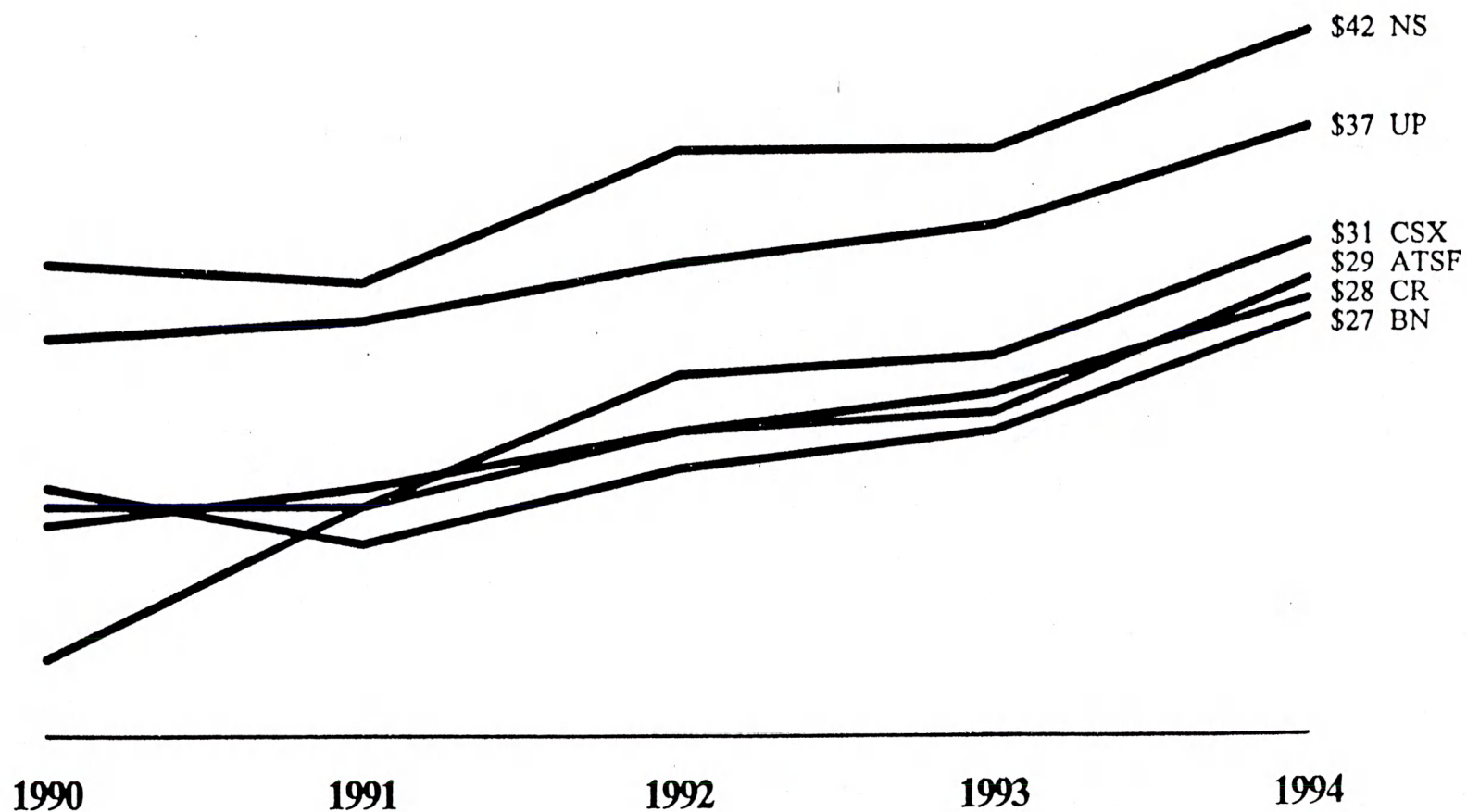
Revenue Per Employee -- 1990-1994

(\$ in 000's)



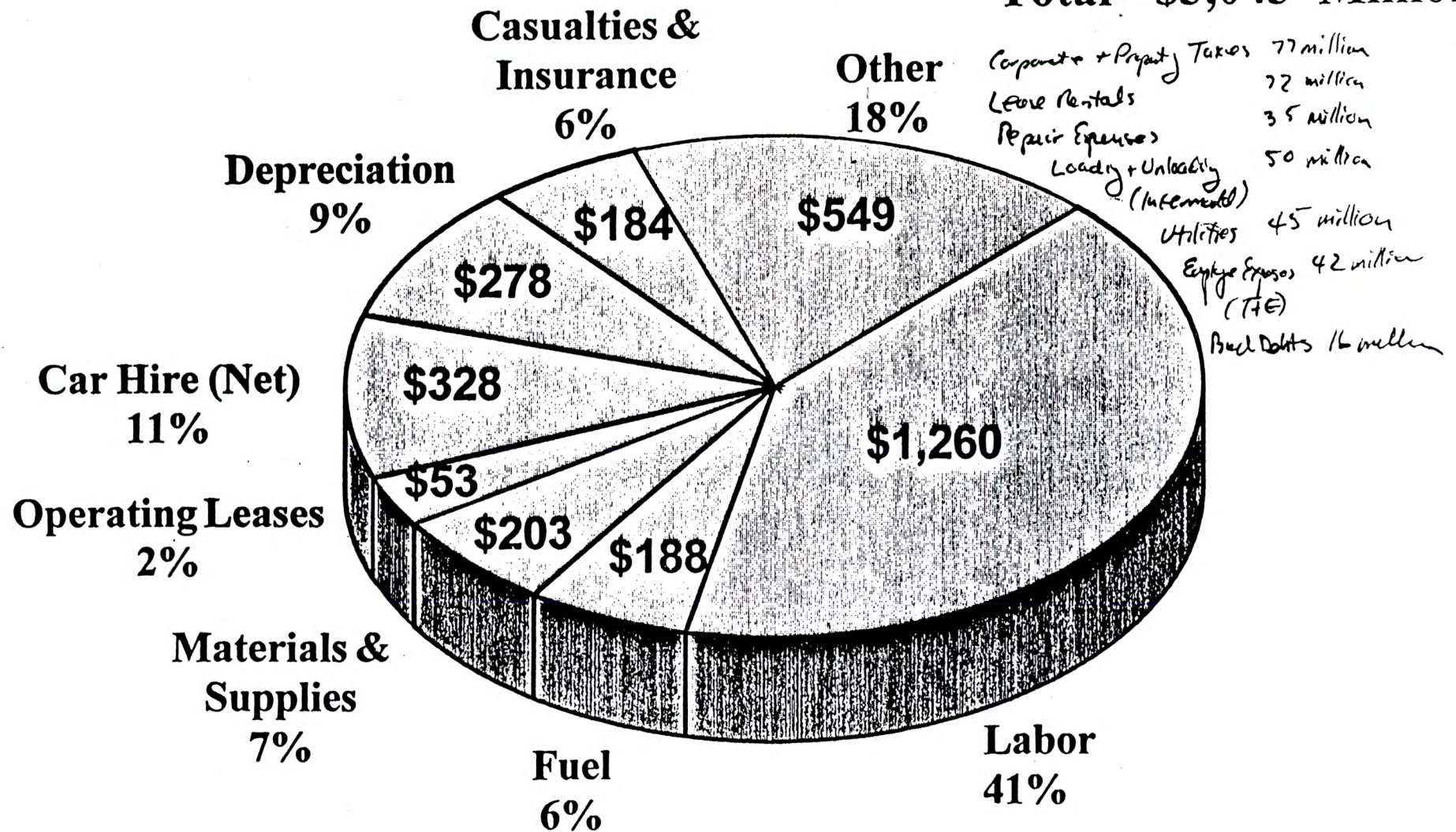
Operating Income Per Employee -- 1990-1994

(\$ in 000's)



Distribution of Conrail Expenses - 1994

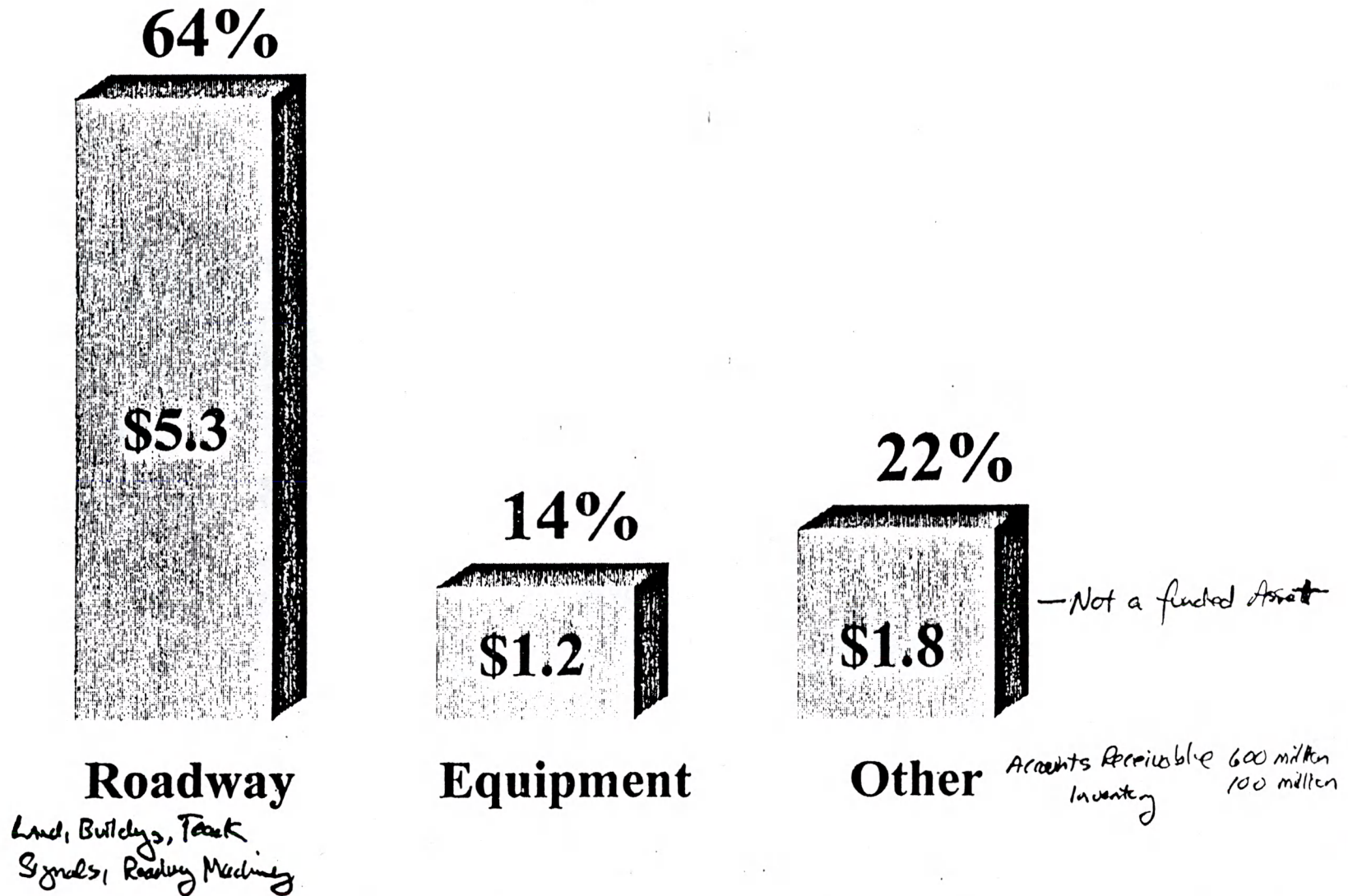
Total - \$3,043 Million



Conrail's Asset Base

Year End 1994

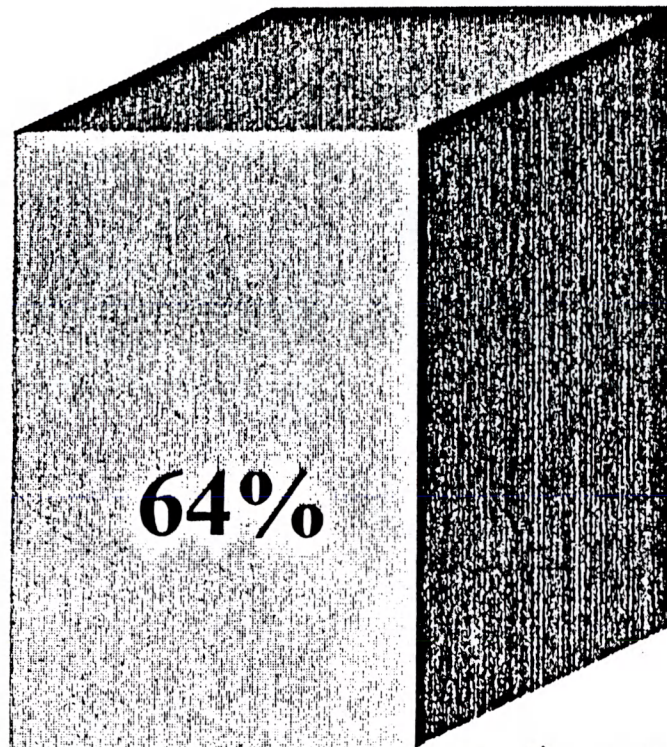
\$8.3 Billion



Roadway Asset Base

Year End 1994

\$5.3 Billion of \$8.3 Billion Total Assets



Roadway

Major Elements

- ✓ Track
- ✓ Buildings
- ✓ Signals
- ✓ Land
- ✓ Roadway Machinery

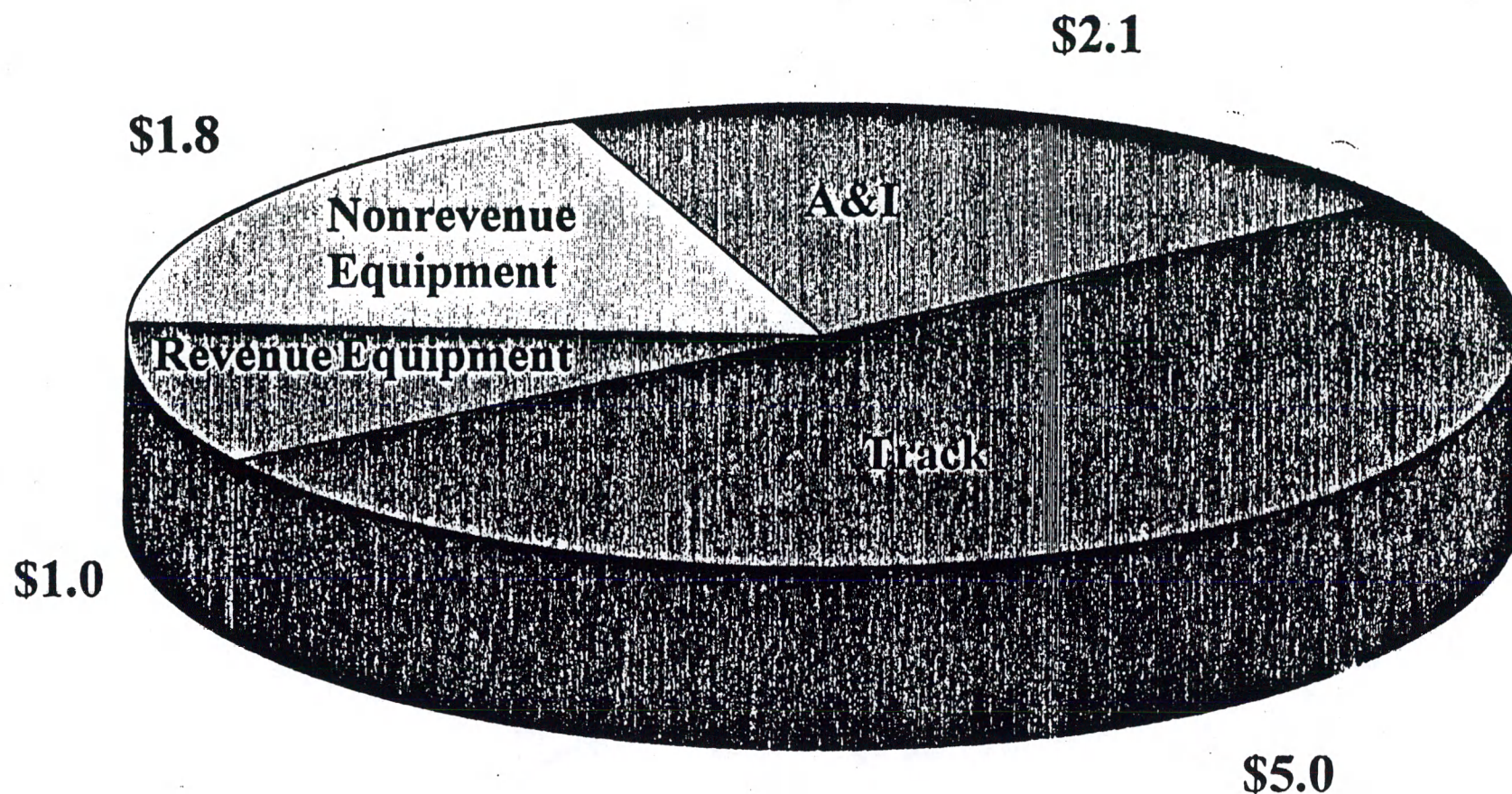
Q How is land valued?

A. Rate established in 1976 at low book value but have grown rapidly since privatization

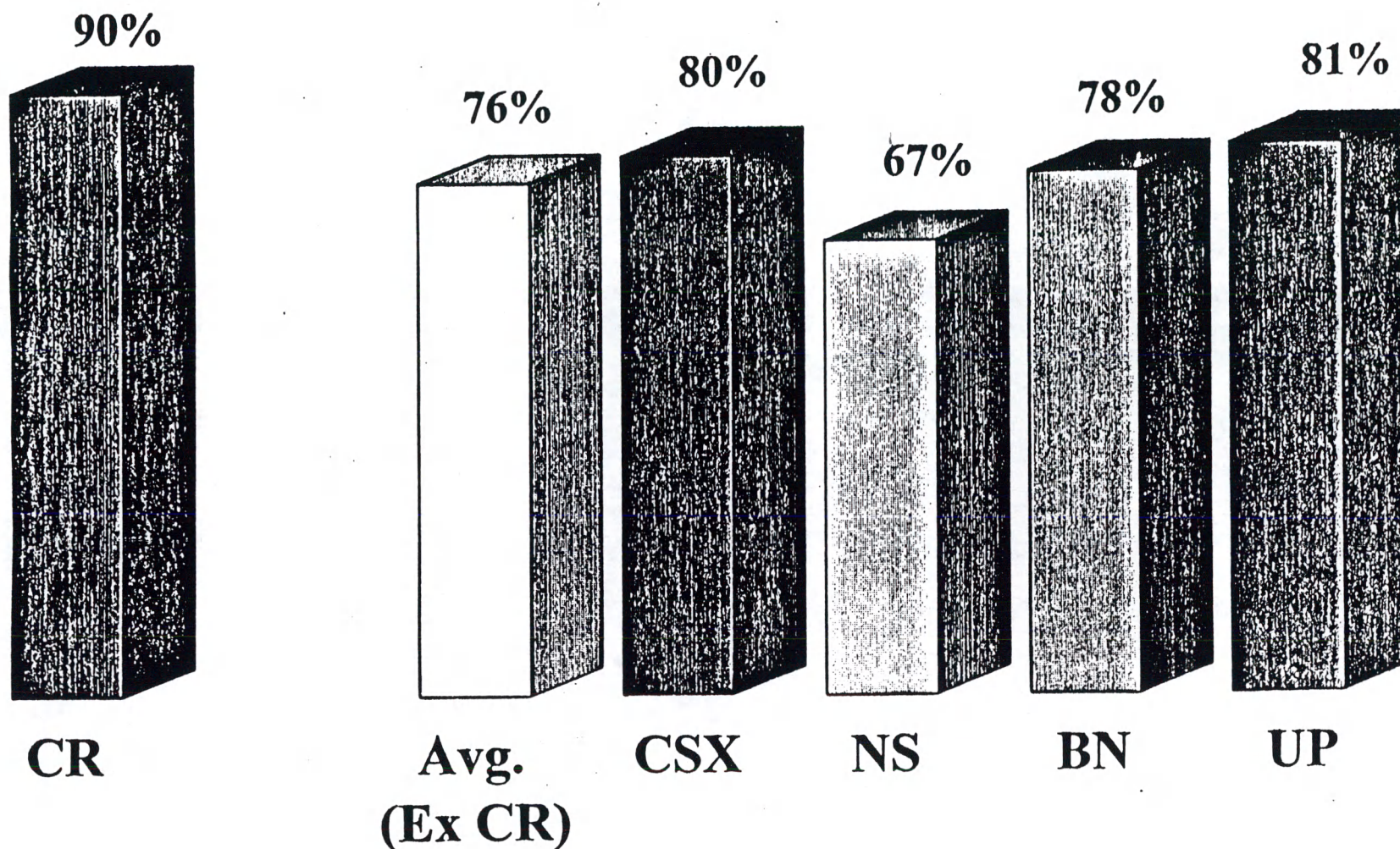
Capital Spending 1976 - 1994

Total \$9.9 Billion

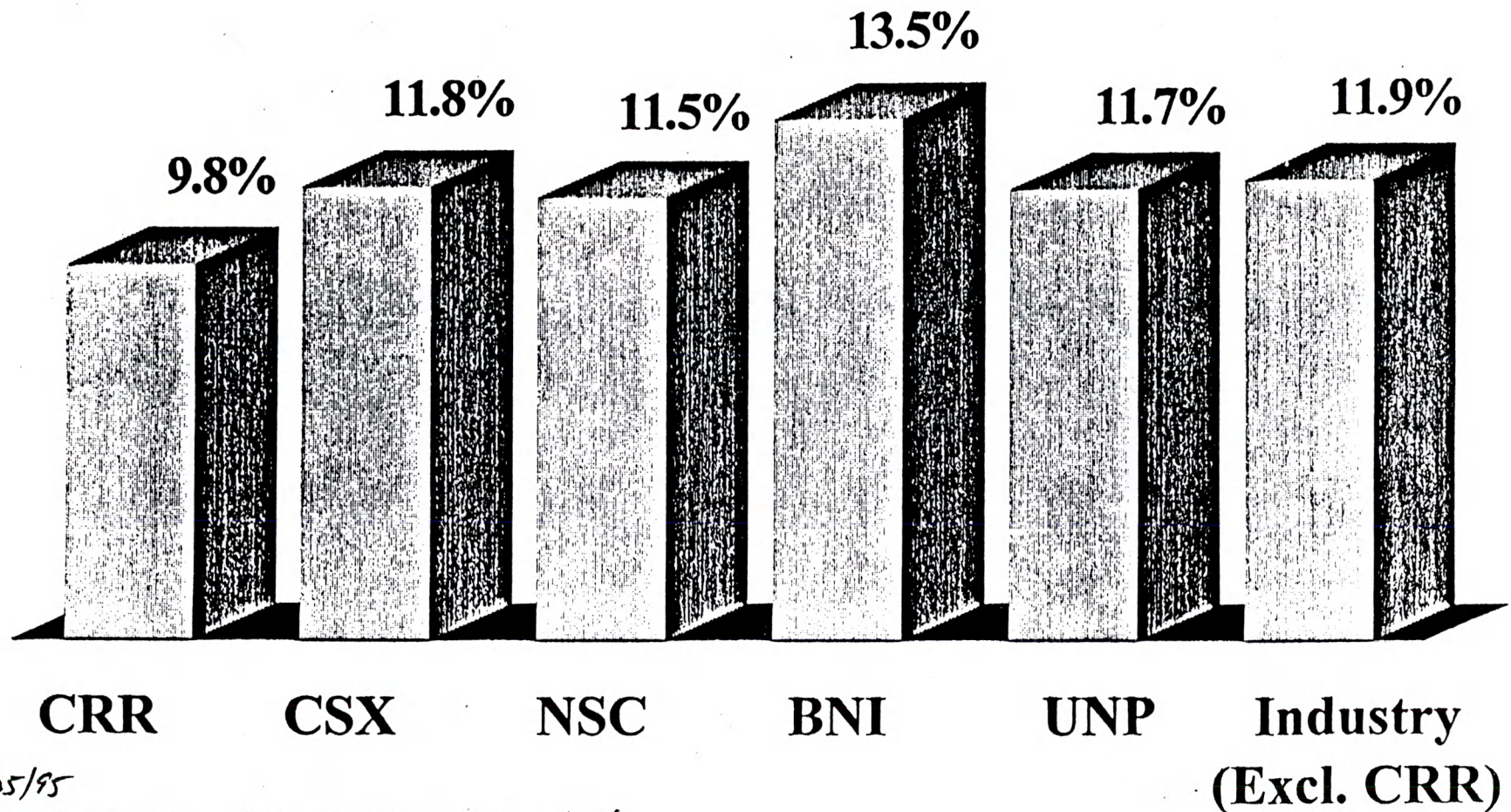
\$ in Billions



Ratio of Capital Expenditures to Operating Income Five Year Average (1990-1994)



1994 Return on Funded Assets (ROFA)



10/25/95

Tom Stacks: Conrail is only Class 1 on the sheet
that is not meeting its cost of capital

Why Must We Lower Our Operating Ratio Target When Revenues Decline?

◆ Lower earnings result in a lower ROFA.

Operating Income	\$ 200	\$ 180
Assets	\$1,800	\$1,800
ROFA	11%	10%

10/25/98

Tom Stark: "we had a goal of 10% + we must move goal"

Why Must We Lower Our Operating Ratio Target When Revenues Decline?

◆ Therefore, in order to meet our ROFA goal (i.e. to earn our cost of capital):

■ We must lower our Operating Ratio when Revenues decline.

Revenue	\$1,000	\$ 900
Operating Ratio	80%	78%
Operating Income	\$ 200	\$ 200
Assets	\$1,800	\$1,800
ROFA	11%	11%

Earning The Cost Of Capital

Actions:

- ❖ **Improve operating ratio**
 - ❖ **Revenue Growth**
 - ❖ **Sustained Operating Efficiencies**
- ❖ **Improve asset utilization**
 - ❖ **Control capital spending levels**
- ❖ **Eliminate assets for which returns cannot support continued investment**

Managing Company from Financial Perspective

Manage:

- ◆ **Revenue**
- ◆ **Expenses**
- ◆ **Assets**

Generate:

- ◆ **Earnings**
- ◆ **Cash Flow**
- ◆ **Return to
Shareholder**

***“If you want to keep
control, don’t let your
company’s stock sell at a
bargain price.”***

Jack Welch, General Motors

A12718/1

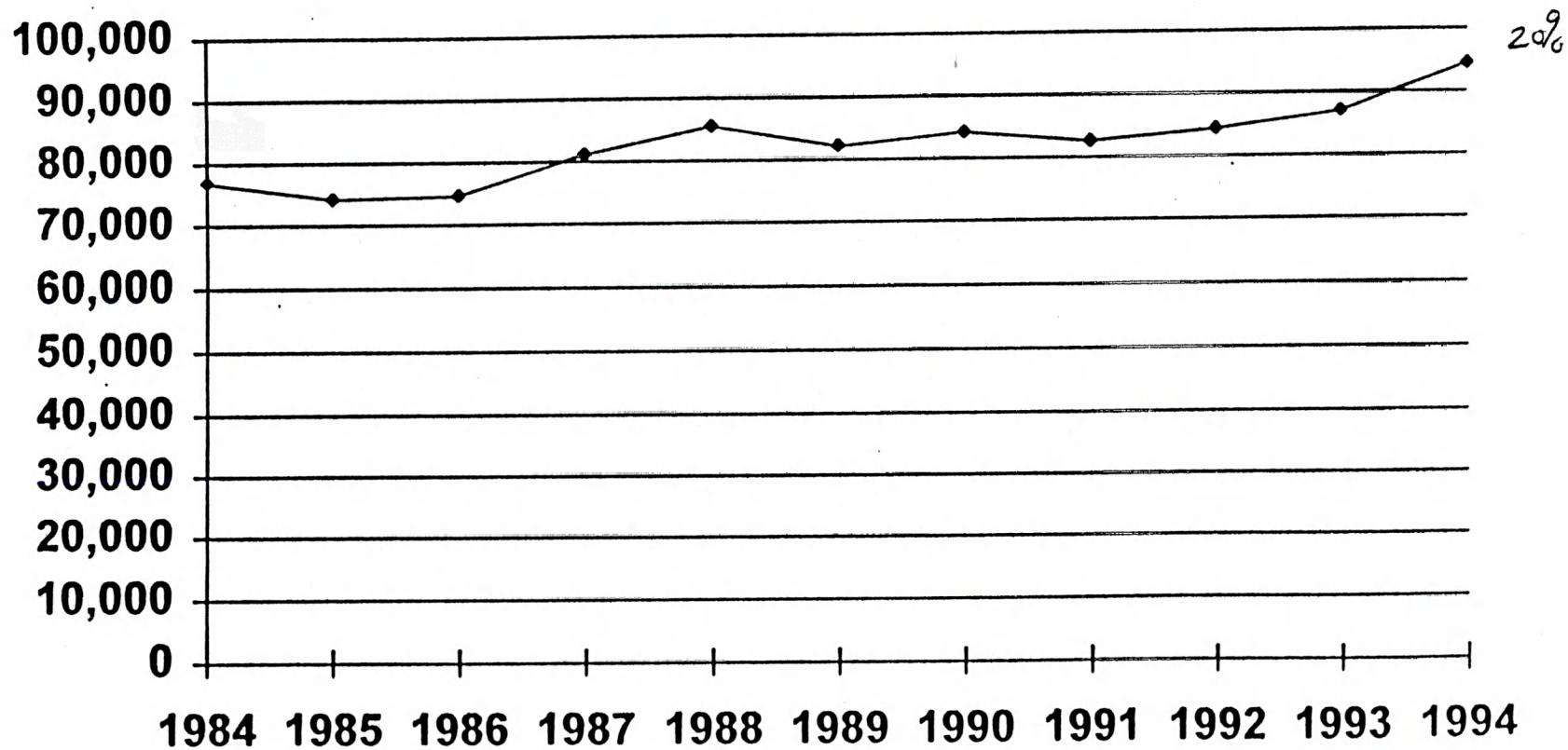
10-24-95

Bill Holland - Conrail Spokesman

CONRAIL 1984-1994 TRENDS

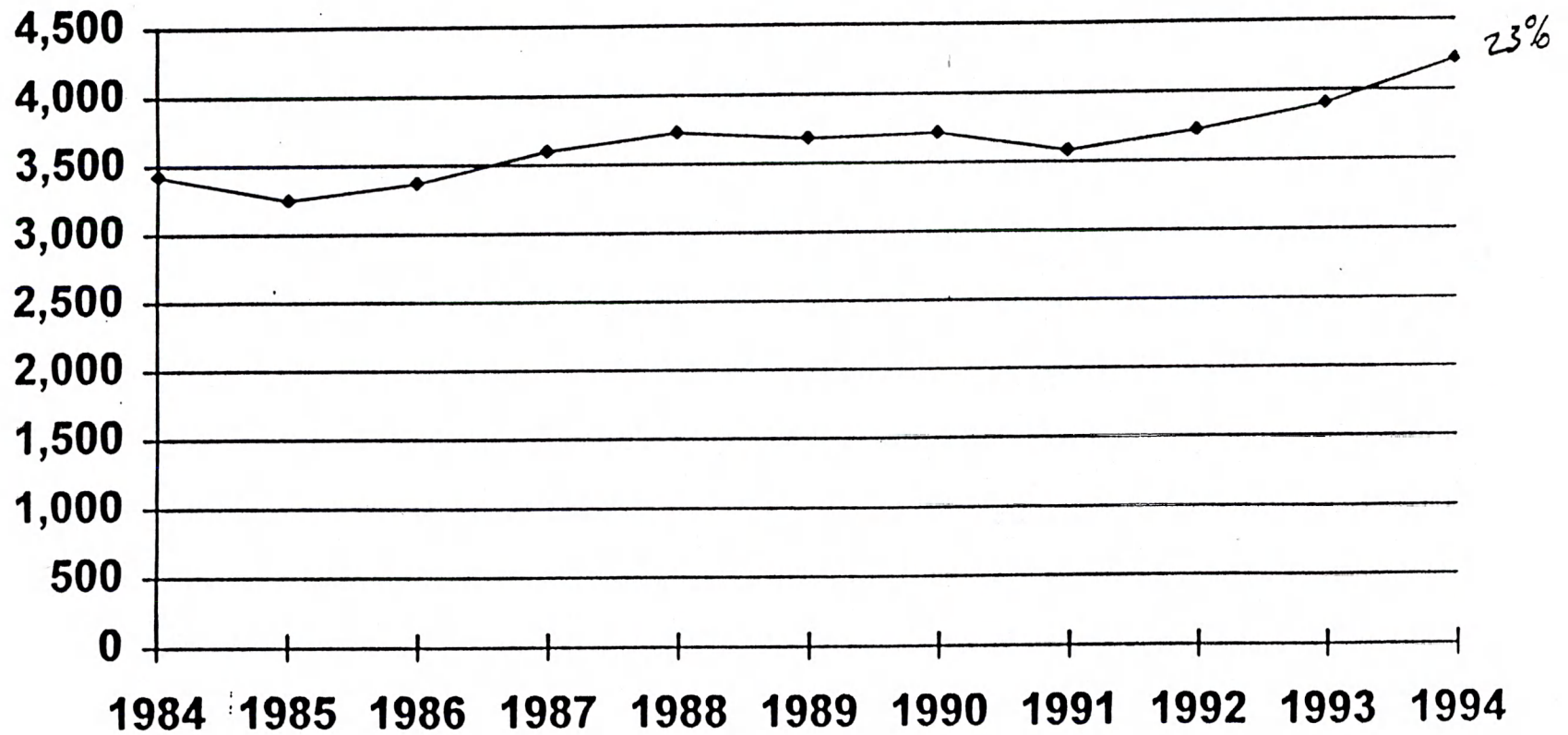
REVENUE TON-MILES

Millions of Ton-Miles



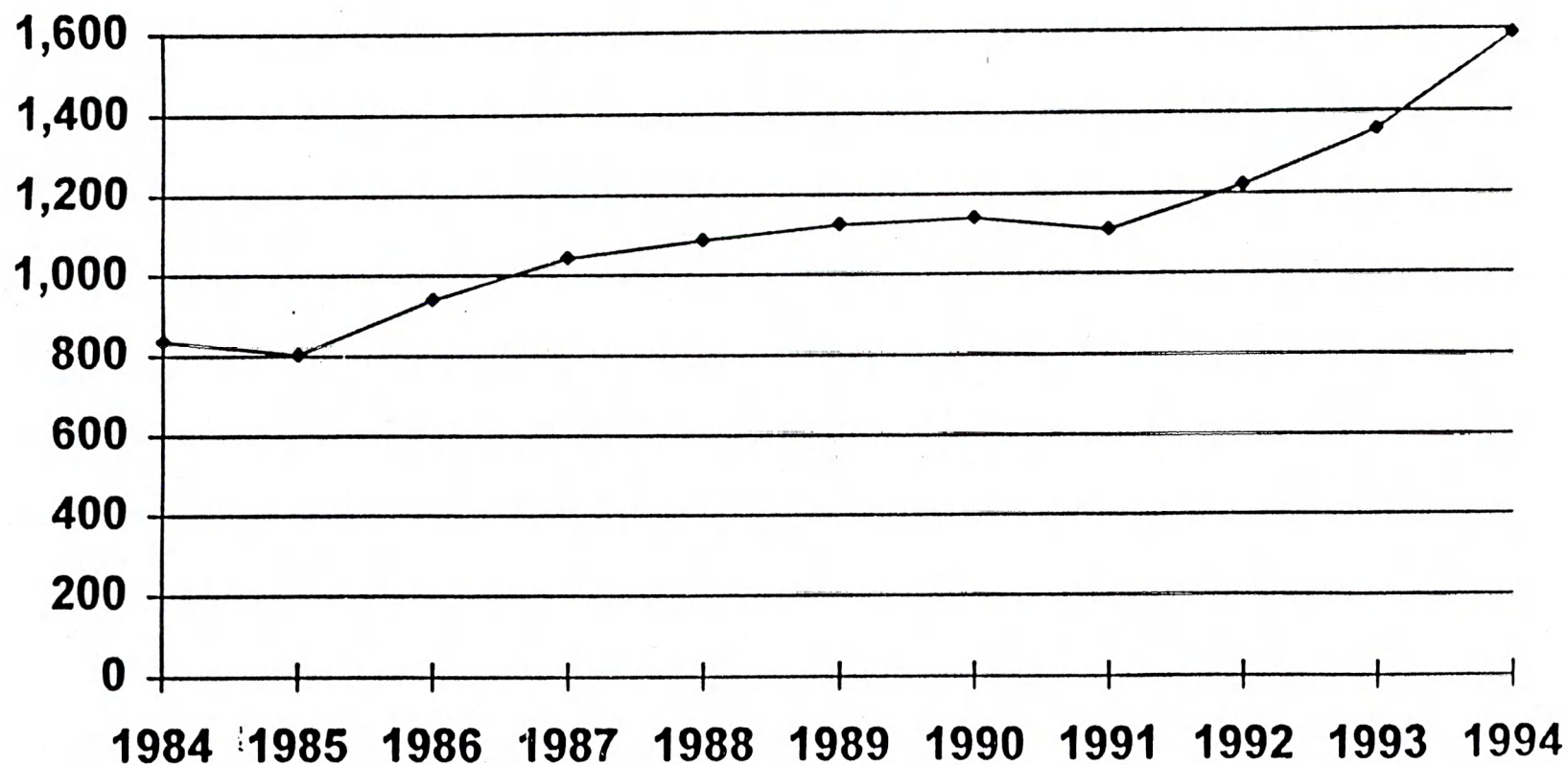
TOTAL CARLOADINGS

Thousands of Carloads

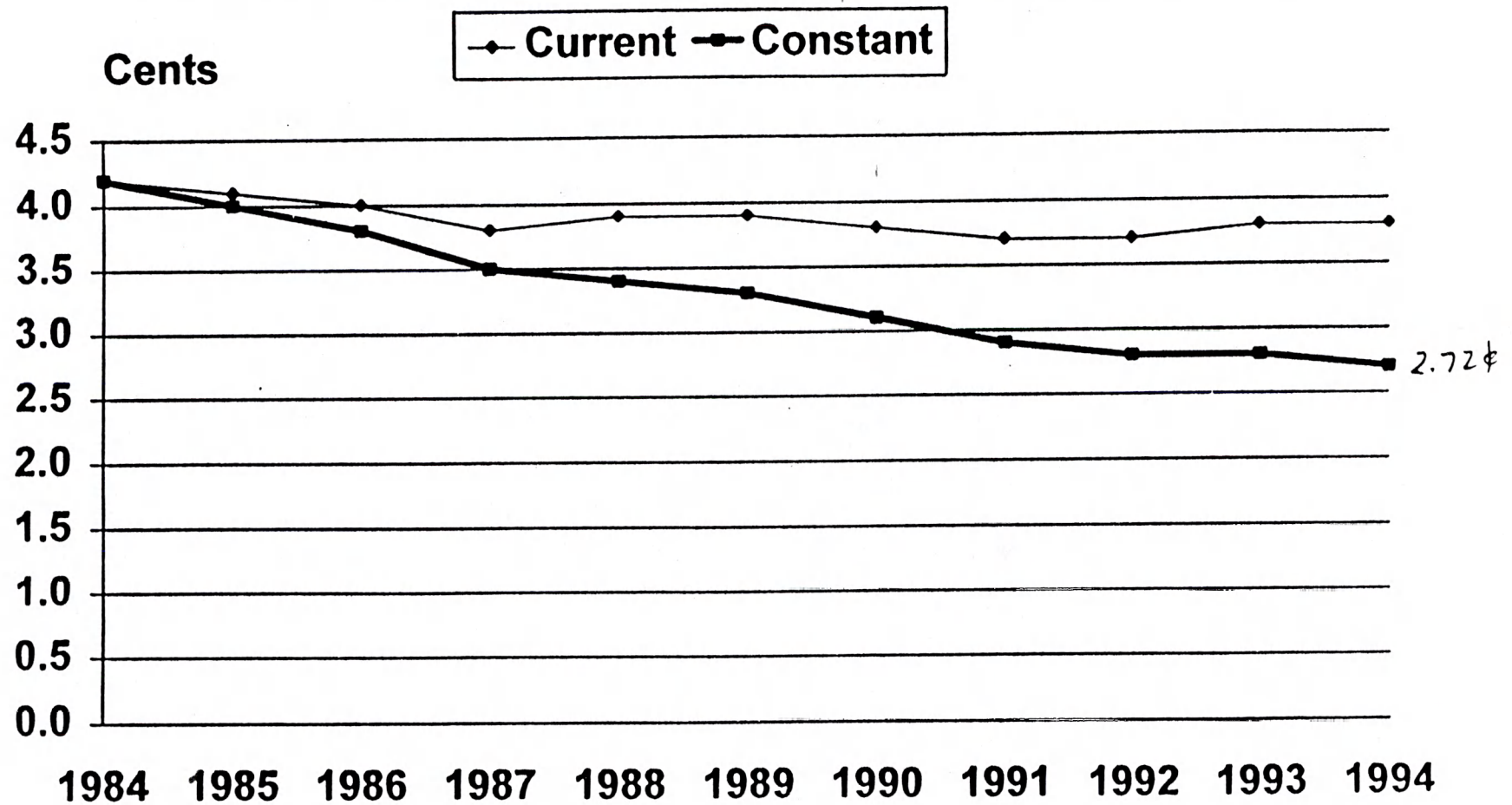


INTERMODAL CARLOADINGS

Thousands of Carloads

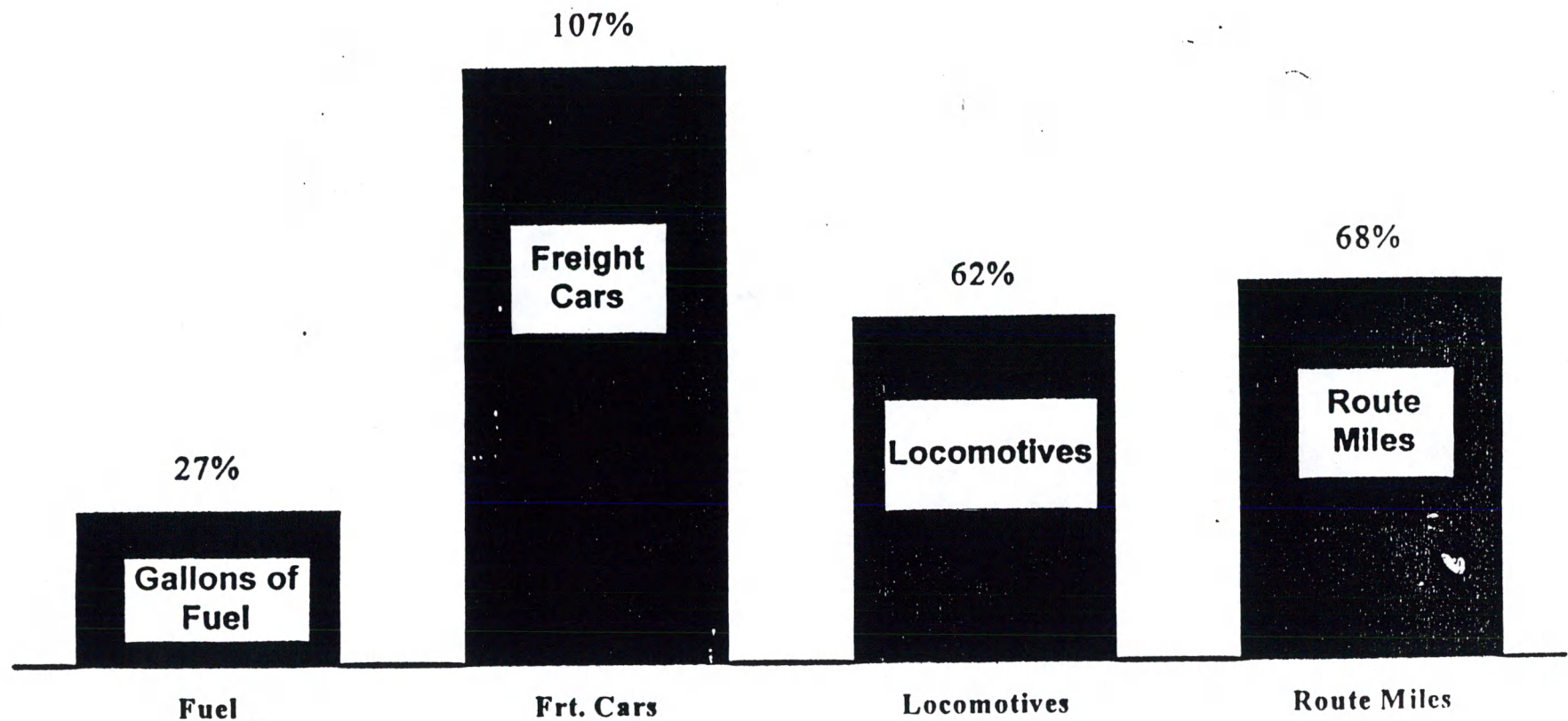


PRICE PER TON-MILE

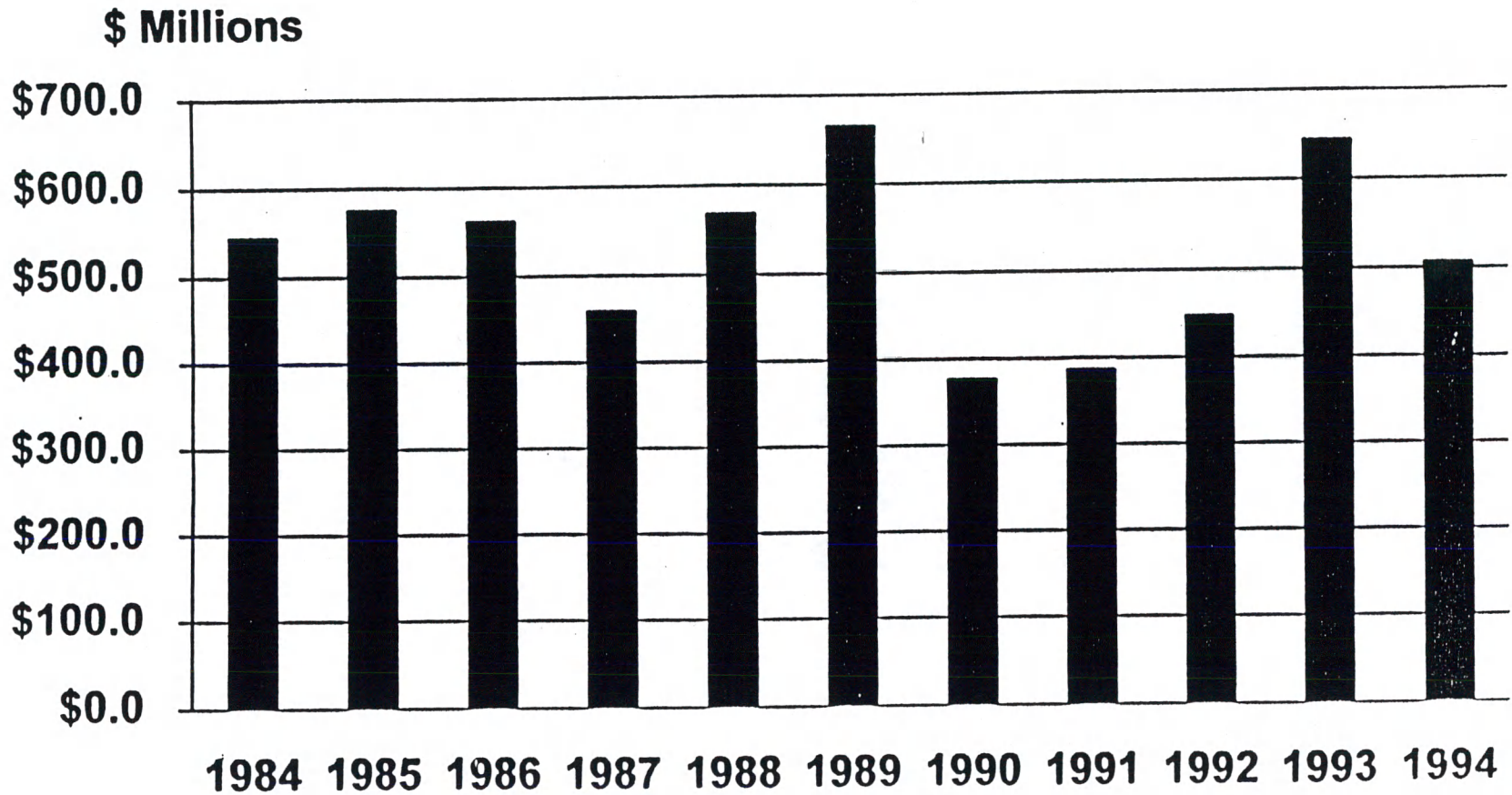


NON-LABOR PRODUCTIVITY GAINS

Change in Ton-Miles per Unit

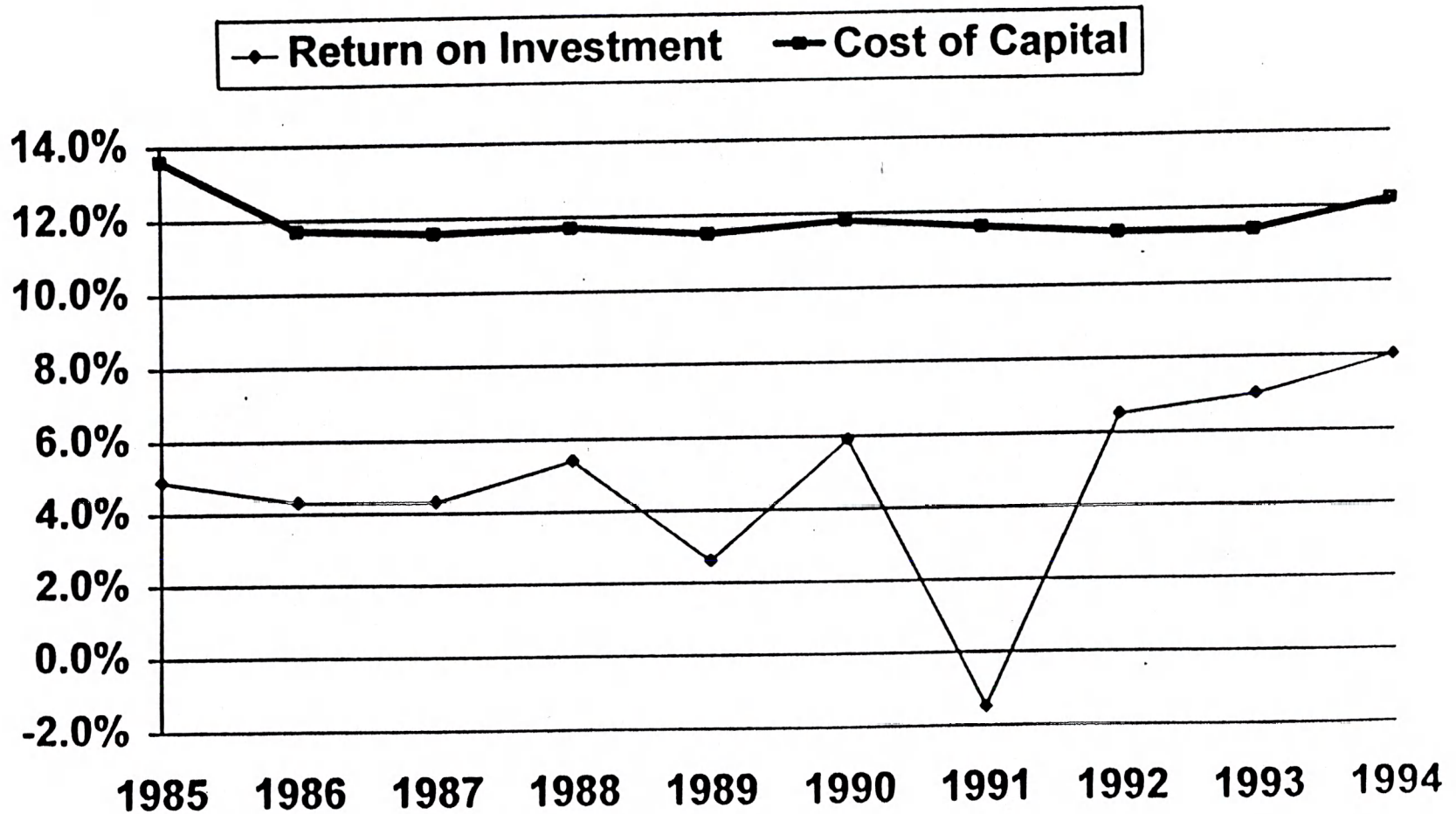


CAPITAL INVESTMENTS



avg. 450 million/yr. / 90% of operating income reinvested in track

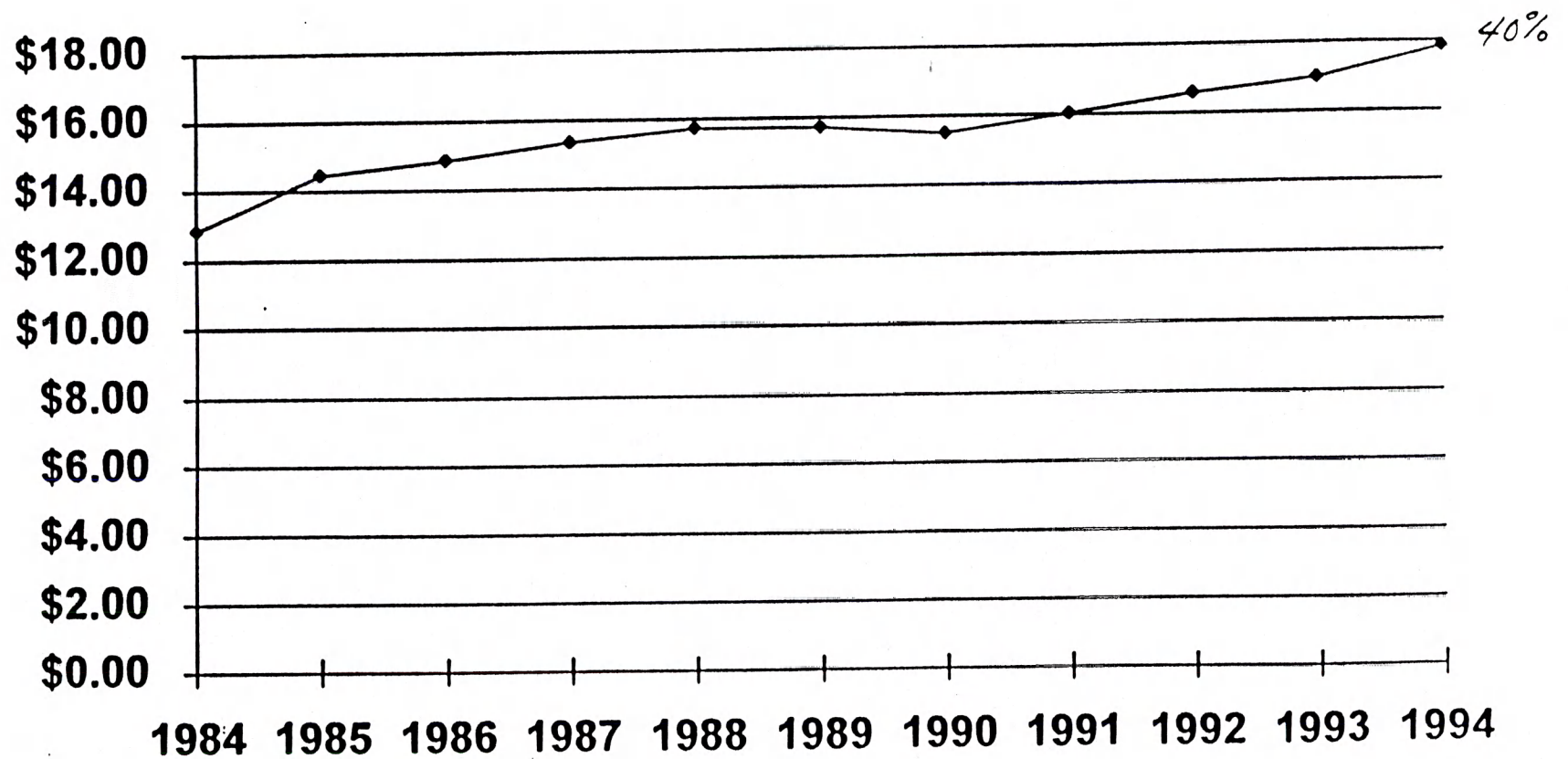
RETURN ON INVESTMENT VERSUS COST OF CAPITAL



REVENUE SHORTFALL

Operating Revenue	\$ 3.6
Labor Expenses	\$ 1.2
Other Expenses	<u>\$ 2.0</u>
Net Revenue Before Taxes	\$ 0.4
Net Revenue Needed for Cost of Capital	<u>\$ 0.6</u>
<i>Revenue Shortfall</i>	<i>\$ 0.2</i>

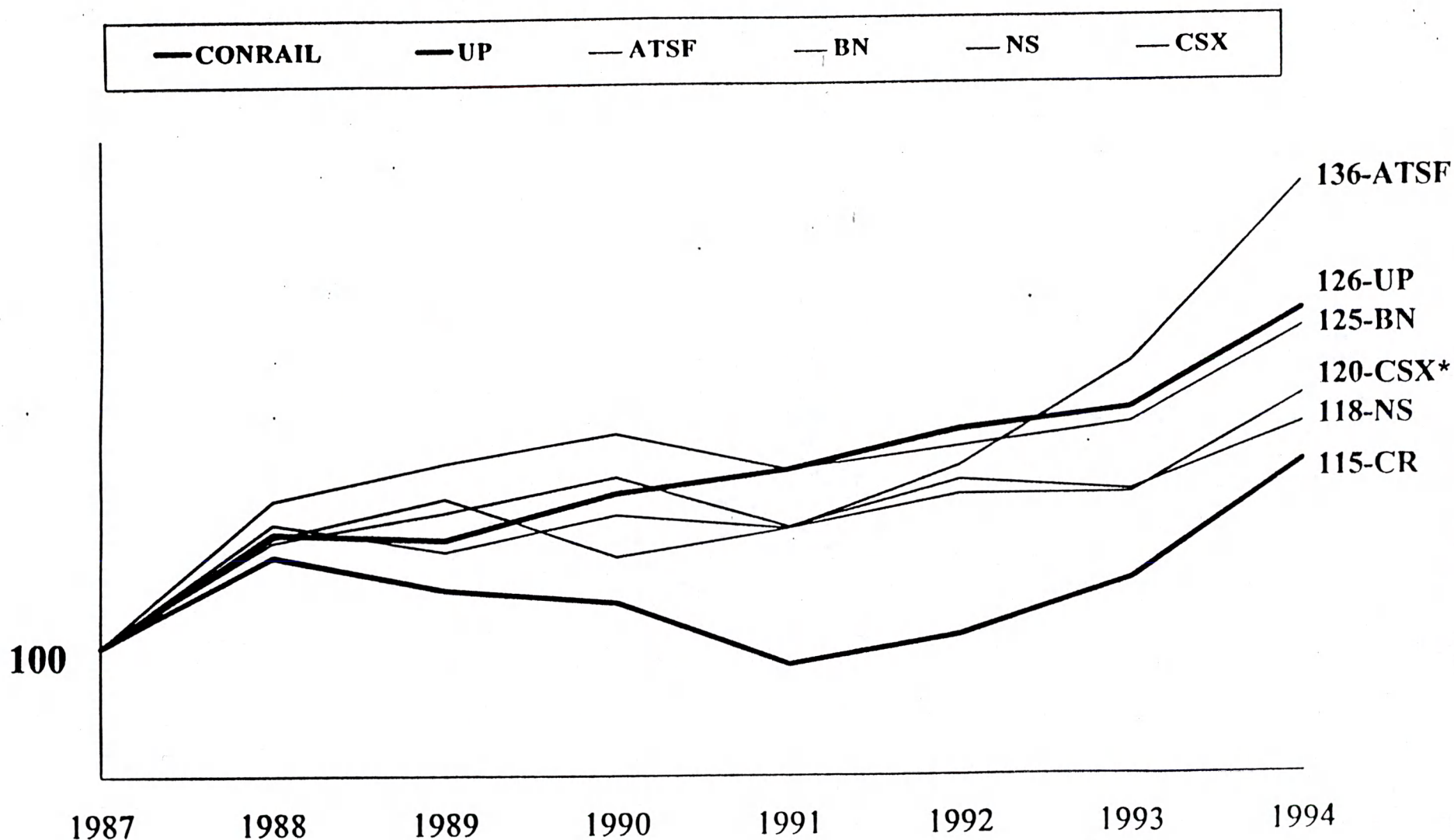
LABOR COST PER HOUR



All wages.

Operating Revenue

(Index: 1987 = 100)

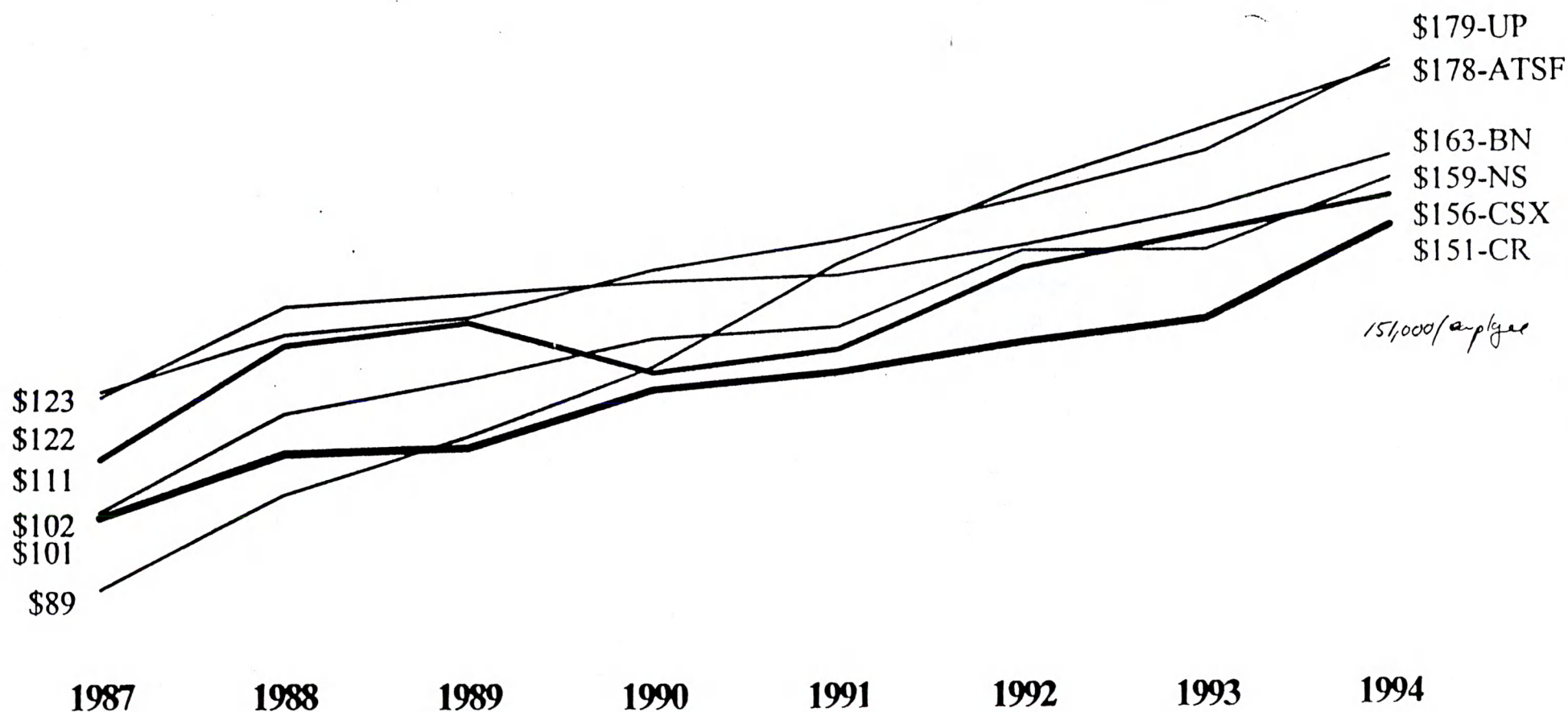
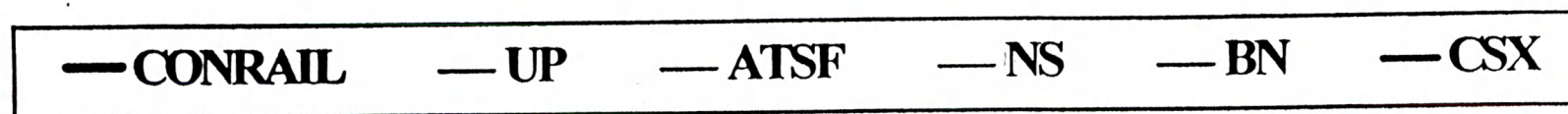


* Adjusted to include Intermodal

~~1590/1000~~

Revenue Per Employee -- 1987-1994

(\$ in 000's)



10/10/95
NCLL Economic Presentation
A-12718/1

Bob Allen - presenter

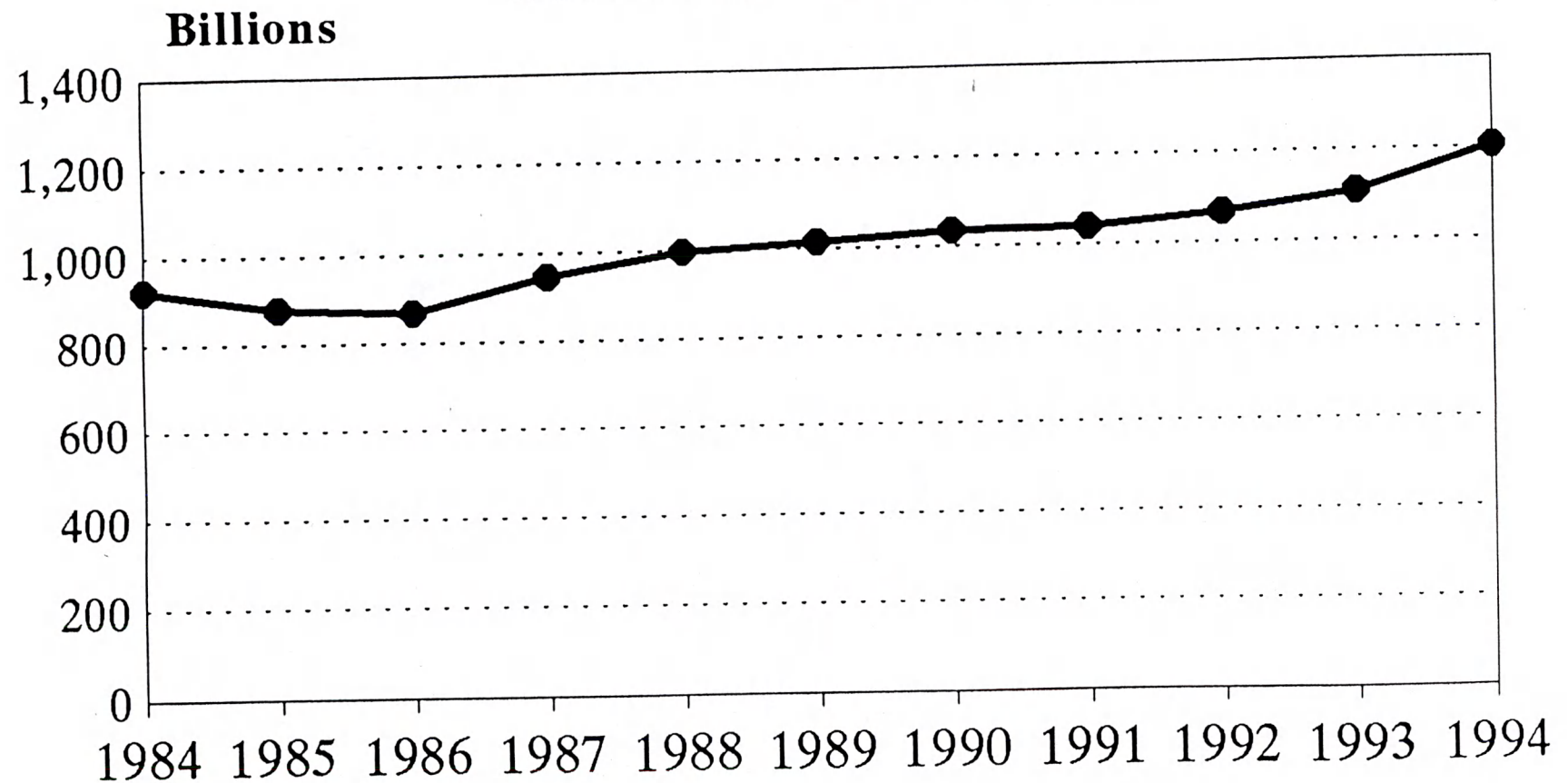
- 1994 rail performance
- Recent trends
- Why 1994 was a good year
- On-going problems
- A look at the future

1994 Performance

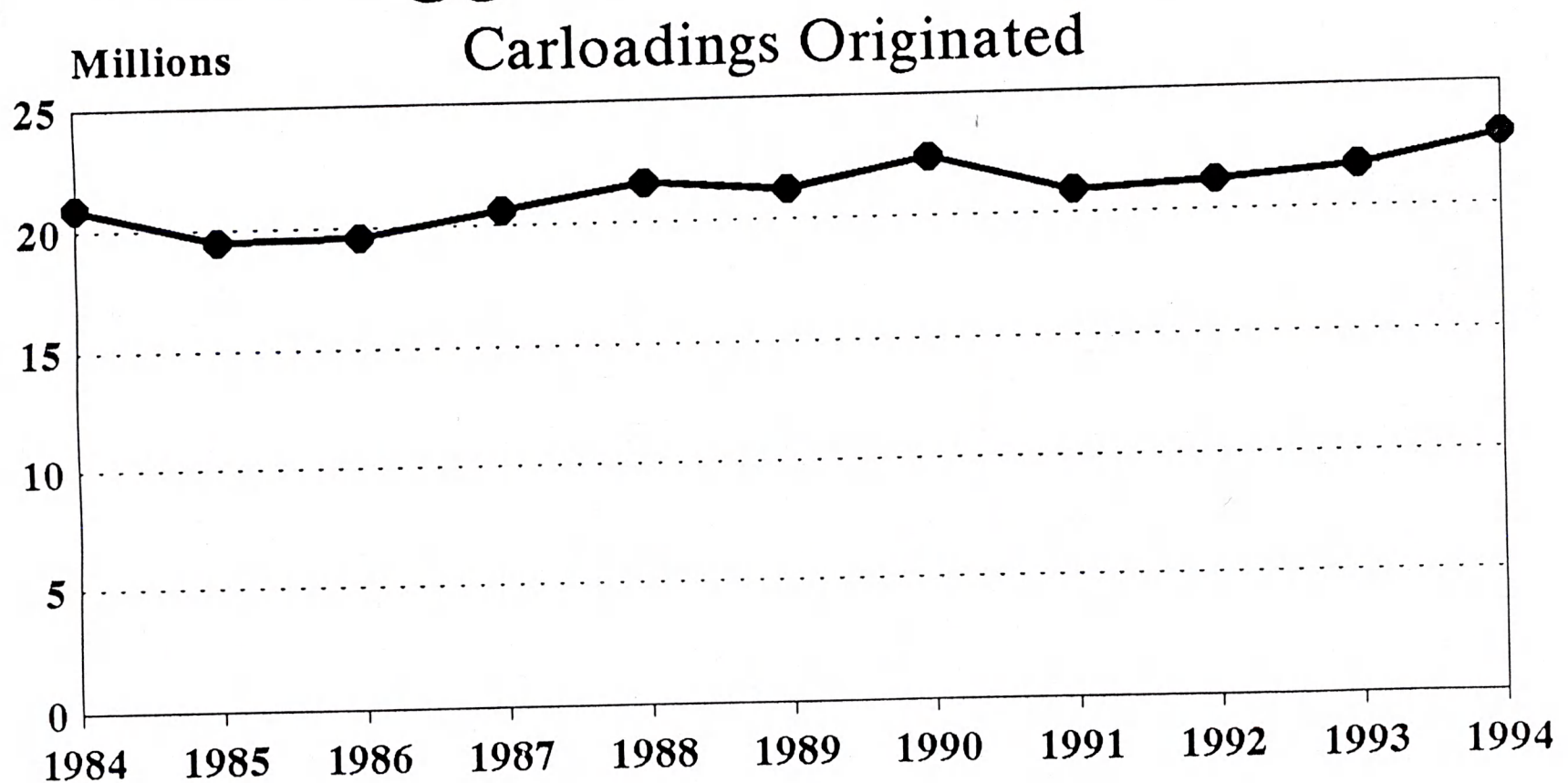
- Traffic volumes showed the biggest increases in a decade
- Revenues were up 6.9% *95-first 6 months 6.2%*
- Costs increased 4.1% *6.3%*
- Net railway operating income rose 35% *6.4%*

Ton-Miles Reached A Record 1.2 Trillion

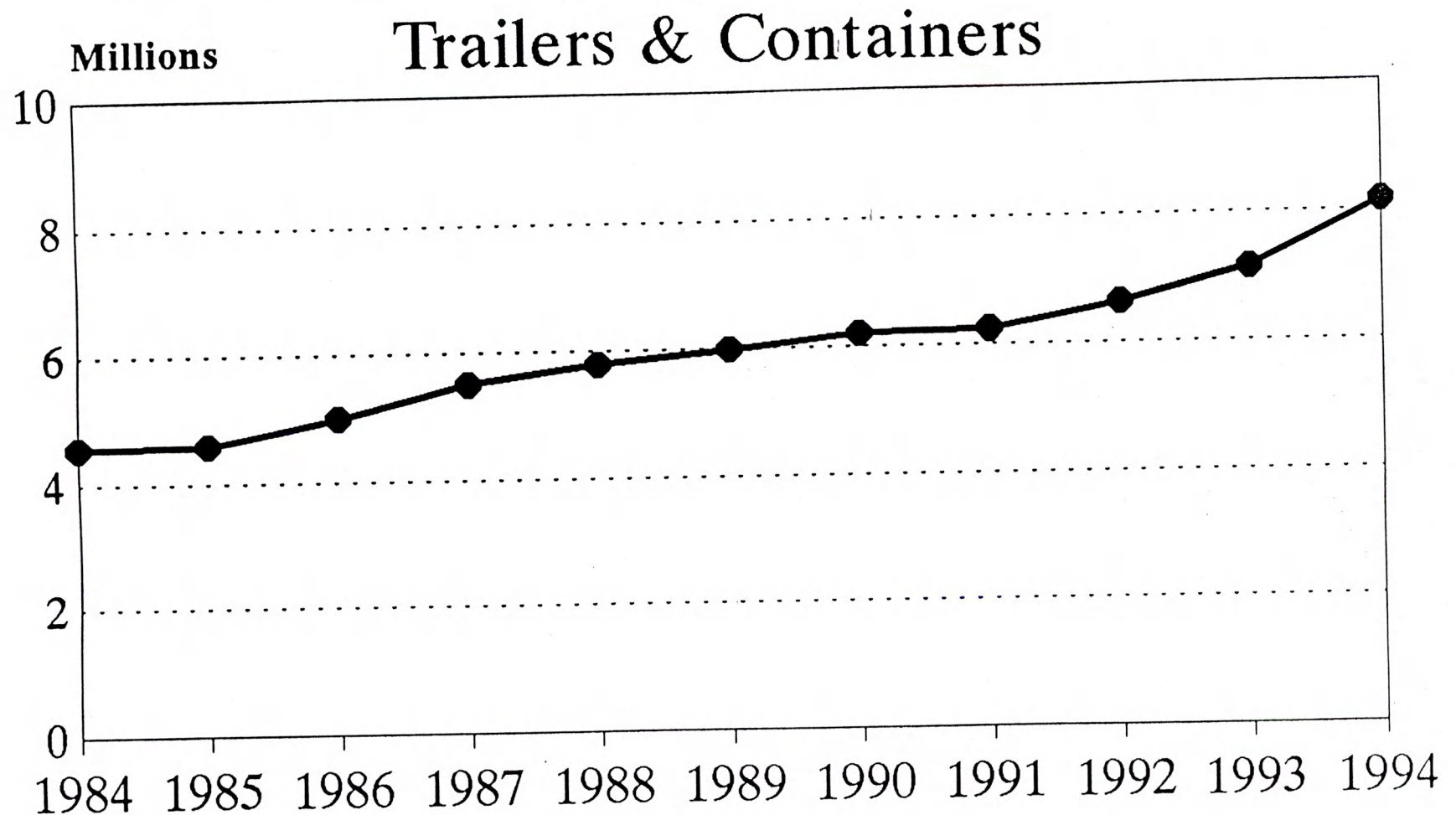
Revenue Ton-Miles



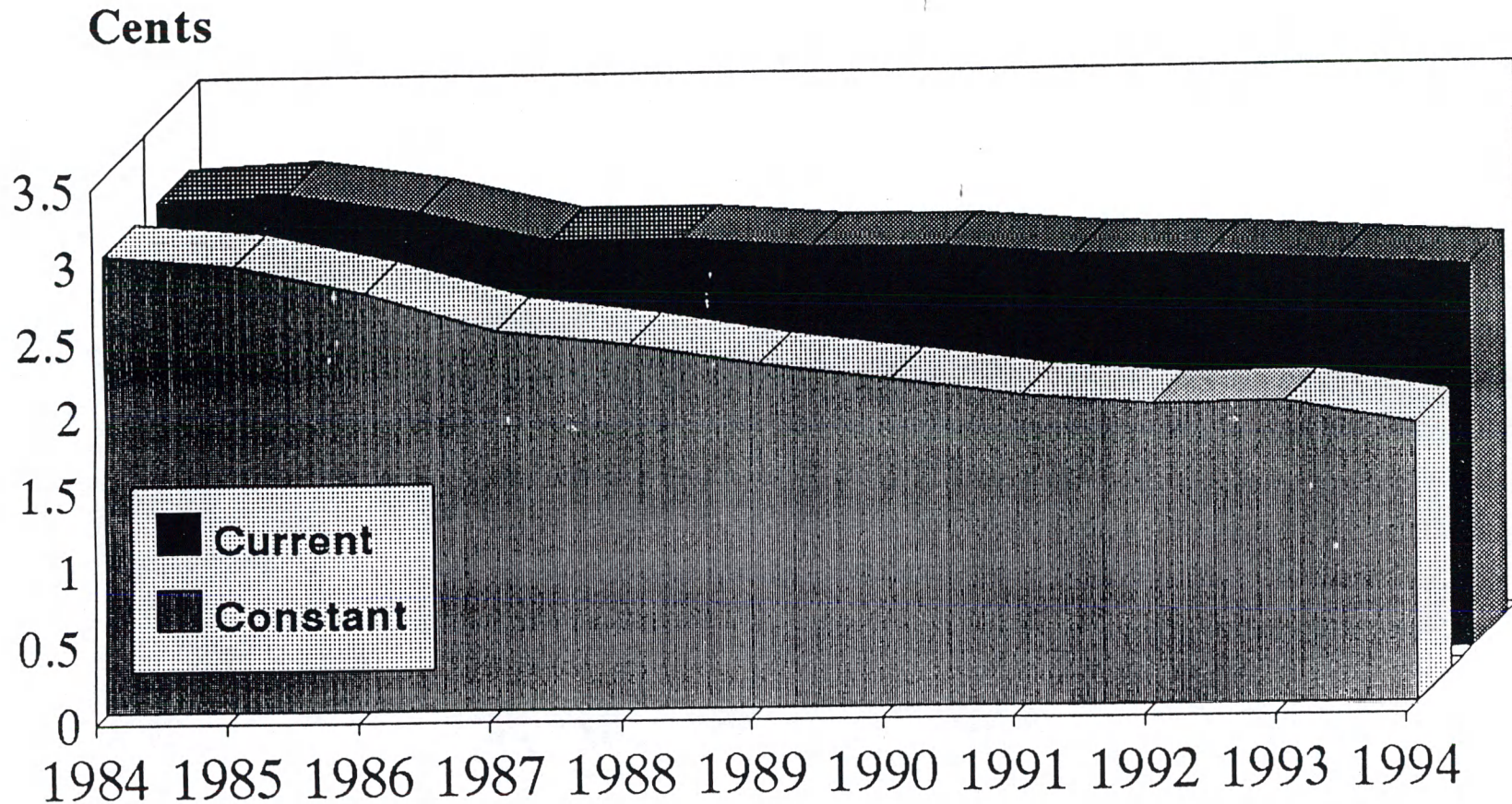
Carloadings Were Up 6% -- The Biggest Gain Since 1984



Intermodal Traffic Rose 14%

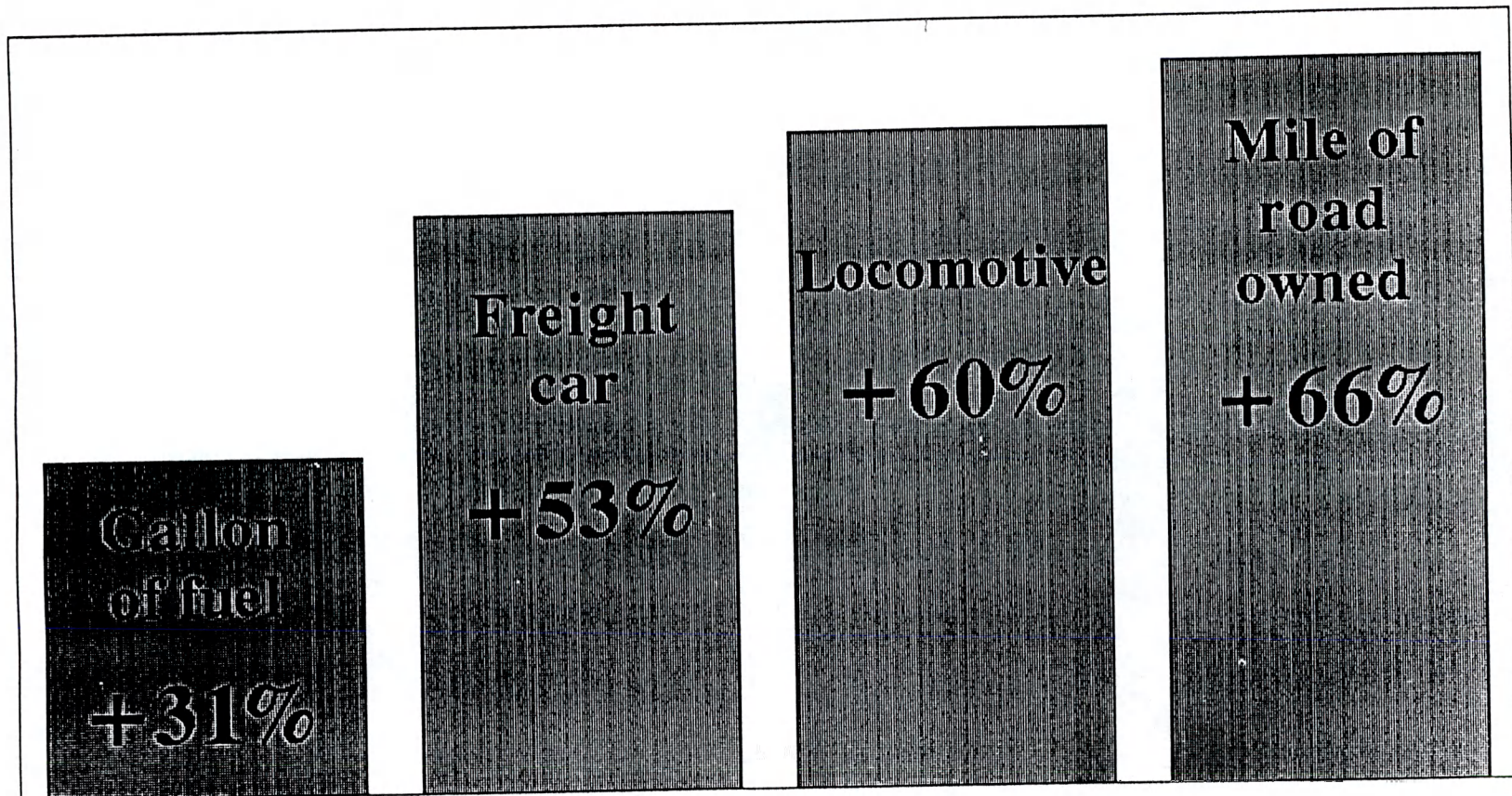


Price Per Ton-Mile



Non-Labor Productivity Gains*

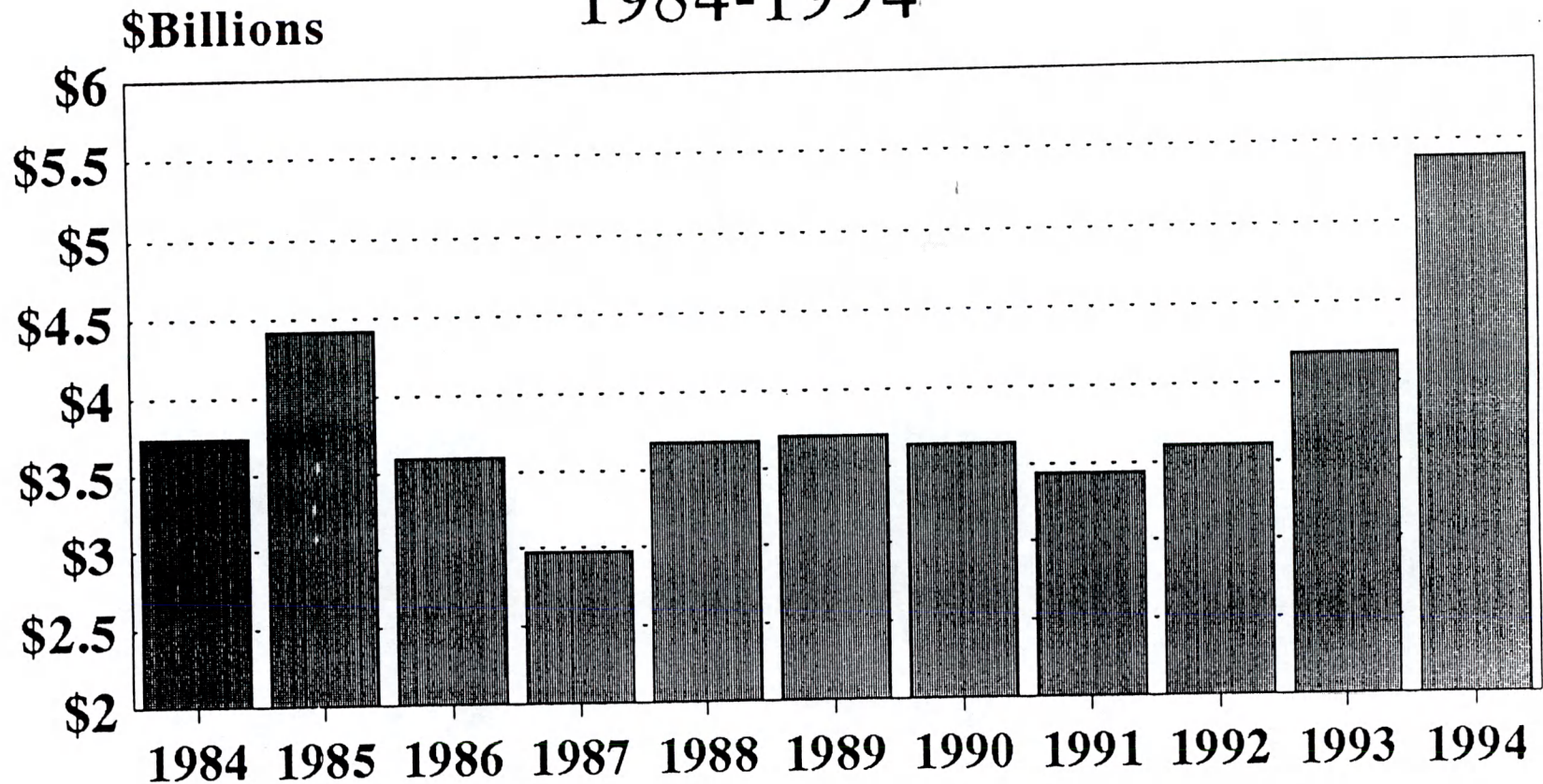
1984 to 1993



*Change in ton-miles per unit

Capital Investments

1984-1994

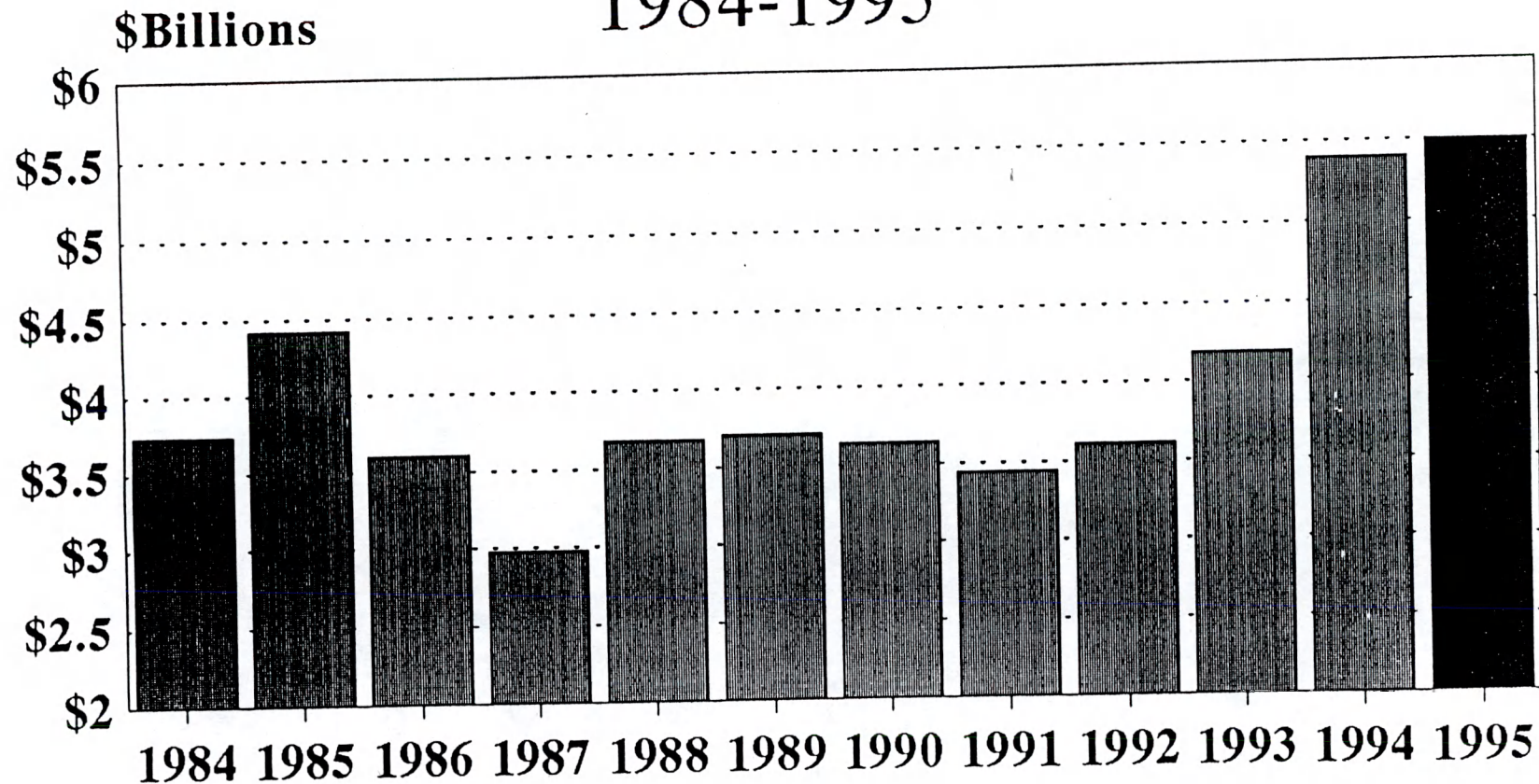


Among the industry's most mounting capital needs are:

- AC traction locomotives
- Modernization and expansion of intermodal and yard facilities
- Higher levels of freight car purchases to overcome capacity constraints
- Advanced information technologies
- Additional main lines and passing tracks

Capital Investments

1984-1995



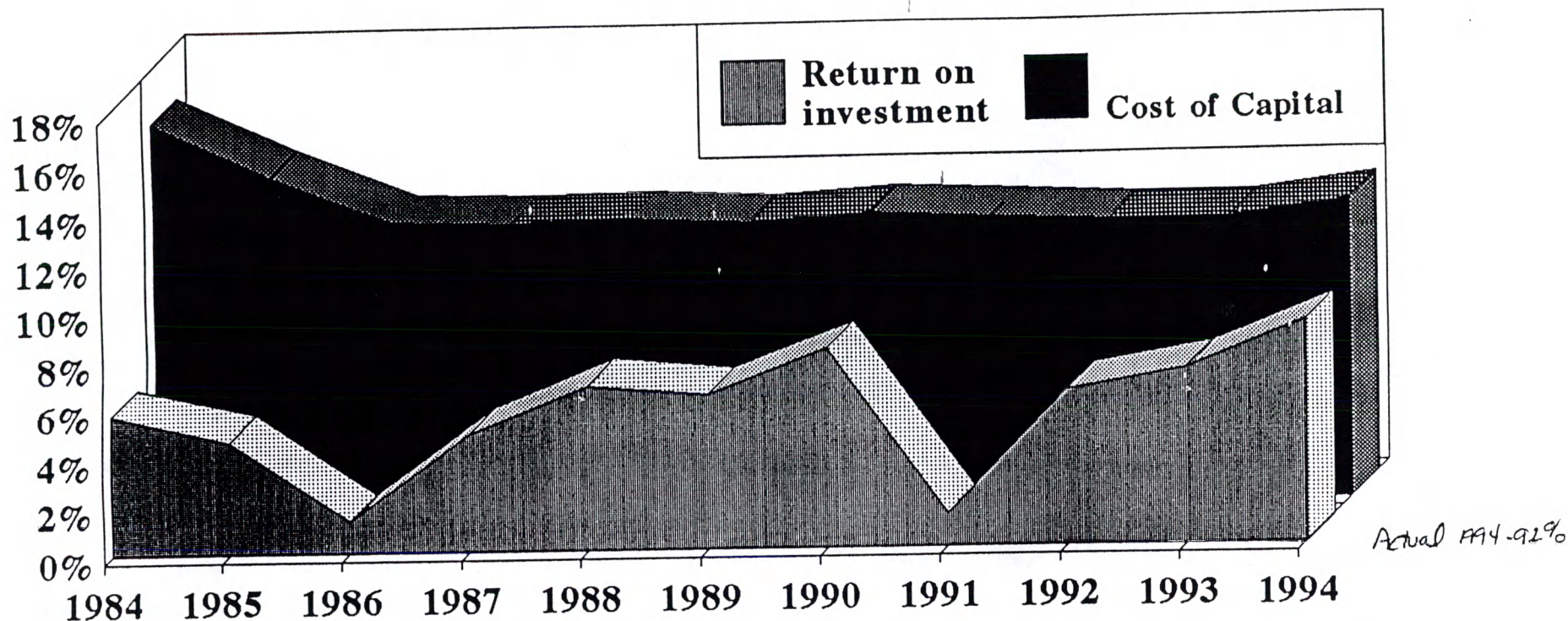
Return on Investment (ROI): What Is It?

ROI is the ratio of net railway income (total rail revenues less related expenses, rents and taxes exclusive of fixed charges) to average net investment. Income, expenses and investment of rail subsidiaries as well as sales of rail properties are included in this calculation. Deferred taxes are deducted from the investment base.

What Is ROI Used for?

ROI is commonly used to measure capital-intensive industries such as railroads, utilities, and pipelines. ROI is used by financial analysts, investors and lenders in judging the profitability of such industries. The formula that applies to railroads was based on the recommendations of a Congressionally appointed accounting panel.

Rate of Return on Investment vs Cost of Capital - 1984-1994



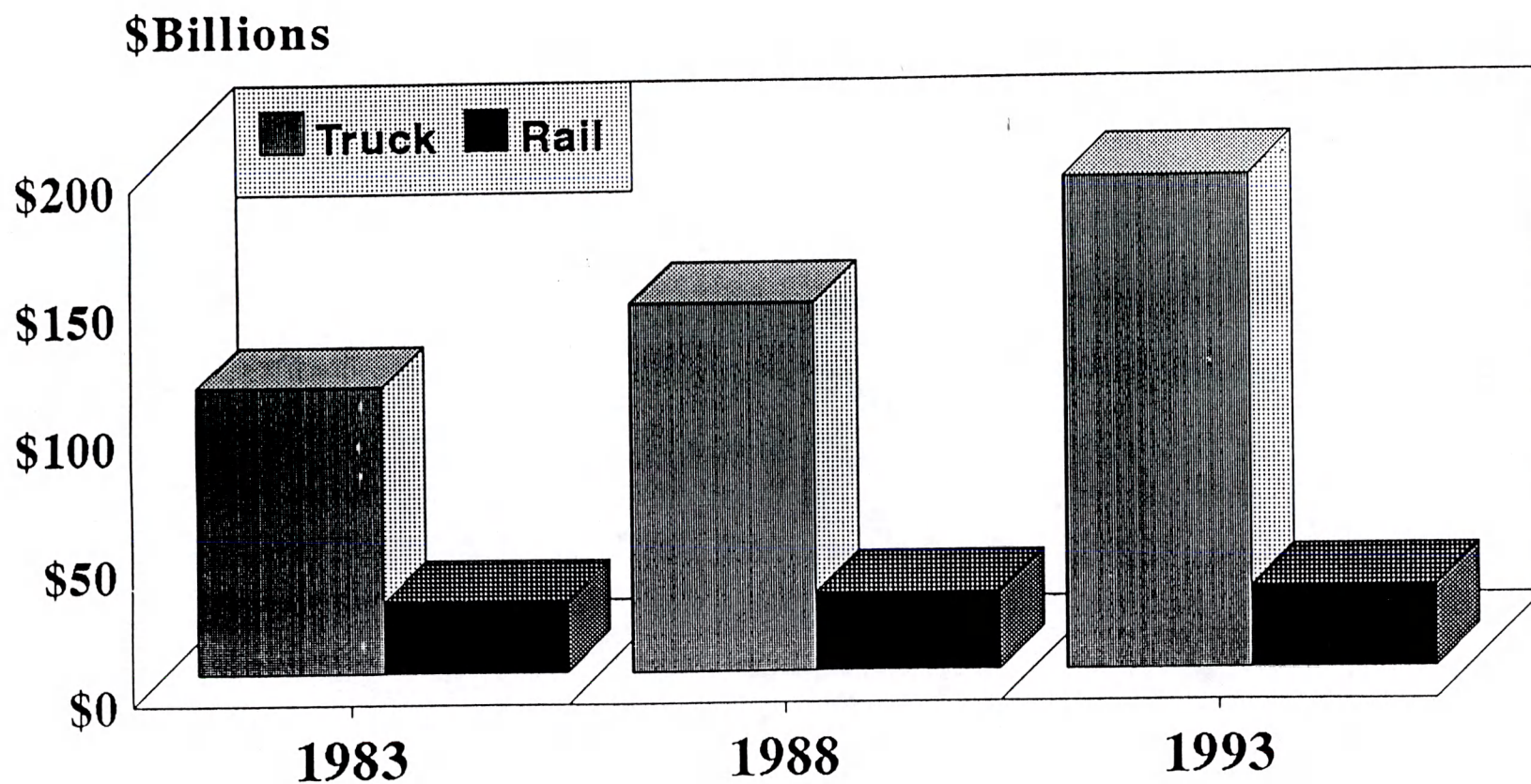
Based on preliminary earnings and estimates under ICC rules for revenue adequacy. Above figures include income, expenses and investment of rail-related subsidiaries and certain other elements not included in Class I reports to ICC.

"...any...decision which forecloses the opportunity to earn a compensatory rate of return on the railroads' capital must guarantee deterioration of plant and equipment, neglect of replacement and opportunities for modernization and, more generally, withdrawal in one way or another of railroad services which the market would otherwise show to be valued by customers at amounts that exceed their costs."

-- *William J. Baumol, Princeton University*

The truck share of the total freight transportation market measured in ton-miles (the measure that most favors railroads) grew from 24.1 percent to 28.1 percent from 1984 to 1993, while the railroads' share remained about the same. In terms of revenues, however, the trucking industry captured nearly all the growth.

Intercity Freight Revenues



Rail Wages Remain Higher Than in Other Industries

Annual Wages
& Salaries - 1993

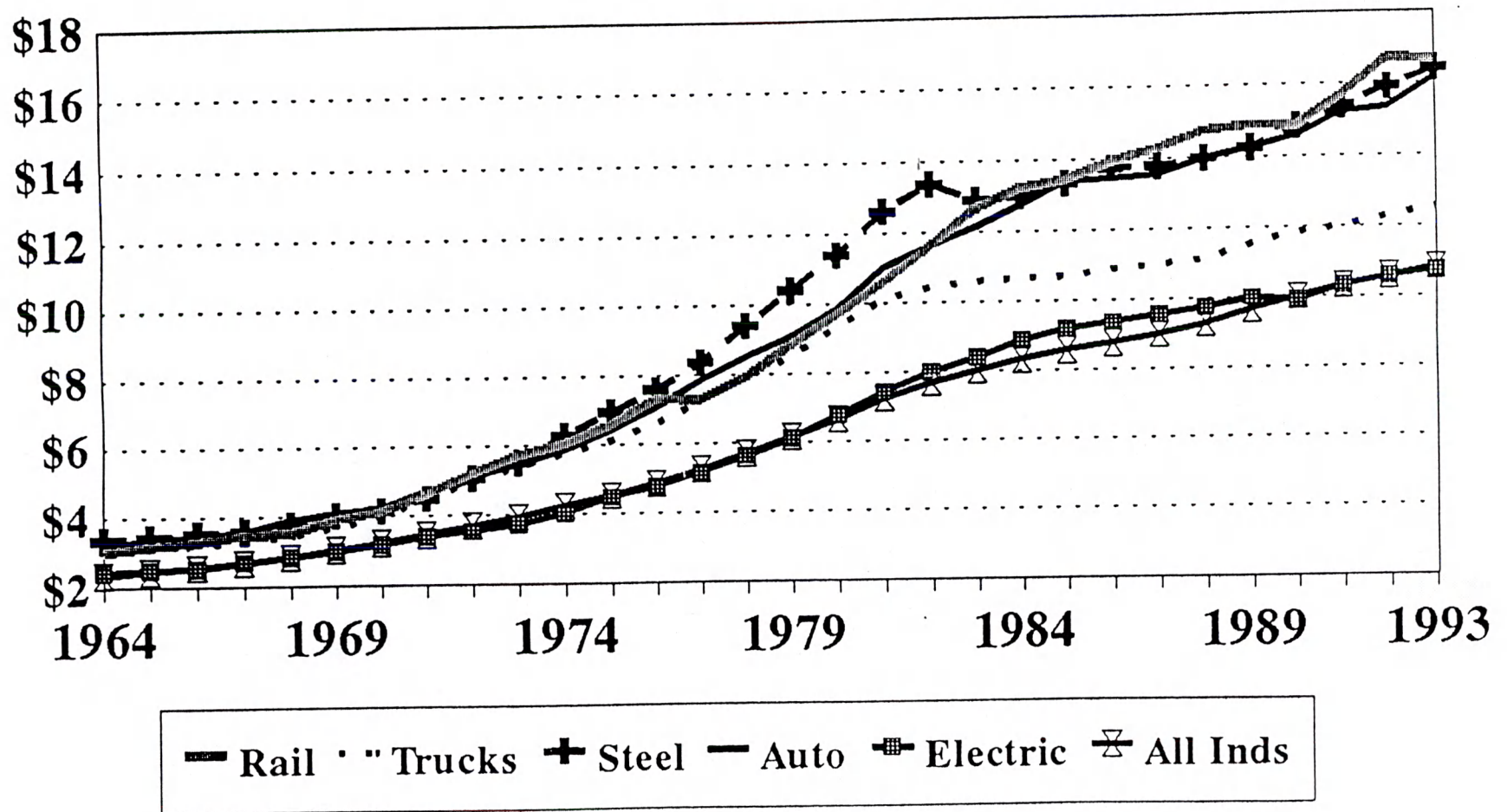
Security & Commodity Brokers	\$104,568
Holding & Other Investment Offices	62,094
Railroad Transportation	54,181
Legal Services	50,494
Transportation by Air	38,941
Water Transportation	29,150
Median	32,280
Trucking & Warehousing	28,569
Local & Interurban Passenger Transit	21,185

Source: "Survey of Current Business," Department of Commerce, July 1994

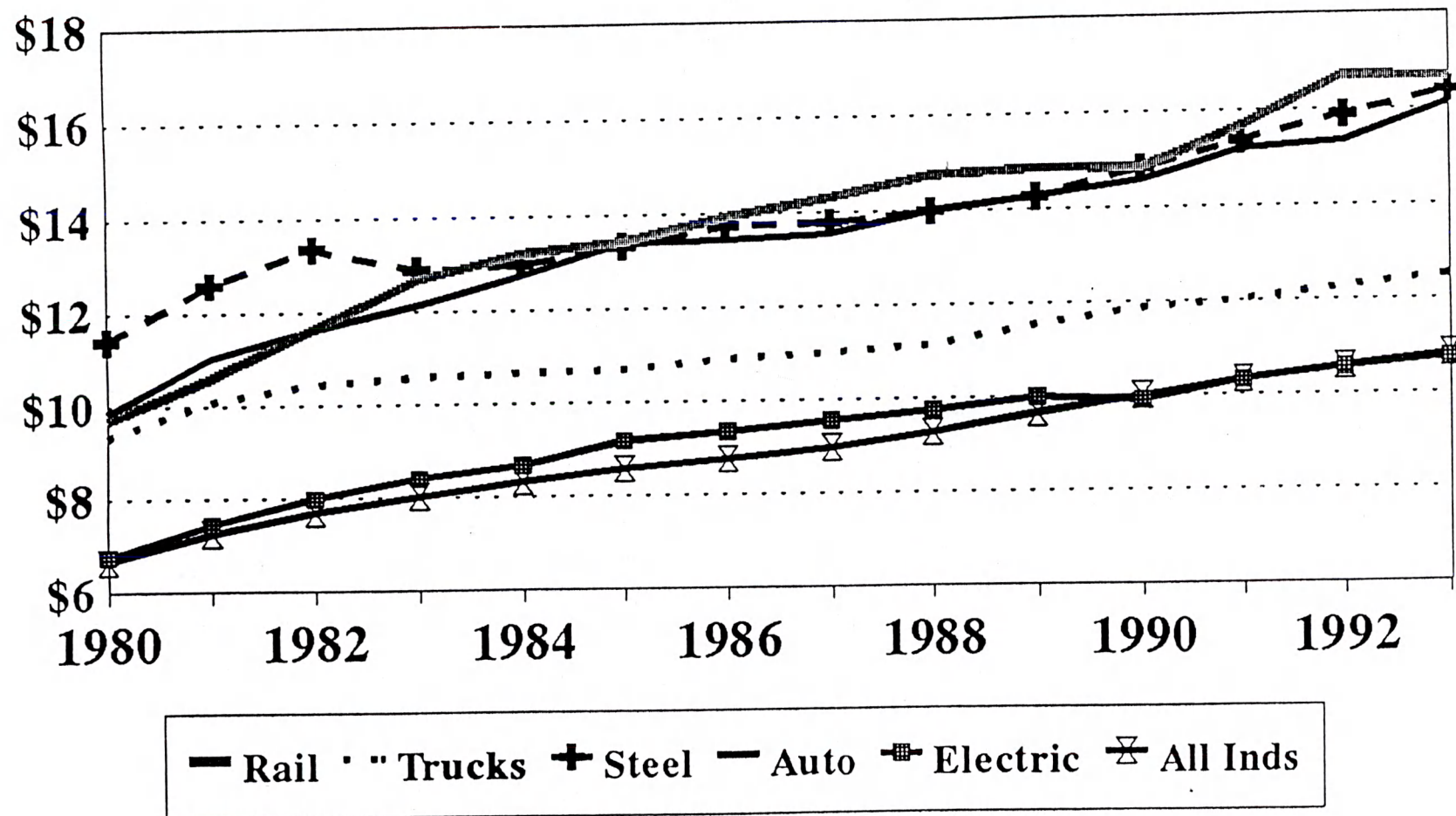
BA - BMW 1993 Average \$33,900 - slightly above 70 percentile
1994 up to 35,505

Hourly Wage Comparison

1964-1993

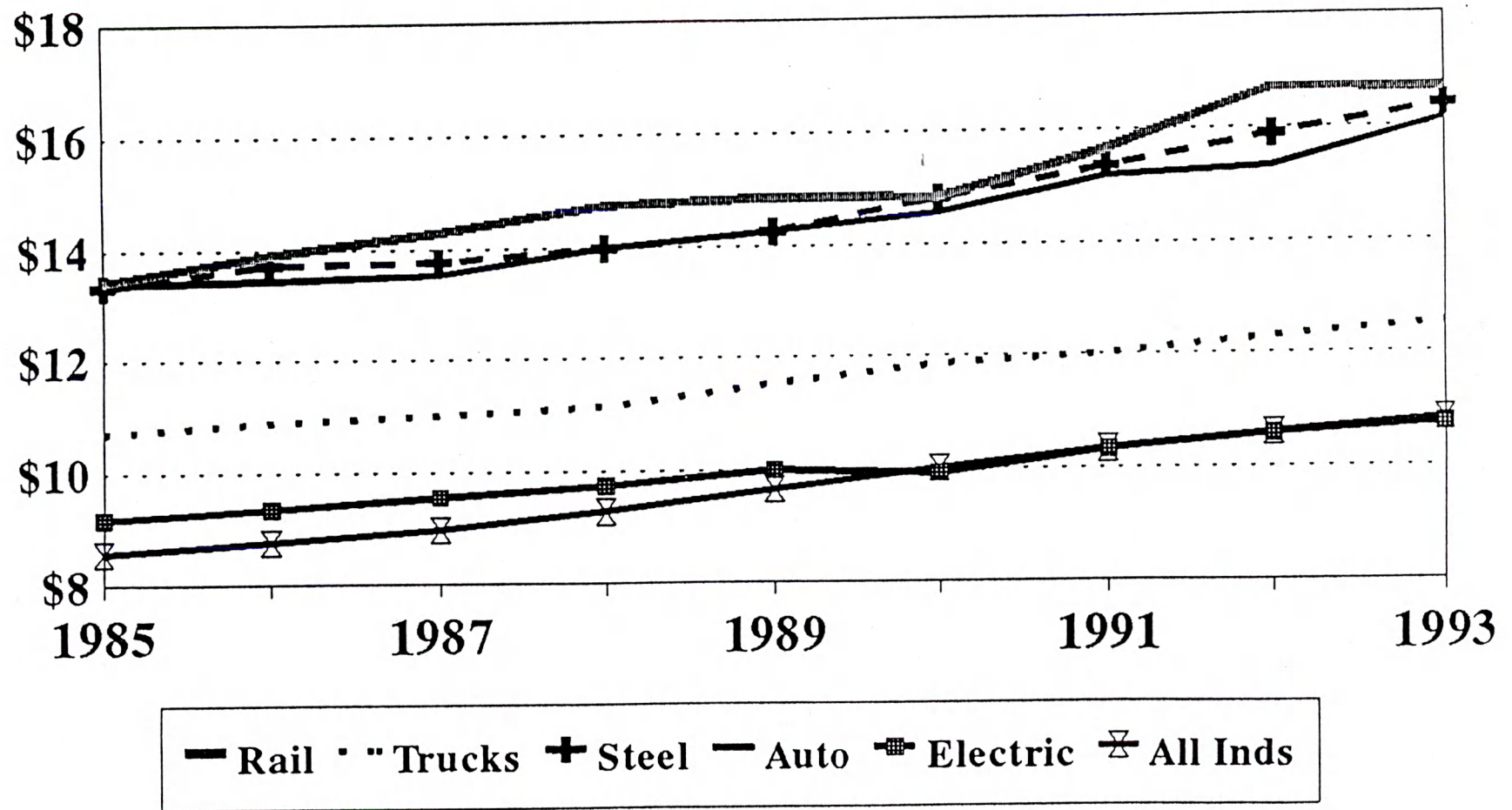


Hourly Wage Comparison 1980-1993

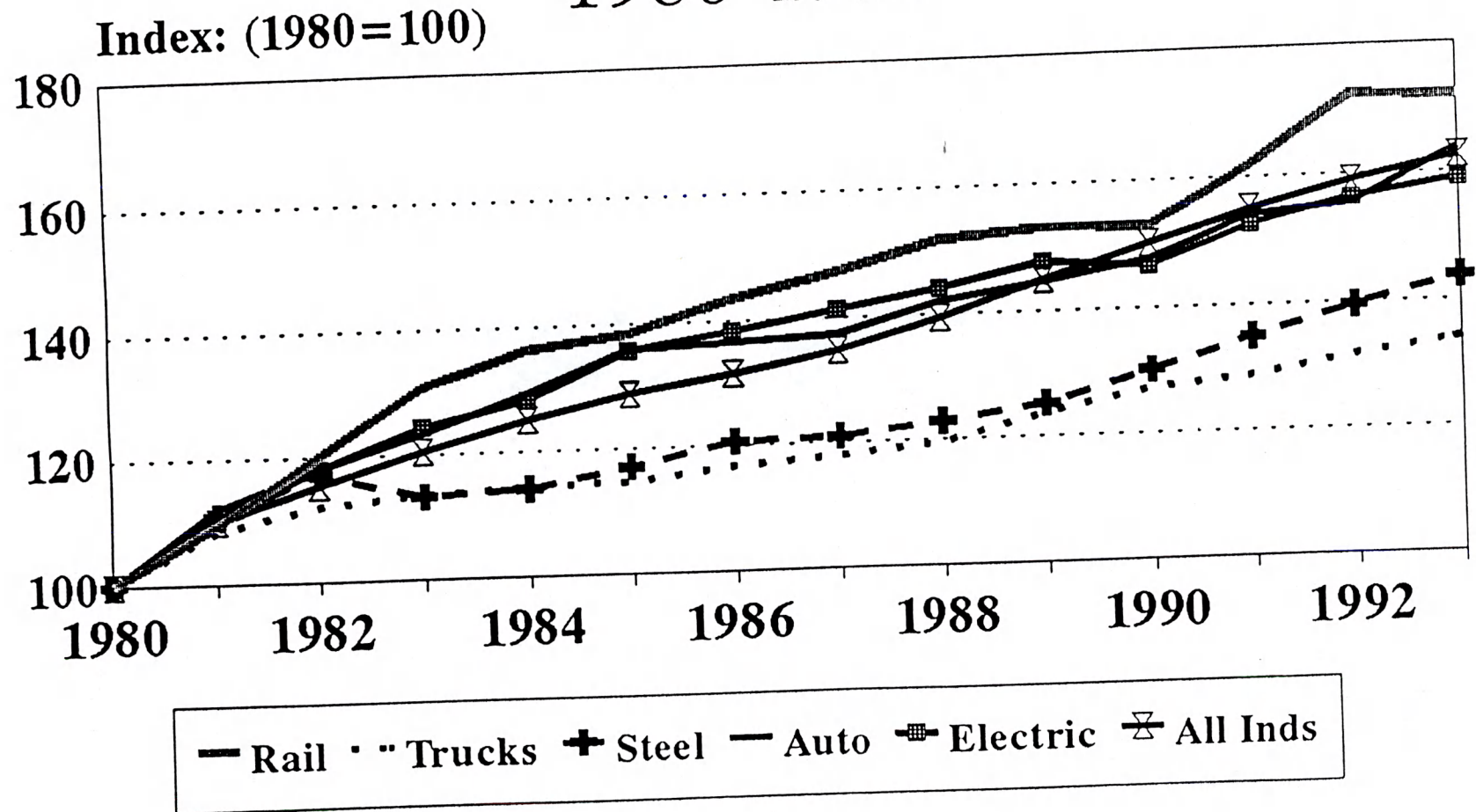


Hourly Wage Comparison

1985-1993



Index of Hourly Wages 1980-1993



Today

(\$Billions)

1994

Operating revenues

\$30.8

Labor expenses

\$10.7

Other expenses

\$14.8

Net revenues

\$5.3

Net revenues needed
for cost of capital

\$7.5

Revenue shortfall

\$2.2

Future Assumptions

Annual Assumptions

1. 2 percent growth in ton-miles
2. No productivity gains
3. 2 percent increases in total compensation
4. Same increases in non-labor costs as occurred from 1988-1993
5. 0.4 percent decline in price per ton-mile

Comments

Recent forecasts of GNP growth hover around 2 percent

May understate inflation due to higher spending for plant and equipment

Assumes stable rates but slightly less yield per ton-mile due to increase in longer-haul traffic

A Look Ahead

(\$Billions)

	1994	1999
Operating revenues	\$30.8	\$33.3
Labor expenses	\$10.7	\$13.0
Other expenses	\$14.8	\$17.7
Net revenues	\$5.3	\$2.6
Net revenues needed for cost of capital	\$7.5	\$7.5
<i>Revenue shortfall</i>	\$2.2	\$4.9

**Pennsylvania Federation
Northeastern System Federation
Consolidated Rail System Federation
Brotherhood of Maintenance of Way Employees**

Jed Dodd
General Chairman
Pennsylvania Federation BMWF

Perry Geller
General Chairman
Consolidated Rail System Federation BMWF

John Davison
General Chairman
Northeastern System Federation BMWF

HAND DELIVERED

September 11, 1995

Consolidated Rail Corporation
Dennis Arouca, Vice President
2001 Market Street
Philadelphia, Pennsylvania 19103

Dear Mr. Arouca:

Re: REQUEST FOR INFORMATION

I. We request that you explain in detail how Conrail derived the data for the "average monthly mancount" that Conrail provided in the attached letter and Attachment to Mr. Zeh dated February 28, 1990. Your letter seems to intend that "average monthly BMWF mancount" is a full time equivalent measure, since you state that "these figures represent the number of full time employees for the period, e.g. "when a seniority district line is crossed and one set of jobs must be abolished and readvertised, two different employees will be paid for each position, but the count will only reflect one employee."

We assume that "part time" during a month (your measuring period) means less than 40 hours on average per week, or less than about 173 hours

during the month. Which if either, is correct? Are the figures "full time" or "full time equivalent?" "Full time equivalent" should mean about 173 hours per month, when adding the hours of various workers together. "Full time," however, often includes overtime -- which may be substantial--and should be counted as "full time plus," with the overtime hours counted as balancing the hours of part time or less-than-full time employee hours.

Did you measure hours? If not, please explain how you obtained your figures and what they actually mean. If yes, please explain what measure of hours that you used. Hours paid for? Hours worked? How many hours per month constituted a "full time" employee? If an employee worked more than that number, did you count those excess hours? Was the employee counted as greater than one full time equivalent employee?

2. Your Attachment to the Zeh letter, for example, for 1989, has average annual BMW E Mancount as 4,030. This is a full time (equivalent?) figure.

On the other hand, the NRLC data show the Number of Employees, Mid-Month Count, to be 3,146 for 1989. The NRLC number, which is based upon data that Conrail gave to the ICC, is the sum of ICC Division numbers 303-314. The Mid-Month Count, according to ICC staff, is for all employees on the payroll as of the middle of each month, averaged over the year. Is this correct? Please explain. Does it mean all those who actually worked on the day of the mid-month count? What about those out sick? On vacation?

In a letter addressed to Mr. Jed Dodd (November 26, 1991) which is attached, Mr. Swert stated:

"...the 4030 figure was derived from Conrail payroll records and contains data for all BMW E employees who worked for Conrail in 1989; the average mid-month mancount for these employees was 4030. In comparing Conrail to other Class 1's, we could not use Conrail payroll data because we did not have comparable data for those Class 1's. Accordingly, in order to provide the best apples-to-apples comparison, we utilized ICC Categories 303 to 314 which are those categories consisting of solely BMW E employees."

We still have difficulty of reconciling the 4030 BMW E average mancount (representing full-time employees for the period of each position) and the 3,146 ICC #303-314 (all employees on the payroll as of the middle of each month, averaged over the year), for 1989, as well as for other years.

Is it your belief that the difference of 884 (22% less than the 4030 number, or 28% greater than the 3,146 figure) is accounted for by BMW E employees in

ICC Categories 301-302 and/or 315-320? Assuming this to be the case, we have the following analysis.

For all of the Class 1 railroads, the 303-314 categories were approximately 28% below the total for ICC category 300, or the total was almost 40% greater than the 303-314 bloc. It seems reasonable to assume that a large majority—about three quarters of the other than 303-314 employees—were BMW members, assuming that Conrail's job distribution was similar to that of other Class 1 railroads.

In the Table below, these assumptions are made. The Table indicates that in previous negotiations, Conrail supplied the BMW with employment data covering only about three-quarters of the full-time employment.

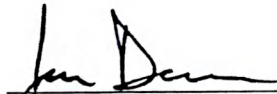
We find it difficult to believe that only 8% or 339 employees within ICC #300, and that only 28% or 339 employees within ICC 301-302, 314-320 are not BMW members. Yet, this is what the figures seem to indicate. Members of the Signalmen and Supervisors' Unions would also probably find this unlikely.

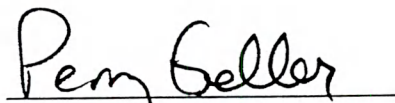
So, what is the explanation for the discrepancy between the 4030 BMW average mancount (representing full-time employees for the period in question) and the 3,146 ICC #303-314 (all employees on the payroll as of the middle of each month, averaged over the year), for 1989?

We look forward to your reply.

Sincerely,



Jed Dodd
General Chairman
Penn Fed BMW

John Davison
General Chairman
NES Fed BMW

Perry Geller
General Chairman
CRS Fed BMW

Conrail and Class I RRs: What Is a Good Measure of BMW Employment?			
	Conrail (1989)	All Class I RR (1990)	Class I % of Total #300
ICC #303-314 (all are BMW members)	3,146	32,278	72%
ICC #301-302, 314-320	1,223*	12,649	28%
ICC total #300	4,369*	44,927	100%
BMW Full Time Conrail Employees	4,030		
BMW Members in #301-302, 314-320 (?)	884**		
Number and % of #300 Employees not in BMW	339** (8%)		
Number and % of #301-302, 314-320 Employees not in BMW	339** (28%)		
* Derived by assuming Conrail to have same job structure as Class I RR as a group, with 72% of #300 being #303-314. ** Assumes all BMW members are in #300, and that the ICC mid-month and NRLC full-time data for employment are compatible.			

CONRAIL

III.C.2

February 28, 1990

R. E. DWYER
VICE PRESIDENT
LABOR RELATIONS

Mr. Geoffrey Zeh
Vice President and General Chairman
Brotherhood of Maintenance
of Way Employees
1205 Woodward Avenue
Detroit, MI 48203-3596

Dear Mr. Zeh:

Referring to your February 12th letter requesting data showing monthly Maintenance of Way force levels and capital program size, I am providing the following information, which is arranged by the five categories requested in your letter.

1. Conrail Maintenance of Way force levels, on a monthly basis, since Conrail's inception;

Attachment I shows the actual average monthly BMWZ mancount for each month for the years 1977 through 1989. The average yearly mancount is also shown for the same period. Note that these figures represent the number of full time employees for the period; e.g. when a seniority district line is crossed and one set of jobs must be abolished and readvertised, two different employees will be paid for each position, but the count will only reflect one employee. Data for 1976 is not included because the financial reporting systems of Conrail predecessor railroads were not integrated until the end of 1976 and mancount data by craft is not available.

2. The range of Maintenance of Way seasonal force fluctuations since Conrail's inception;

Attachment II, which is drawn from Attachment I, summarizes the force fluctuation in each year. Note that it is not possible to segregate the seasonal factors from other factors, e.g. improved productivity, plant size changes, etc. Within each year, however, the variation shown is largely seasonal.

RECEIVED

MAR -2 1990

PA FED BMWZ

Mr. G. Zeh
February 28, 1990
Page 2.

3. Conrail's scale of Maintenance of Way capital expenditure for 1990 and 1991, identifying any change from 1988 funding levels;

Attachment II shows capital expenditures for track, additions and improvements, and equipment for each of the years 1978 through 1990. Note that there has been considerable fluctuation through the entire period, with the largest year-to-year change occurring when the massive rehabilitation of the inherited plant was completed at the end of 1979. Since the size of the 1991 capital program will be determined by a planning process which will continue throughout 1990, I cannot provide you with 1991 data until late in 1990, and, at that time, there would still be the possibility of subsequent modifications. Even 1990 data reflects only the current plan and is subject to change as economic conditions may dictate; e.g., the 1989 capital plan was originally set at \$512 million but was increased to \$678 million as additional opportunities developed.

4. Maintenance of Way force levels anticipated during 1990 and 1991;

Attachment II contains the estimated force levels for 1990, subject to the caveats already discussed with regard to the 1990 capital spending plan. Also, force levels for 1991 are impossible to estimate until that plan is finalized.

5. Reasons for any change in Maintenance of Way force levels over the next 24 months, in contrast to those levels maintained during 1988;

The need for Conrail to rapidly overcome the deteriorated track conditions inherited from bankrupt predecessors imposed an enormous discontinuity on our track maintenance levels. We substantially renewed all of our track structure in a much shorter period than would have been the case if a long term normalized maintenance program had preceded April 1, 1976. Between 1980 and 1987, the size of the track program reflected the accomplishment of the major renewal tasks and, in any particular year, the cash available for the capital roadway program.

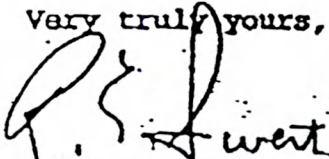
Mr. G. Zeh
February 28, 1990
Page 3.

Since privatization, Conrail's track maintenance program has been designed to maintain, on a long-term basis, the high quality physical plant necessary to our ability to compete. Within any given year, the program will vary in a manner determined by general economic conditions and the priorities of competing capital needs. The 1990 program has been sized to reflect the softer economy and the acceleration of track work, as well as other capital expenditures, into previous years.

Maintenance of Way force levels are primarily determined by the size of the program in each year; however, the considerable investment that Conrail has made in improved equipment, which increases the efficiency of the effort, is also a significant factor. The large A&I expenditures in 1988 and 1989 reflect this investment..

I hope that this information will be helpful to you and that you will contact me if you have any questions or comments.

Very truly yours,



R. E. Swart
Vice President
Labor Relations

attachments

cc: W. E. LaRue
J. P. Cassese, Sr.
J. J. Davison
J. E. Dodd

BASE MAXCOUNT

	Low Month	High Month	Difference	Average
1977	11,648	14,041	2,393	13,518
1978	8,277	14,262	5,985	12,397
1979	7,894	13,518	5,624	11,197
1980	6,957	12,379	4,422	9,663
1981	6,161	10,361	4,200	8,467
1982	5,494	9,318	3,824	7,558
1983	4,283	7,018	2,735	6,148
1984	4,091	7,068	2,977	5,876
1985	3,143	6,534	3,389	5,233
1986	2,626	6,343	3,715	4,036
1987	2,525	5,707	3,182	4,422
1988	2,401	5,429	3,028	4,403
1989	2,435	4,999	2,564	4,030
1990 (Estimated)	2,144	4,041	1,897	3,276

Performance Analysis
1/13/90

Attachment
Questions 1 & 4

STATE KAMCOOCT 1977 - 1990

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
1977	13,911	13,091	13,916	13,317	13,620	13,859	13,807	13,570	13,638	14,041	13,794	11,64	13,518
1978	8,277	8,417	9,175	13,110	13,556	14,262	14,068	13,929	14,046	13,724	13,470	12,71	12,397
1979	9,196	8,365	7,894	8,718	12,907	12,857	13,983	12,781	13,518	13,070	12,558	9,29	11,197
1980	7,048	6,957	K/A	10,193	10,927	11,000	11,064	11,306	11,379	10,881	10,692	8,41	9,961
1981	K/A	6,858	6,941	8,300	8,203	8,221	9,543	9,579	10,064	10,361	9,195	6,61	8,667
1982	5,716	5,503	5,494	7,161	8,372	8,457	8,624	8,877	9,318	9,284	8,033	5,67	7,558
1983	4,283	4,333	4,855	6,461	6,877	6,715	6,663	6,642	6,934	7,018	6,980	5,54	6,148
1984	4,454	4,091	4,475	5,903	6,515	6,386	6,766	6,815	7,021	7,068	6,532	4,274	5,876
1985	3,663	3,723	3,513	1,372	6,242	6,163	6,416	6,534	6,510	6,116	5,191	1,145	5,233
1986	2,741	2,671	2,626	3,371	6,067	6,117	6,303	6,358	6,361	6,115	4,927	1,263	4,936
1987	2,576	2,523	2,564	4,210	5,453	5,171	5,627	5,707	5,633	5,457	4,412	1,132	4,412
1988	2,401	2,404	2,533	4,188	5,207	5,350	5,333	5,377	5,413	5,424	5,011	1,170	4,401
1989	2,755	2,455	2,615	4,474	4,868	4,993	4,933	4,830	4,734	4,633	4,117	1,898	4,030
1990 (Estimated)	2,144	2,159	2,319	3,526	4,039	4,067	4,081	3,985	3,921	3,873	2,919	2,223	3,276
1990 (Actual)	2,331												

Performance Analysis
2/23/90

CONRAIL

L. E. SWEET
VICE PRESIDENT
LABOR RELATIONS

November 26, 1991

Jed Dodd
General Chairman
Pennsylvania Federation
Brotherhood of Maintenance
of Way Employees
1930 Chestnut Street
Suite 607-609
Philadelphia, PA 19103

RE: BMWE Request for Information

Dear Mr. Dodd:

This is in response to your letter of November 18, 1991 requesting information additional to that which Conrail provided to you during our October 22-31 negotiating sessions. With respect to Request No. 1 in your letter, the following list sets forth examples of the types of positions and the corresponding rates of pay which are included in I.C.C. Categories 312 and 313:

TRACKMAN	\$12.15
LUBRICATOR MAINTAINER	12.45
MACHINE OPERATOR -- CLASS 1	14.06
CLASS 2	13.65
CLASS 3	12.73
VEHICLE OPERATOR	13.40
REPAIRMAN	13.63
TRACKMAN OPERATOR	12.27
CASUAL DRIVER	12.40

Because of the manner in which payroll system data is summarized in the series of computer runs which generate the I.C.C. Wage Form A report, it is not possible to provide a breakdown of the number of employees in each of these positions.

The first part of your request No. 2 appears to be addressed to a reconciliation between the 4030 mid-month mancount for BMWE employees in the sheet titled "Conrail 1989 Wage and Fringe Cost per Employee for Major Crafts" and a mid-month count of 3146 set forth in a sheet comparing Conrail with other Class I railroads. As we explained

x: T. Ruth

RECEIVED

NOV 27 1991

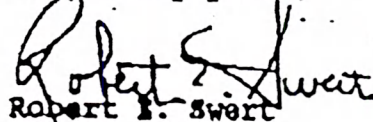
Page 2

during our October 29 presentation, the 4030 figure was derived from Conrail payroll records and contains data for all BMW employees who worked for Conrail in 1989; the average mid-month mancount for these employees was 4030. In comparing Conrail to other Class I's, we could not use Conrail payroll data because we did not have comparable data for those Class I's. Accordingly, in order to provide the best apples-to-apples comparison, we utilized ICC Categories 103 to 314 which are those categories consisting of solely BMW employees.

Because of the structure of the payroll data processing system, it is not possible to provide a monthly breakdown of the Conrail Wage & Fringe Cost Per Employee Data for Major Crafts for the years 1987 through 1989. Modifications to the former system which would have enabled us to generate this data were not undertaken until 1989 and therefore 1990 is the first full year for which monthly data is available. We are currently preparing the computer runs necessary to obtain 1990 data and will provide it to you promptly upon its availability.

With respect to your Request No. 3, as mentioned in the previous paragraph, not all of this data is available. We are currently looking into what additional information might be available which would be helpful. We will advise you shortly.

Very truly yours,


Robert E. Swert

cc: Robert J. Corjan
Thomas Green

Working safely requires continuous improvement.

DENNIS A. AROUCA
VICE PRESIDENT
LABOR RELATIONS

October 9, 1995

Mr. J. J. Davison
General Chairman
Brotherhood of Maintenance
of Way Employees
P. O. Box 138
Mansfield, MA 02048-0138

Mr. Jed Dodd
General Chairman
Brotherhood of Maintenance
of Way Employees
1930 Chestnut Street
Philadelphia, PA 19103

Mr. P. K. Geller
General Chairman
Brotherhood of Maintenance
of Way Employees
29 West 130th Street, Suite B
Hinckley, OH 44233

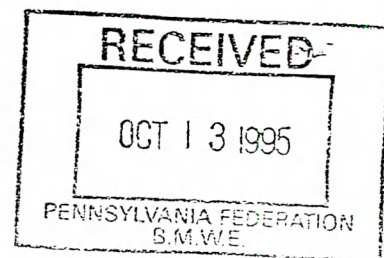
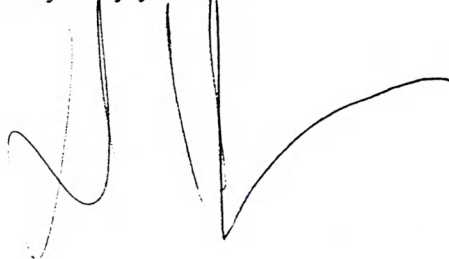
Gentlemen:

This refers to your September 11, 1995 letter requesting information concerning how the Carrier developed the "average monthly mancount" referred to in Vice President R. E. Swert's letter dated February 28, 1990 to BMWV Vice President Geoffrey Zeh.

The average monthly mancount is filed with the Interstate Commerce Commission and is calculated in accordance with guidelines that agency has specified. It is based on payroll data and is essentially a mid-month "snapshot" of active employees. Any employee who received compensation for the day the "snapshot" is taken is included. Also included are employees who did not receive earnings for that day but received thirty-two hours' pay for the work week. This prevents active employees who are sick or otherwise absent from being excluded from the calculation.

Your letter questions how Conrail's average annual mancount of 4,030 for the calendar year 1989 was derived. As explained in the previous correspondence cited in your letter, there was a comparison of ICC Codes 303-314 with other Class I railroads because employees shown under these codes are represented exclusively by the BMWV. In Conrail's case, 3146 BMWV employees were shown under ICC codes 303 - 314. Additionally, 884 other Conrail BMWV employees were shown under ICC codes 301, 302 and 314 - 320. Conrail's total BMWV employees for 1989 therefore equaled 4030.

Very truly yours,

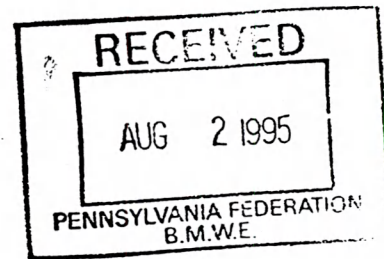


CONRAIL[®]

Working safely requires continuous improvement.

DENNIS A. AROUCA
VICE PRESIDENT
LABOR RELATIONS

July 31, 1995



Mr. J. Dodd
General Chairman
Brotherhood of Maintenance of Way Employes
1930 Chestnut Street, Stes. 607-609
Philadelphia, PA 19103

Dear Mr. Dodd:

Enclosed is some recent information from the U. S. Department of Labor which I thought you would find of interest. Major union contract settlements are resulting in wage increases of about 2% per year, lump-sums continue to be prevalent, and cost-of-living adjustment clauses continue to decline reflecting in part low inflation in the economy. In many cases, these settlements are by railroad customers (for example steel, auto, chemicals, etc.). As you know from previous information, railroads are unable to pass our cost increases on to our customers through price increases.

Sincerely,

ECONOMY

Housing Market, Consumer Confidence Improve While Workers' Wages Languish

Compensation, Up by 2.9%,
Trailed Inflation Pace
In the Latest 12 Months

By LUCINDA HARPER

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON — More than four years into the economic expansion, wage increases remain modest.

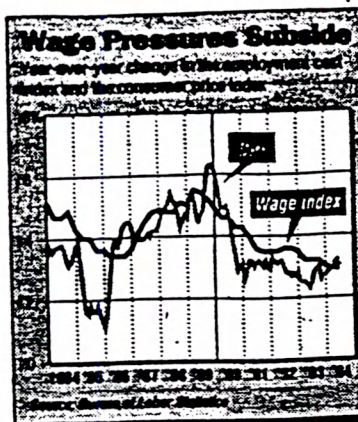
The Labor Department said yesterday that total compensation costs rose just 2.9% in the 12 months ended in June. That's slightly less than the inflation rate of 3% during the same period. Wage and salary costs were just keeping up with inflation during the year ended in June, and benefit costs were up just 2.7%, the department's employment-cost index indicated. In the second quarter, compensation costs rose 0.7%, slightly more than the 0.6% gain registered in the first quarter. Compensation costs include wages or salary and benefits.

There are several explanations for the sluggishness of compensation gains: international competition, the decline of labor unions, health-care cost containment, companies subcontracting their extra work and automation.

"Manufacturing and service companies have really elected to put the squeeze on what they pay their workers," says Stephen Roach, chief economist of Morgan Stanley & Co. "They've had to."

The slow increase in compensation costs is all the more surprising when productivity increases are considered. Over the past few years, the trend in productivity growth has been about a half a percentage point more than it was in the 1970s or 1980s. Companies, meanwhile, have become fat with cash from the profits. "Within a year of a meaningful uptick in productivity, we should see a meaningful uptick in wages," Mr. Roach says.

Labor Secretary Robert Reich says the sluggish compensation pattern is frustrat-



ing workers, making them wonder when they will get their share of the dividends. He says, "The question that arises is: Can we keep the recovery on the demand side if wages are not keeping up?"

Union workers seem to have gotten the shortest end of the stick in all of this. The Labor Department pointed out in its latest report that compensation costs over the year ended in June increased 2.9% for nonunion employees but only 2.3% for union workers. For manufacturing industries the difference was far more stark: compensation costs rose 2.7% for nonunion people and only 1.7% for union employees.

Not surprisingly, white-collar workers are faring better than blue-collar workers. But within each category there are winners and losers. For instance, handlers, equipment cleaners, helpers and laborers saw compensation increases of 3.2% over the past year, while machine operators, assemblers and inspectors had only a 2.1% increase. Executive, administrative and managerial occupations had a 3.4% increase in compensation, while professional, specialty and technical occupations were up just 2.5%.

All figures have been adjusted for normal seasonal variations.

Collective Bargaining**MAJOR UNION CONTRACTS PROVIDE WAGE GAIN JUST ABOVE 2 PERCENT**

The newest batch of major union contracts provide annual wage increases just slightly above 2 percent, stretching out the pattern of deceleration over almost three years, according to data released July 25 by the Labor Department's Bureau of Labor Statistics.

BLS said that major collective bargaining agreements—those covering 1,000 or more workers—finalized in the second quarter of this year called for first-year wage increases averaging 2.1 percent. Yearly wage gains averaged 2.2 percent over the contract terms.

The last time the same parties bargained, mainly in 1992 and 1993, the contracts specified first-year increases of 3.1 percent and annual raises over the term of 3.0 percent. It was the 11th consecutive quarter that the new agreements provided smaller average wage gains than the contracts they replaced.

In a report released separately, BLS found that union workers had compensation increases of 2.3 percent over the year ended in June, while nonunion employees saw their pay rise by 2.9 percent. The union-nonunion gap was described by figures from the agency's employment cost index series, the government's broadest measure of changes in compensation (see related report in this section).

Lump-Sums Cover 42 Percent

As wage increases have moderated, a larger proportion of employers have been giving their workers lump-

sum payments. The new data showed that lump-sum provisions, which are excluded from the calculations of wage rate change, were in major contracts covering 42 percent of the 5.4 million workers under all major collective bargaining contracts in private industry.

BLS said that the 42 percent is up from a low of 36 percent at the end of 1992. The coverage was highest in 1989, when it was 44 percent.

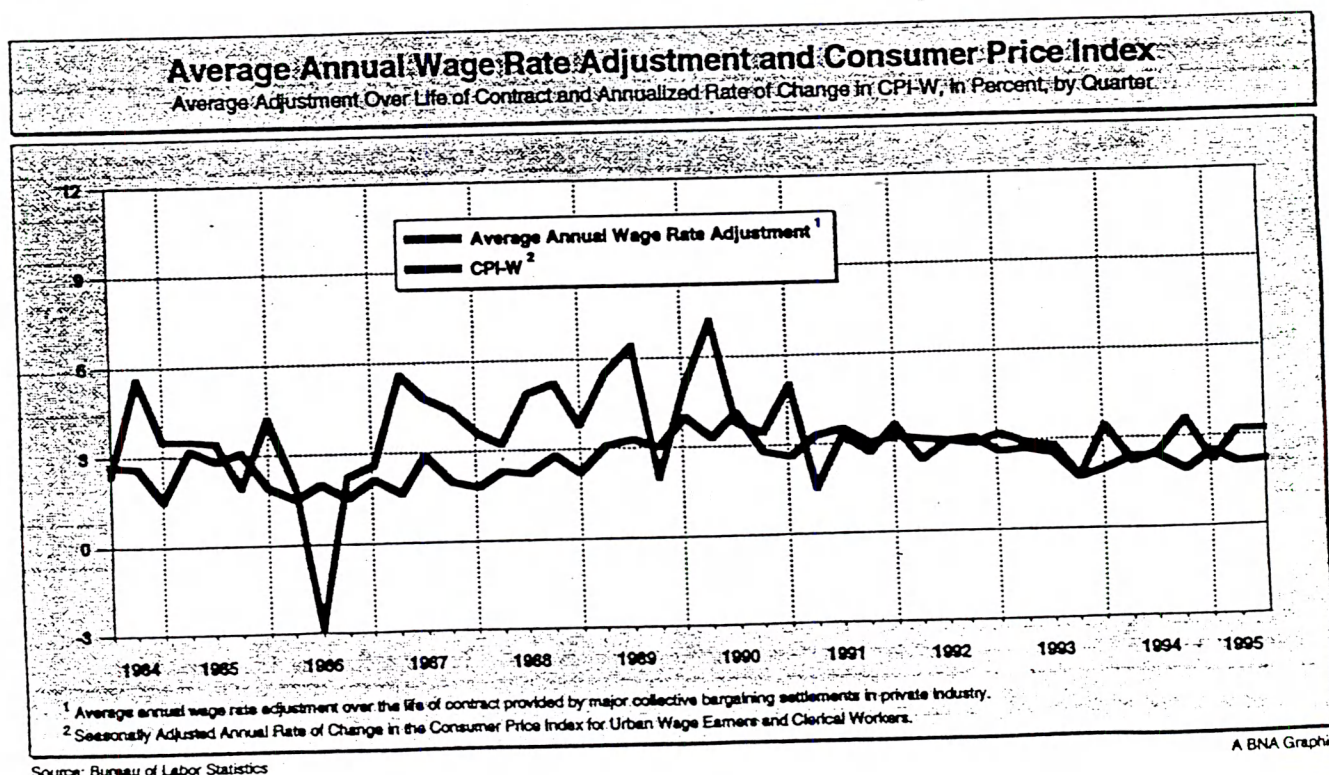
There has been renewed interest in lump-sum provisions during the last several quarters, said BLS economist Janice Devine. She said that the provisions—which often link the payment to an increase in profits—are spread across a variety of industries, with some concentration in manufacturing.

During the second quarter of this year, cash lump-sum payment provisions were newly negotiated in 11 agreements covering 33,000 workers. They were maintained in another 11 contracts for 33,000 workers and discontinued in four agreements covering 8,000 workers.

Cost-of-living adjustment clauses (COLAs) are included in a declining proportion of major contracts. As of June 30, 1995, COLA provisions covered 23 percent of workers under major contracts compared with 24 percent at the end of 1994. Coverage had fallen steadily from the 40 percent level that existed in the late 1980s.

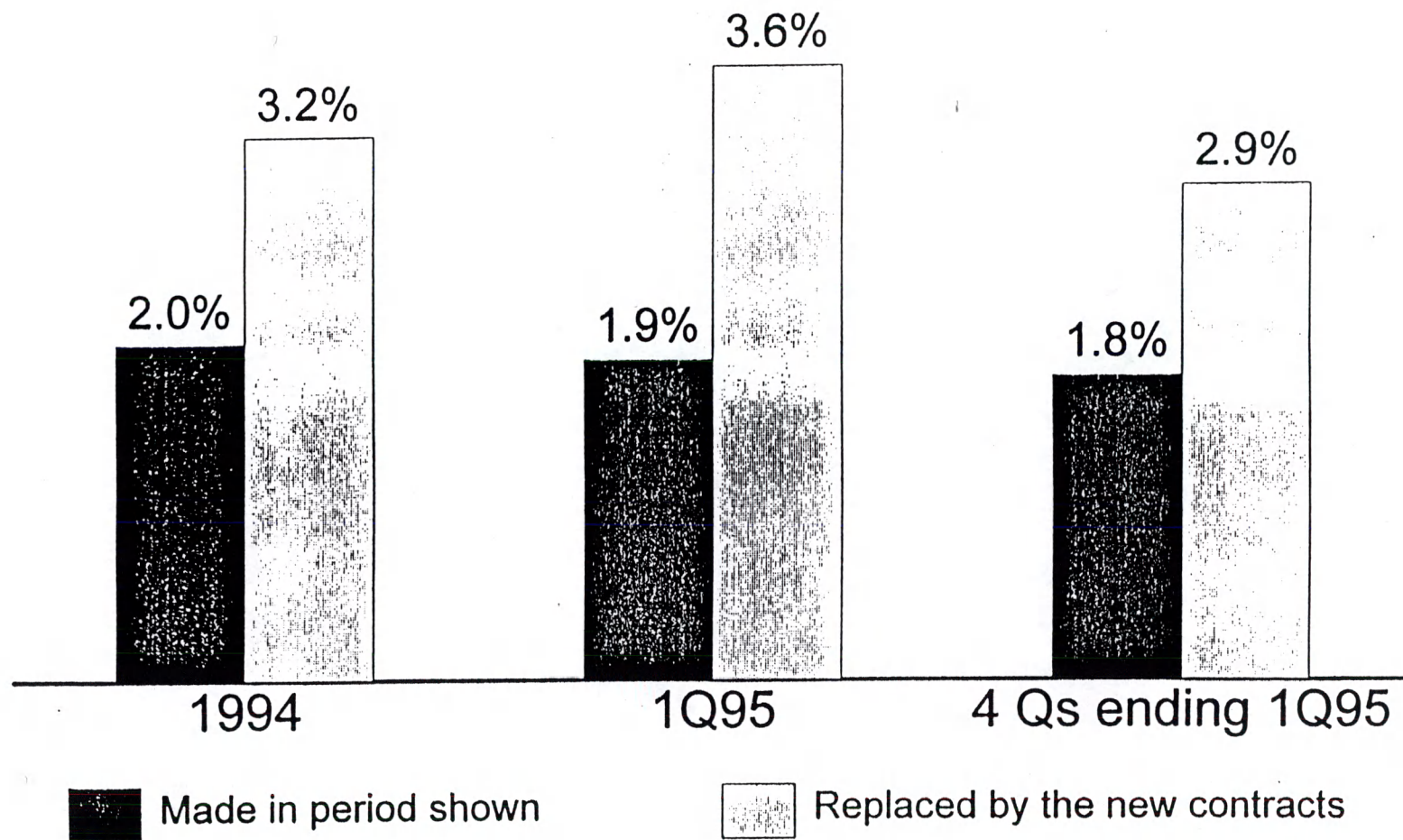
In separate calculation of changes in the largest union contracts—those covering 5,000 or more workers—BLS found that total compensation (wages and benefits combined) increased by 1.1 percent annually over the life of the agreements compared with 2.1 percent in the contracts being replaced. Wage increases alone averaged 1.1 percent a year in these contracts.

The following BNA graphic and BLS tables show the latest data:



First Year Increases

Major Settlements in Private Industry



**AVERAGE ANNUAL WAGES PER FULL-TIME EMPLOYEE
BY INDUSTRY, RANKED FROM HIGH TO LOW
YEAR 1993**

RANK	INDUSTRY	NO. OF EMPLOYEES (000)	AVERAGE ANNUAL WAGES	PERCENT EMPLS. WITH LOWER WAGE	
1	Security and Commodity Brokers	472	\$104,548	99.55%	
2	Holding and Other Investment Offices	223	\$62,094	99.34%	BLE \$40,271
3	<u>RAILROAD TRANSPORTATION</u>	243	\$54,181	99.11%	UTU \$52,925
4	Legal Services	923	\$50,496	98.24%	ATDA \$51,762
5	Petroleum and Coal Products	147	\$50,259	98.10%	
6	<u>PIPELINES, EXCEPT NATURAL GAS</u>	19	\$50,105	98.08%	RYA \$48,225
7	Telephone and Telegraph	825	\$47,823	97.30%	
8	Chemicals and Allied Products	1,060	\$46,458	96.30%	
9	Oil and Gas Extraction	336	\$46,429	95.98%	
10	Tobacco Manufacturers	44	\$45,455	95.94%	
11	Electric, Gas and Sanitary Services	929	\$44,929	95.06%	
12	Coal Mining	110	\$43,709	94.93%	
13	Metal Mining	50	\$43,340	94.90%	
14	Other Services	2,397	\$43,196	92.44%	
15	Motor Vehicles and Equipment	829	\$43,074	91.66%	
16	Other Transportation Equipment	908	\$42,109	90.80%	
17	Depository Institutions	443	\$41,546	90.38%	
18	Instruments and Related Products	878	\$40,925	89.55%	BRS \$40,309
19	<u>TRANSPORTATION BY AIR</u>	681	\$38,941	88.90%	
20	Insurance Carriers	1,446	\$38,521	87.53%	
21	Industrial Machinery & Equipment	1,903	\$37,916	85.73%	
22	<u>WATER TRANSPORTATION</u>	199	\$37,843	85.58%	
23	Primary Metal Industries	672	\$37,362	84.94%	IBEW \$37,089
24	Paper and Allied Products	684	\$36,999	84.30%	LAM \$36,838
25	Electronic & other Electric Equipment	1,506	\$35,925	82.87%	TCU \$36,512
				82.55%	SWW \$36,400
26	Radio and Television	332	\$35,855	82.55%	
27	Federal Government	4,894	\$35,690	77.92%	
28	Wholesale Trade	5,800	\$35,548	72.43%	IBB \$35,484
29	Insurance Agents, Brokers & Service	644	\$35,449	71.80%	BRC \$35,025
30	Motion Pictures	321	\$34,536	71.49%	
31	Nonmetallic Minerals Ex. Fuels	101	\$33,970	71.40%	NDPW \$33,995
32	Printing and Publishing	1,419	\$32,628	70.05%	
33	Health Services	8,005	\$32,280	62.47%	
34	Fabricated Metal Products	1,315	\$31,290	61.25%	
35	Depository Institutions	1,972	\$31,273	59.34%	
36	Stone, Clay and Glass Products	511	\$31,151	58.88%	
37	State and Local Government	13,619	\$30,039	45.98%	
38	Construction	4,523	\$29,363	41.70%	IBPO \$29,442
39	Transportation Services	340	\$29,150	41.37%	
40	Food and Kindred Products	1,609	\$28,757	39.85%	
41	Rubber and Misc. Plastics Products	896	\$28,616	39.00%	
42	<u>TRUCKING & WAREHOUSING</u>	1,611	\$28,569	37.48%	
43	Miscellaneous Repair Services	350	\$27,123	37.14%	
44	Real Estate	1,286	\$26,980	35.93%	
45	Miscellaneous Manufacturing Industries	379	\$26,625	35.57%	
46	Business Services	5,346	\$24,181	30.50%	
47	Furniture and Fixtures	472	\$24,129	30.06%	
48	Lumber and Wood Products	707	\$24,006	29.39%	
49	Educational Services	1,615	\$23,970	27.86%	
50	Amusement and Recreation Services	1,049	\$23,489	26.87%	
51	Textile Mill Products	666	\$23,143	26.23%	
52	Auto Repair, Services, and Parking	947	\$21,452	25.34%	
53	Local and Interurban Pgr. Transit	346	\$21,185	25.01%	
54	Leather and Leather Prods.	117	\$21,103	24.90%	
55	Hotels and Other Lodging Places	1,445	\$20,053	23.53%	
56	Agri. Services, Forestry & Fisheries	859	\$18,257	22.72%	
57	Social Services & Membership Orgns.	3,597	\$18,175	19.31%	
58	Apparel and Other Textile Products	954	\$18,035	18.41%	
59	Retail Trade	16,728	\$17,761	2.57%	
60	Personal Services	1,070	\$17,634	1.55%	
61	Farms	783	\$14,285	.81%	
62	Private Households	856	\$12,291	.00%	
	All Domestic Industries	105,593	\$29,367		

SOURCE: SURVEY OF CURRENT BUSINESS, U. S. Dept. of Commerce, July, 1994.
Railroad Unions from Wage Statistics, Class I Railroads.
NRLC Nov 8, 1994

Dofcdata.wage93

PLAINTIFF'S
EXHIBIT

1

**AVERAGE ANNUAL COMPENSATION PER FULL-TIME EMPLOYEE
BY INDUSTRY, RANKED FROM HIGH TO LOW
YEAR 1993**

<u>RANK</u>	<u>INDUSTRY</u>	<u>NO. OF EMPLOYEES (000)</u>	<u>AVERAGE ANNUAL COMPENS.</u>	<u>PERCENT EMPLS. WITH LOWER COMP.</u>	
1	Security and Commodity Brokers	472	\$114,102	99.35%	
2	Holding and Other Investment Offices	223	\$75,498	99.34%	BLB \$78,381
3	Petroleum and Coal Products	147	\$72,224	99.20%	UTU \$70,545
4	<u>RAILROAD TRANSPORTATION</u>	243	\$69,082	98.97%	ATDA \$68,498
5	Telephone and Telegraph	825	\$63,592	98.19%	RYA \$65,002
6	Tobacco Manufacturers	44	\$61,886	98.15%	
7	Coal Mining	110	\$61,733	98.05%	
8	Motor Vehicles and Equipment	829	\$58,633	97.26%	
9	Chemicals and Allied Products	1,060	\$57,275	96.26%	
10	<u>PIPELINES, EXCEPT NATURAL GAS</u>	19	\$57,211	96.24%	
11	Legal Services	923	\$54,789	95.34%	
12	Electric, Gas and Sanitary Services	929	\$54,613	94.48%	BRS \$56,022
13	Oil and Gas Extraction	336	\$54,943	94.17%	
14	Metal Mining	50	\$54,200	94.12%	
15	Other Transportation Equipment	908	\$52,715	93.26%	
16	Other Services	2,997	\$52,710	90.80%	IBEW \$52,313
17	Federal Government	4,834	\$50,693	86.16%	IAM \$52,075
18	Instruments and Related Products	878	\$50,031	85.33%	SMI \$51,532
19	<u>TRANSPORTATION BY AIR</u>	481	\$49,673	84.69%	TCU \$51,313
20	Primary Metal Industries	672	\$49,190	84.05%	IBR \$50,531
21	Nondepository Institutions	443	\$48,043	83.63%	NOFV \$48,721
22	Industrial Machinery & Equipment	1,903	\$46,731	81.83%	
23	Insurance Carriers	1,444	\$46,115	80.46%	
24	Paper and Allied Products	684	\$45,442	79.81%	
25	Electronic & other Electric Equipment	1,506	\$44,260	78.38%	
26	<u>WATER TRANSPORTATION</u>	139	\$44,239	78.23%	
27	Nonmetallic Minerals Ex. Fuels	101	\$42,594	78.14%	IBPO \$43,275
28	Wholesale Trade	5,800	\$42,152	72.65%	
29	Insurance Agents, Brokers & Service	664	\$40,664	72.02%	
30	Radio and Television	332	\$40,636	71.70%	
31	Motion Pictures	321	\$40,234	71.40%	
32	Fabricated Metal Products	1,315	\$39,557	70.15%	
33	Printing and Publishing	1,419	\$39,514	68.87%	
34	Stone, Clay and Glass Products	511	\$39,160	68.33%	
35	Depository Institutions	1,972	\$38,951	66.46%	
36	Health Services	8,005	\$38,233	58.88%	
37	State and Local Government	13,619	\$37,970	45.98%	
38	Food and Kindred Products	1,609	\$36,569	44.46%	
39	Rubber and Misc. Plastics Products	896	\$36,212	43.67%	
40	Transportation Services	340	\$35,418	43.29%	
41	Construction	4,523	\$35,247	39.00%	
42	<u>TRUCKING & WAREHOUSING</u>	1,611	\$35,017	37.48%	
43	Miscellaneous Manufacturing Industries	379	\$32,393	37.12%	
44	Miscellaneous Repair Services	350	\$32,374	36.79%	
45	Real Estate	1,286	\$31,071	35.57%	
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47	Lumber and Wood Products	707	\$29,635	34.45%	
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53	Local and Interurban Psgr. Transit	346	\$24,795	25.80%	
54	Auto Repair, Services, and Parking	947	\$24,794	24.90%	
55	Hotels and Other Lodging Places	1,445	\$24,471	23.53%	
56	Apparel and Other Textile Products	954	\$22,008	22.63%	
57	Retail Trade	16,728	\$20,848	6.79%	
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60	Personal Services	1,070	\$20,150	1.55%	
61	Farms	783	\$17,086	.81%	
62	Private Households	856	\$12,570	.00%	
	All Domestic Industries	105,593	\$35,803		

SOURCE: SURVEY OF CURRENT BUSINESS, U. S. Dept. of Commerce, July, 1994.
 Railroad Unions from Wage Statistics, Class I Railroads.
 NRRC Nov 4, 1994

ENGINEERING DEPARTMENT STATISTICAL REPORT

DATS WORK

	1976*	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	PLAN 1995
New Rail Miles		487	609	578	633	249	199	84	77	52	73	113	46	41	74	42	43	185	80	138	260
Fit Rail Miles		240	409	478	422	230	171	408	427	492	418	252	204	257	133	30	32	114	98	67	40
Total Rail Miles		727	1018	1056	1055	479	370	492	504	544	491	365	250	298	207	72	75	299	178	205	300
DATS Ties(mil)		3.96	4.45	4.53	3.62	1.72	1.71	1.64	1.39	1.48	2.13	1.83	1.51	1.56	1.48	1.20	1.20	1.2	0.96	1.05	1.05
Other Ties		0.92	0.52	0.29	0.23	0.46	0.27	0.37	0.34	0.19	0.12	0.14	0.15	0.11	0.11	0.09	0.10	0.26	0.2	0.06	0.06
Total Ties		4.88	4.97	4.82	3.85	2.18	1.98	2.01	1.73	1.67	2.25	1.97	1.66	1.67	1.59	1.29	1.30	1.38	1.1	1.11	1.11
Surface (trk. mi.)		6873	6382	6298	7500	7998	6513	6797	4830	4794	4189	5061	4855	5062	4001	3230	3247	3671	3121	2749	3249
Turnouts		349	813	1200	1495	557	470	708	554	652	623	568	476	488	427	195	148	284	158	163	240
Field Welds		UKN	3526	7768	19930	18645	19864	26564	26074	55892	32416	35469	27162	31331	24781	14987	20329	25628	19840	25530	30000
Pandrols(t.m.)																	54.6	59.3	57.6	71.5	70
Total O.E. Force		20763	19899	18126	16616	14168	11876	9856	8597	5882	5102	4887	4587	4368	4053	3818	3651	3632	3539	3470	
Slow Orders (Y.E.)	7980	7016	6351	5340	4574	4003	3040	2157	1547	1389	655	401	316	238	234	158	90	73	62	49.1	
Miles of Trk. Maint.		35370	35370	35079	34402	33725	33191	31300	29858	28586	25792	26160	23722	23187	22902	21900	21359	20595	20109	18951	
Ballast Clean.T.M.		2983	1191	1970	1703	3459	3556	3844	2867	2421	2687	2438	2221	2220	1774	1705	1295	1285	1200	1312	
Rail Grind. T.M.		1184	460	1805	2174	2333	2348	2671	3529	3371	2705	2437	2578	2333	2880	3417	4084	4694	6942	7581	

CONRAIL ELECTRONIC MAIL SYSTEM

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CONRAIL INC.

CONDENSED CONSOLIDATED STATEMENTS OF INCOME

(In Millions, Except Per Share)

	Quarters Ended September 30,		Nine Months Ended September 30,	
	1995	1994	1995	1994
Revenues	\$923	\$949	\$2,735	\$2,747
Operating expenses				
Before early retirement program	715	755	2,233	2,312
Early retirement program				84
Income from operations	208	194	502	351
Interest expense	(49)	(48)	(147)	(143)
Other income, net	29	28	89	79
Income before income taxes	188	174	444	287
Income taxes	72	66	150	112
Net income	\$116	\$106	\$ 294	\$ 175
Net income per common share				
Primary	\$1.44	\$1.29	\$3.61	\$2.07
Fully diluted	1.31	1.17	3.28	1.91

- Notes:
1. As a result of a decrease in a state income tax rate enacted during the second quarter of 1995, income tax expense for the nine months ended September 30, 1995 includes a reduction of \$21 million representing the effects of adjusting deferred income taxes for the rate decrease as required under SFAS 109, "Accounting for Income Taxes". Without this reduction, net income would have been \$273 million for the first nine months of 1995 (\$3.34 and \$3.05 per share, primary and fully diluted, respectively).
 2. During the first quarter of 1994, the Company recorded a one-time charge of \$84 million for the non-union employee voluntary early retirement program and related costs, which reduced net income by \$51 million (after tax benefits of \$33 million). Without this charge, net income would have been \$226 million for the first nine months of 1994 (\$2.71 and \$2.46 per share, primary and fully diluted, respectively).

CONRAIL ELECTRONIC MAIL SYSTEM

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Conrail issued the following news release October 18, 1995

Conrail Third Quarter Net Income \$116 Million, Up 9.4 Percent;
Earnings Per Share Increase 12.0 Percent To \$1.31, Fully Diluted

PHILADELPHIA -- Conrail (NYSE: CRR) today reported net income of \$116 million (\$1.31 per share, fully diluted basis) for the third quarter of 1995, an increase of 9.4 percent in net income and 12.0 percent in earnings per share compared to third quarter 1994 net income of \$106 million (\$1.17 per share, fully diluted basis).

Net income for the first nine months of 1995 was \$294 million (\$3.28 per share, fully diluted basis) compared with \$175 million (\$1.91 per share, fully diluted basis) for the same period last year. The current year results include a one-time credit of \$21 million resulting from the reduction of a state income tax rate enacted during the second quarter. Excluding this effect, Conrail would have reported net income of \$273 million for the first nine months of 1995 (\$3.05 per share, fully diluted basis). One-time after-tax charges of \$51 million for a non-union employee voluntary early retirement program and related costs recorded in the first quarter of 1994 affected results for the first three quarters that year. Excluding the charges, for the

CONRAIL ELECTRONIC MAIL SYSTEM

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first nine months of 1994 net income would have been \$226 million (\$2.46 per share, fully diluted basis).

Revenues for third quarter 1995 were \$923 million, a decrease of 2.7 percent compared with \$949 million in third quarter 1994. Revenues for the first nine months of 1995 were \$2.735 billion, a decrease of 0.4 percent compared with \$2.747 billion for the same period last year. Freight traffic volume in units (freight cars and intermodal trailers and containers) decreased 7.8 percent in the third quarter and 4.7 percent in the first nine months, compared to the same periods of 1994.

"As these results show, Conrail is able to quickly and effectively respond to changing economic conditions," said David H. LeVan, President and Chief Executive Officer. "In anticipation of the slowdown in traffic, Conrail implemented operating changes in the second quarter which reduced costs faster than revenues declined. Although we are encouraged by traffic levels in early October, we will continue to monitor our costs closely throughout the fourth quarter."

"Focused efforts are also bringing success toward achieving a key goal, reducing employee injuries. For the year, we expect to attain a 50 percent reduction in injuries, thanks to the dedication of Conrail people throughout our rail system," said LeVan.

For the quarter, traffic volume decreased in all four

CONRAIL ELECTRONIC MAIL SYSTEM

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service groups: 10.7 percent in Intermodal, 6.9 percent in Core, 6.5 percent in Unit Train and 0.5 percent in Automotive. Within the Core Service Group, Metals decreased 9.1 percent, Food & Agriculture 7.0 percent, Petrochemicals & Minerals 4.2 percent and Forest & Manufactured Products 5.2 percent.

For the first nine months, traffic volume increased 1.4 percent in the Automotive Group, and decreased by 7.0 percent in Intermodal, 4.1 percent in Unit Train and 4.0 percent in Core. Within the Core Service Group, traffic decreased by 8.3 percent in Food & Agriculture, 4.5 percent in Metals, 2.2 percent in Forest & Manufactured Products and 1.8 percent in Petrochemicals & Minerals.

Conrail, with corporate headquarters in Philadelphia, operates an 11,700 mile rail freight network in 12 Northeastern and Midwestern states, the District of Columbia, and the Province of Quebec.

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CONRAIL ELECTRONIC MAIL SYSTEM

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respectively).

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END OF PRT

Where is the employees share !!!!!

By Henry J. Holcomb, The Philadelphia Inquirer Knight-Ridder/Tribune Business News

NEW YORK--Oct. 19--Conrail is on track to remain independent and it continues to press its effort to extend the railroad 2,500 miles southwest to Louisiana, Texas and the Mexican border, chief executive David M. LeVan told Wall Street analysts Wednesday.

At an analysts' briefing, LeVan acknowledged that the rail industries' merger mania and persistent rumors of a pending takeover of Conrail by Norfolk Southern had damaged employee morale and made Conrail's customers uneasy.

Still, he said, the Philadelphia freight railroad, the dominant carrier in the Northeast, posted a 9.4 percent increase in net income during the third quarter, despite a 7.8 percent decline in traffic and 2.7 percent lower revenues.

"As these results show," LeVan said, "Conrail is able to quickly and effectively respond to changing economic conditions."

The opportunity to extend southwest from St. Louis and Chicago to Memphis, Tenn.; New Orleans; Dallas; Houston; and the Mexican border is related to the pending merger of Union Pacific and Southern Pacific.

The merger would leave the Texas and Louisiana Gulf Coast and the Mexican border with only one railroad, a situation that must be corrected to achieve regulatory approval of the merger, industry sources say.

Conrail is eager to supply the correction. At first Conrail sought to negotiate privately to buy 2,500 miles of the eastern Southern Pacific system and thereby maintain competitive rail service to the Gulf Coast region.

But when it became clear last month that UP preferred to give track-use rights to the recently merged Burlington Northern-Santa Fe railroad, Conrail made its offer public.

Conrail has not decided whether to oppose the UP-SP merger when it comes before the Interstate Commerce Commission later this year, LeVan said Wednesday. Opposing the merger would create a sticky situation for Conrail because it must still cooperate with the two giant railroads to get its customers' cargo delivered west of Chicago and St. Louis.

"Right now," LeVan said, "we're staying focused on what our customers want" and hoping that the customers -- not Conrail -- will oppose the merger.

END!A8?PH-CONRAIL

The Philadelphia Inquirer Business

Thursday, October 19, 1995

Earnings

Conrail gains in 3d qtr.

The railroad's net income rose 9.4 percent. It plans to expand toward Mexico.

By Henry J. Holcomb
INQUIRER STAFF WRITER

NEW YORK — Conrail is on track to remain independent and it continues to press its effort to extend the railroad 2,500 miles southwest to Louisiana, Texas and the Mexican border, chief executive David M. LeVan told Wall Street analysts yesterday.

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The merger would leave the Texas and Louisiana Gulf Coast and the Mexican border with only one rail-

See CONRAIL on C2

C2

Conrail posts gains in 3d quarter

CONRAIL from C1
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Company	(Symbol)	Exchange	
CONRAIL	(CRR)	NYSE	
	3 qtr. '95 end 9/30	3 qtr. '94 end 9/30	Pct. chg.
Revenues (millions)	\$923	\$949	- 1
Net income (millions)	\$116	\$106	+9
Per share	\$1.31	\$1.17	+12
	9 mo. '95 end 9/30	9 mo. '94 end 9/30	Pct. chg.
Revenues (millions)	\$2,735	\$2,747	- 0
Net income (millions)	\$294	\$175	+68
Per share	\$3.28	\$1.91	+72

Insider Transactions

Following is a list of securities trades recently reported to the Securities and Exchange Commission by officers, directors and principal shareholders of corporations based or having sizable employment in the Philadelphia area. Titles of officers are as reported to the SEC.

AMERICAN INTERNATIONAL GROUP INC.: M. Bernard Aidinoff, director, purchased 113 shares of common stock at \$80.50 each on Sept. 5, and now directly holds 7,310 shares.

AMP INC.: Barbara Hackman Franklin, director, exercised an option for 952 shares of common stock at \$34.50 each on Sept. 12. To cover expenses of the transaction, Franklin turned in 746 shares for \$44 each on Sept. 12, and now directly holds 952 shares.

AYDIN CORP.: Demirhan Hakimoglu, officer of subsidiary, exercised an option for 750 shares of common stock at \$13.06 each on Sept. 14. To cover expenses of the transaction, Hakimoglu turned in 515 shares for \$19 each on Sept. 14, and now directly holds 5,185 shares. **Thomas M. Locasale**, vice president, exercised an option for 750 shares of common stock at \$10.56 each on Sept. 26, and now directly holds 1,251 shares.

COMCAST CORP.: Lawrence S. Smith, vice president, exercised an option for 14,865 shares of class A special common stock for \$8.33 to \$10.72 each from Sept. 22 to Sept. 26, sold them for \$21.38 each from Sept. 22 to Sept. 26, and now directly holds 82,522 class A special shares.

COMPUCOM SYSTEMS INC.: Richard Flynn Ford, director, indirectly sold 200,000 shares of common stock at \$6.88 each on Sept. 13, and now directly and indirectly holds 311,501 shares.

CONRAIL INC.: Donald W. Mattson, vice president, exercised an option for 8,132 shares of common stock for \$14 to \$16.34 each on Aug. 25, sold 7,632 shares for \$65.65 each on Aug. 25, and now directly holds 8,033 shares.

CORESTATES FINANCIAL CORP.: Robert B. Palmer, retired, exercised an option for 14,298 shares of common stock at \$14.94 each from Sept. 6 to Sept. 7. To cover expenses of the transaction, Palmer turned in 1,689 shares for \$38 each from Sept. 6 to Sept. 7, sold 10,000 shares in the open market at \$37.50 each from Sept. 6 to Sept. 7, and now directly and indirectly holds 64,989 shares.

DEB SHOPS INC.: Paul S. Bachow, director, sold 2,000 shares of common stock at \$3.63 each on Sept. 5 and no longer holds shares in the company.

HARLEYSVILLE NATIONAL CORP.: Martin E. Fossler, director, sold 1,000 shares of common stock at \$26.50 each on Sept. 28, and now directly and indirectly holds 13,270 shares.

HEALTHCARE SERVICES GROUP INC.: Thomas A. Cook, president, exercised an option for 15,000 shares of common stock at \$8.83 each from Sept. 12 to Sept. 20, sold them for \$10.19 to \$10.81 each from Sept. 12 to Sept. 20, and no longer holds shares in the company.

HERSHEY FOODS CORP.: Richard W. Meyers, divisional officer, exercised an option for 4,500 shares of common stock at \$44.75 each on Sept. 28, sold them at \$63.38 each on Sept. 28, and now directly and indirectly holds 4,351 shares.

MERIDIAN BANCORP. INC.: Roland William Holland, vice president, exercised an option for 3,000 shares of common stock at \$33 each on Sept. 6, sold them at \$39.88 each on Sept. 6, and no longer holds shares in the company.

MET-PRO CORP.: Earl J. Wofsey, director, gave away 300 shares of common stock at an unreported price from Sept. 5 to Sept. 29, sold 6,000 shares for \$13.88 to \$14.50 each from Sept. 5 to Sept. 29, and now directly holds 124,285 shares.

PNC BANK CORP.: Milton A. Washington, director, purchased 7,000 shares of common stock at \$28.50 each on Sept. 26, and now directly holds 18,055 shares.

STV GROUP INC.: STV Engineers ESOP, beneficial owner, indirectly purchased 4,500 shares of common stock at \$5.25 each on Sept. 18, and now indirectly holds 1,168,336 shares.

TOLL BROTHERS INC.: Bruce E. Toll, president, sold 511,000 shares of common stock for \$17.75 to \$18.88 each from Sept. 1 to Sept. 29, and now directly holds 6,134,283 shares. **Robert I. Toll**, officer and director, sold 590,000 shares of common stock for \$18 to \$19 each from Sept. 5 to Sept. 29, and now directly holds 6,235,079 shares.

SOURCE: CDA/Investnet, Fort Lauderdale, Fla.

The Philadelphia Inquirer

Philadelphia Business

Monday, October 16, 1995

PLEASE POST IMMEDIATELY

PLEASE POST IMMEDIATELY

C O N R A I L N E W S W I R E

A weekly electronic newsletter for and about employees

October 19, 1995

THIRD QUARTER NET INCOME \$116 MILLION, UP 9.4 PERCENT

Earnings Per Share Increase 12.0 Percent
To \$1.31, Fully Diluted

Conrail yesterday reported net income of \$116 million (\$1.31 per share, fully diluted basis) for the third quarter of 1995, an increase of 9.4 percent in net income and 12.0 percent in earnings per share compared to third quarter 1994 net income of \$106 million (\$1.17 per share, fully diluted basis).

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For the quarter, traffic volume decreased in all four service groups: 10.7 percent in Intermodal, 6.9 percent in Core, 6.5 percent in Unit Train and 0.5 percent in Automotive. Within the Core Service Group, Metals decreased 9.1 percent, Food & Agriculture 7.0 percent, Petrochemicals & Minerals 6.2 percent and Forest & Manufactured Products 5.2 percent.

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LEVAN REAFFIRMS CONRAIL'S INTENT TO REMAIN INDEPENDENT

Conrail President and CEO Dave LeVan told securities analysts at Conrail's regular quarterly presentation Wednesday that Conrail's intent is to provide increasing value for shareholders as an independent company.

Today's edition of The Wall Street Journal quoted LeVan on the railroad's good financial performance in the third quarter. Said LeVan: "A good solid performance is always the best message for hands-off," according to the Journal.

LeVan told analysts that Conrail has been successful at achieving customer service improvements and extending its market reach through joint alliances with other railroads, rather than seeking those improvements through a merger.

RECEIVED

GOOD NEWS ON GRADE CROSSING CRASHES

The numbers are in on reducing grade crossing crashes, and Conrail is the best in the industry among Class I railroads for the first six months of 1995. Thanks to the hard work of Conrail's many volunteers from its Police Department, Labor/Management Project teams, Safety Committees, the NARBW and many more, we're the safest when it comes to railroad crossings. Here are the numbers with ratios calculated per million miles operated...

RR	1995	1994
Conrail	2.79	3.28
ATSF	3.17	2.77
SP	4.01	4.58
BN	4.04	4.19
UP	4.07	4.17
CSX	4.41	4.55
NS	7.05	7.52

COLLINWOOD HOLDS ENVIRONMENT, HEALTH & SAFETY DAY

Employees at the Collinwood yard were treated to a day of education about the environment, health and safety sponsored by the Risk Management Department last week. Safety Committee members began preparation late in the day on Oct. 10 for the 24-hour event.

Activities and exhibits included safety information, health screenings, safety equipment demonstrations, benefits information and more. Congratulations to all who helped make this a successful (and safe) day.

?????????? BY THE NUMBERS ???????????

Safety -- it's part of everyone's job...

How are we doing at maintaining a safe work environment for ourselves and those who work with us? How close are we to achieving our goal of a 50 percent reduction for injuries? Here's the year-to-date rundown as of October 16, 1995 (variance in percent, divisions in alphabetical order).

CT75	Actual	1994	Variance
System	655	1153	+ 43.19
Albany	113	187	+ 39.57
Dearborn	78	191	+ 59.16
Harrisburg	71	132	+ 46.21
Indianapolis	71	102	+ 30.39
Mech. Mfg.	23	61	+ 62.29
Philadelphia	87	171	+ 49.12
Pittsburgh	115	264	+ 56.43

Conrail Traffic in units (freight cars, containers and trailers)...

Units for the year-to-date and the seven-day period ended October 15 vs. the comparable period a year ago

Year-to-date

1995	1994	Change
3,158,086	3,328,145	- 5.1 percent

Current week

1995	1994	Change
------	------	--------

84,749

87,710

- 3.4 percent

Stock price activity...

Price per share for the week ended October 13:

High	\$72 1/4 ***new high!
Low	\$67 5/8
Close	\$71 1/2
Change (from 10/6 close)	+ 2 3/8

Average Daily Volume	shares traded
----------------------	---------------

Trading range -- high/low prices for the previous 12 months

High	\$72 1/4
Low	\$48 1/8

Conrail Newswire is published weekly by the Corporate
Communications Department of Conrail, Inc., 2001 Market St.
19A, P.O. Box 41419, Philadelphia, Pa. 19101-1419. Your
comments and suggestions are encouraged. Please include your
name, craft, work location and a phone number where you can
be reached to verify your letter. You can also write Conrail
Newswire via the Emc2 System. Address your correspondence to
the mailbox of Newswire Editor Andrea Just.

"An Injury To One Is An Injury To All"

Pennsylvania Federation

**1930 Chestnut Street - Suite 607
Philadelphia, Pennsylvania 19103**
phone: (215) 569-1285
fax: (215) 569-0676



**Office of the General Chairman
Jed Dodd**

February 15, 1996

Overnight Mail

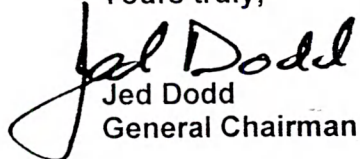
Faye Marie Landers-Crawford, mediator
7207 Lorence Lane
Lithia Springs, Georgia 30057

Dear Ms. Landers-Crawford:

Re: A-12718/1
A-12718/1(a)
Conrail v. BMW

As per our conversation, enclosed is some of the legal work that has been associated with this round of bargaining.

Yours truly,


Jed Dodd
General Chairman

cc Perry Geller
John Davison
Joel Myron
All Federation Officers

Legal Issues Associated with A-12718/1 and A-12718/1(a)

- 1. April 28, 1995 Injunction
Alton and Southern, et. al. v. BMW**
- 2. December 15, 1995 TRO
Clearfield Strike**
- 3. Declaration 1, 2, and 3 of Jed Dodd before Federal Court
in Alton and Southern, et. al. v. BMW
Declarations detail bargaining history on Conrail showing the Conrail has
never been in anything but local handling**
- 4. June 24, 1994 Stipulation resolving appeal of Permanent Injunction issued
May 27, 1994**

SENT BY: .

4-28-95 ; 5:18PM ;

B.M.W.E.-

12155686325:# 1/ 4

Mac A. Fleming
President



William E. LaRue
Secretary-Treasurer

Brotherhood of Maintenance of Way Employees
Affiliated with the A.F.L.-C.I.O. and C.T.C.

April 28, 1995

Circular 324

VIA FACSIMILE

TO ALL GENERAL CHAIRMEN AND
VICE PRESIDENTS IN THE UNITED STATES

RE: Alton and Southern, et al. v. BMWE, United States District Court, District of Columbia - Local vs. National Handling litigation; Judge Hogan's April 28, 1995 decision.

Dear Sirs and Brothers:

At approximately 3:00 p.m. today, we were informed of Judge Hogan's decision regarding the carriers' request for a preliminary injunction to prevent BMWE from striking in response to the carriers' refusal to bargain locally. Excerpts of that decision are attached hereto.

Judge Hogan granted the injunction, specifically finding that neither side has proven that they are likely to win the case. He also implied that the NMB should control the process instead of the courts and that the parties should resolve their differences either locally or nationally. The judge's reasoning is at war with reality; indeed, as a practical matter, his decision only adds to the delay the carriers hope to gain out of this lawsuit.

While the decision is disappointing it comes to us as no surprise. As stated in my earlier communication, we will be promptly taking the matter up on appeal to the Court of Appeals for the District of Columbia Circuit. That appeal will be handled on an expedited basis.

President's Dept.
FAX 313-948-7150

Suite 200
26555 Evergreen Road
Southfield, MI 48076-4225
Telephone 313-948-1010

Secretary-Treasurer's Dept.
FAX 313-948-9140

SENT BY:BMWE

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4-28-95 ; 5:19PM ;

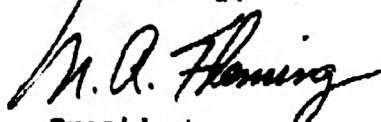
B.M.W.E.-

12155686325;# 2/ 4

-2-

We will provide further communication regarding the effects of this decision.

In solidarity,


President

cc: Grand Lodge Officers

opeiu-42

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4-28-95 ; 5:19PM ;

B.M.W.E.-

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B. M. W. E. :# 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALTON & SOUTHERN RAILWAY
CO., et al.

Plaintiffs,

v.

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES,

Defendants.

Civil Action No. 94-2365

FILED

APR 28 1995

Clerk, U.S. District Court
District of Columbia

ORDER

For the reasons expressed in the Court's Memorandum Opinion, it is this ~~28~~²⁹
day of April, 1995, hereby

ORDERED that Plaintiff's Motion for a Preliminary Injunction [Docket #
53] is GRANTED, and it is further

ORDERED that the defendant, its divisions, lodges, locals, officers, General
Chairmen, agents, employees, members, and all persons acting in concert with
any of them, be, and they hereby are, preliminarily enjoined, until the Court acts
finally on the plaintiffs' prayer for a permanent injunction, from authorizing,
encouraging, permitting, calling, engaging in or continuing any strikes, picketing,
work stoppages, or other self help against the plaintiffs relating to the dispute or
disputes arising from the § 6 notices served in the round of bargaining that
commenced on or about November 1, 1994, before the expiration of thirty days
following termination of mediation by the National Mediation Board under § 5 of
the Railway Labor Act ("RLA"), and completion of emergency board procedures
thereafter if an emergency board is established under § 10 of the RLA; and it is

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4-28-95 ; 5:20PM ;

B.M.W.E. -

12155686325: # 4/ 4

SENT BY: Xerox Telecopier 7020 ; 4-28-95 ; 3:58PM ;

B.M.W.E. : # 2

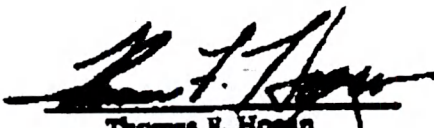
further

ORDERED that the defendant shall make all reasonable efforts to prevent its divisions, lodges, locals, officers, General Chairman, agents, employees, members, and all persons acting in concert with any of them from engaging in conduct enjoined by this injunction, and shall discipline those who engage in such conduct, and it is further

ORDERED that this preliminary injunction is granted upon the condition that, within 24 hours after this Order issues, a nominal bond in the sum of \$1000, or cash in that amount, be filed to make good such damages not to exceed said sum as may be entered or sustained by anyone who is found to be wrongfully enjoined or restrained; and it is further

ORDERED that this preliminary injunction may be served by any person over the age of 18 years selected for the purpose by a plaintiff.

Issued at: 2:58 p.m.
28th April 1995


Thomas F. Hogan
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

ALTON & SOUTHERN RAILWAY
CO., et al.

DEC 15 1995

Plaintiff,

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

v.

) Civ. No. 94-2365 (TFH)

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYES,

Defendant.

MEMORANDUM OPINION

Pending before the Court is the Plaintiffs' Motion For a Temporary Restraining Order, and a Motion by Plaintiff Consolidated Rail Corporation For an Order To Show Cause Why The Brotherhood of Maintenance of Way Employees, Mac A. Fleming, Jed Dodd, and Perry K. Geller Should Not Be Held in Civil Contempt and Judgment of Contempt. The plaintiffs ask the Court to make a determination that a strike being conducted by The Brotherhood of Maintenance of Way Employees ("BMWE") is in violation of this Court's decision of April 28, 1995, in which it enjoined BMWE from engaging in strike or other forms of self help against the plaintiffs relating to disputes arising from the § 6 notices served in November 1994. The defendant has opposed this motion. After carefully reviewing the parties' briefs, arguments, and other submissions, the Court finds that the present picketing by BMWE is prohibited under the existing Preliminary Injunction. Accordingly, BMWE is hereby ordered to cease and desist from its picketing of Conrail and comply with the terms of the Order of this Court dated April 28, 1995.

I. BACKGROUND

This is the fourth Memorandum Opinion issued in this case, so as the Court has previously stated, it is unnecessary to review the entire background of this litigation.¹ Suffice it to say that the plaintiffs are a group of 29 rail common carriers, and that the defendant BMW is a union representing workers employed by the plaintiff carriers. The motions pending before the Court are another example of conflict in the long history of contentious disputes between these parties. This particular dispute asks the question of whether a strike by defendant BMW against one of the plaintiffs, Conrail, is prohibited by the existing Preliminary Injunction.

On or about November 1, 1994, the defendant served upon the plaintiffs, including Conrail, opening § 6 notices which contained a proposal intended to protect union employees in the event of the sale of a rail line. That proposal reads as follows:

Successorship

The Carrier agrees that it will condition any sale or lease of all or a portion of its railroad by including a clause in any sale or lease agreement to provide for Successorship of the Brotherhood of Maintenance of Way Employees as the duly-designated representative for collective bargaining under the Railway Labor Act or other applicable law, and that any lessee and/or purchaser shall continue

¹The Court's first opinion in this case is not published. See Alton & Southern Ry. Co. v. Brotherhood of Maintenance of Way Employees, Civil Action No. 94-2365, 1995 U.S. Dist. LEXIS 2740 (D.D.C. Feb. 20, 1995) (denying cross-motions for preliminary injunction), aff'd, No. 95-7042, 1995 U.S. App. LEXIS 12153 (D.C. Cir. Apr. 25, 1995) and Alton & Southern Ry. Co. v. Brotherhood of Maintenance of Way Employees, Civil Action No. 94-2365, 1995 WL 338544 (D.D.C. Feb. 21, 1995) (same), aff'd, No. 95-7042, 1995 WL 311450 (D.C. Cir. Apr. 25, 1995). The Court's second opinion is published. See Alton & Southern Ry. Co. v. Brotherhood of Maintenance of Way Employees, 833 F. Supp. 755 (D.D.C. 1995) (granting carriers' request for preliminary injunction). The Court's third opinion is also published. See Alton & Southern Ry. Co. v. Brotherhood of Maintenance of Way Employees, 889 F. Supp. 646 (D.D.C. 1995) (denying union's request to alter and amend); aff'd Alton & Southern Ry. Co. v. Brotherhood of Maintenance of Way Employees, No. 95-7176, 1995 WL 686177 (D.C. Cir. Oct. 19, 1995).

the employment of all employees represented by the BMW as well as all rules, wages and working conditions embodied in the existing agreements in effect between the Carrier and the BMW at the time of the sale and/or lease.

The plaintiffs had previously designated the National Carriers' Conference Committee to act as their authorized national multi-employer bargaining agent to represent them in negotiations with railway labor unions, including the BMW. The BMW rejected multi-employer bargaining, and sought to force bargaining on a local basis with each individual carrier. Thus, with regard to the Successorship proposal and other proposals contained in the defendant's § 6 notices, the underlying dispute was over whether the carriers could insist upon multi-employer bargaining or whether the BMW could insist on carrier-by-carrier bargaining.

On April 28, 1995, the Court granted the plaintiff carriers' motion for a preliminary injunction and enjoined the BMW from engaging in any form of self help related to the issue in dispute until this Court has ruled upon the plaintiffs' request for a permanent injunction.² Specifically, the language of that Order prohibited the defendant from "authorizing, encouraging, permitting, calling, engaging in or continuing any strikes, picketing, work stoppages, or other self help against the plaintiffs relating to the dispute or disputes arising from the § 6 notices served in the round of bargaining that commenced on or about November 1, 1994"

Conrail, one of the defendants, recently entered into an agreement to sell approximately 100 miles of track, located in central Pennsylvania, commonly known as the "Clearfield Cluster Lines" to a newly formed subsidiary of R.J. Corman Corporation. The plaintiff has represented

²The parties have completed briefing the permanent injunction issue. Under the current schedule, the Court intends to conduct a hearing on the matter in January, 1996.

that this subsidiary intends to become a rail carrier once it acquires the line. As a result of the pending sale, BMWWE asked for a meeting with a representative of the new company regarding the status of nineteen BMWWE-represented Conrail employees who hold seniority rights to the maintenance work on that line. BMWWE has represented that approximately four of these employees would not be able to exercise their seniority rights after the sale. See Dodd Declaration ¶ 2. Attempts to set up a meeting between BMWWE and R.J. Cormian to reach a negotiated settlement proved unproductive. In the meantime, BMWWE served notice upon Conrail, under § 6 of the RLA, requesting Conrail negotiate an agreement to provide monetary assistance to BMWWE workers affected by the sale. BMWWE claims that this new § 6 notice is unrelated to the § 6 notices served in November of 1994.

When Conrail refused to acquiesce to BMWWE's demands, on December 11, 1995, BMWWE commenced picketing of Conrail. The plaintiffs now assert that the picketing has caused a shutdown of Clearfield Cluster. The picketing is presently confined to the aforementioned location, however, BMWWE represented to the Court that it felt it was presently entitled to expand its picketing to any location where the BMWWE has employees. In other words, the BMWWE suggests that despite the existing Preliminary Injunction it has an entitlement to shut down a large number of the nations' railways over the fate of the four displaced workers.

This Court conducted a hearing on December 12, 1995. The plaintiffs assert that the restraining order is necessary to prevent BMWWE from continuing to engage in self help in the form of a strike. The plaintiffs argue that BMWWE is already enjoined from picketing or striking Conrail, and that its conduct is in violation of the terms of this Court's Order. In addition, according to the plaintiffs the strike is in violation of the Railway Labor Act, 45 U.S.C. §§ 151

et seq. ("RLA"). The Court recognizes that the plaintiffs' request is for injunctive relief and/or a civil contempt citation against the defendants. However, based upon an inspection of the plaintiff's arguments the Court will construe the plaintiffs' motions as a request for a clarification from the Court that the present actions of BMW E fall within the prohibition of this Court's existing Preliminary Injunction.

II. DISCUSSION

The plaintiffs argue that BMW E's resort to self-help in the form of a strike is in violation of this Court's Preliminary Injunction and a violation of the RLA. Accordingly, the plaintiffs urge the Court to subject the defendants to a coercive civil contempt order and require them to pay civil contempt fines on a daily basis for each day they fail to remove the pickets. The plaintiffs argue that BMW E's strike is intended to force Conrail to accede at the local level to a demand identical to that made in BMW E's November 1, 1994, § 6 notice. BMW E pickets are intended to force Conrail to negotiate agreements protecting the employees affected by the pending sale. The Successorship proposal in the BMW E's § 6 notice to Conrail and other carriers was intended to force the carriers to protect employees affected by future sales. The plaintiffs argue that this subtle distinction does not place the present picketing outside the conduct which the Preliminary Injunction covers.

The Court's Preliminary Injunction was intended to maintain the status quo while the issues in the original § 6 notices were in mediation. According to the plaintiffs, BMW E's resort to self help while the notices are subject to that mediation, and pending this Court's decision on the merits, is in direct contravention of the Court's Order. Moreover, because the RLA

procedures have still not been exhausted, the plaintiffs argue that the picketing violates the RLA.³

The defendant opposes both of the plaintiffs' motions arguing that its conduct is not in violation of this Court's April 28, 1993 injunction, or in violation of any law of the United States. BMW first attempts to distance its current conduct from the existing Preliminary Injunction. According to BMW the picketing here does not: (1) arise from the November 1994 § 6 notices, (2) involve a dispute with Conrail, and (3) grow out of the dispute which led to the injunction, that is, whether the parties should bargain nationally or locally. BMW argues that when the original Preliminary Injunction was considered the plaintiffs' proffered reasons were unrelated to an attempt on the part of BMW to engage in self help in order to secure agreements consistent with the § 6 notices. Rather, BMW claims that the plaintiffs' concerns, at that time, were limited to the immanency of the BMW's employing self help to stop the carriers' refusal to bargain because of the dispute over whether that bargaining should be on an individual basis or on a multi-employer level. Thus it was a national versus local dispute, as opposed to the present dispute involving R.J. Corman's refusal to negotiate for a hiring agreement. Furthermore, BMW suggests that the plaintiffs' efforts to connect the present strike to the November 1994 § 6 notices fails on account of those notices now being moot as they pertain to this particular sale. In other words, once the sale was consummated it removed

³Alternatively, the plaintiffs assert that a TRO should be granted. The plaintiffs argue that a TRO would be appropriate because this strike is over essentially the same issues that this Court has previously prohibited the BMW from striking over.

the possibility that the Successorship proposal could ever be included as a term of this sale.⁴

The defendant also argues that its present conduct does not violate the RLA. The defendant relies principally on the Fourth Circuit holding in Wheeling & Lake Erie Ry., 914 F.2d 53 (4th Cir.1990). That case arose from the sale by Norfolk & Southern ("N & S") of a section of its line to Wheeling & Lake Erie Railway Co. ("W & LE"). When W & LE refused to negotiate with the union representing the displaced workers regarding various workers' rights, including seniority, the union decided to engage in picketing of both N & S, the seller, and W & LE. N & S immediately sought to intervene in the litigation between the union and W & LE. N & S was eventually successful in having the union enjoined from picketing. The grant of injunctive relief was based on a finding by the District Court that the picketing would violate RLA § 2 Ninth (45 U.S.C. § 152 Ninth), which according to the court, provided for the National Mediation Board to investigate all disputes regarding employee "representation," and that this means of resolution was exclusive. At the time the injunctive relief was granted W & LE had no employees and was not a fully functioning carrier.

On appeal, because W & LE had already hired employees, the Court found that the union's attempt to negotiate the manner of hiring had been rendered moot, and therefore the Court left standing the injunction. 914 F.2d at 55-56. However, the Court went on to address the question of whether or not the injunction had been properly granted. The Court stated that

⁴This issue can be dealt with quickly. It appears that Conrail, in the future, would be bound by any existing demands made by BMW as of November 1, 1994, eventually resolved in BMW's favor. This would appear to include a seller's obligation under a Successorship clause. Counsel for Conrail conceded as much during the hearing. Accordingly, at least with regard to Conrail's obligations to the BMW, a sale of a portion of the line has not mooted the issue.

in order for an injunction to be properly issued two questions need be answered affirmatively. First, does the conduct at issue grow out of a labor dispute? Id. at 55. The Court of Appeals found that this question could easily be answered in the affirmative. The second question was whether the plaintiff could show that the conduct is prohibited by a specific mandate of the RLA. Id. The Court found that because the "affected railroad" could not have shown a violation of the RLA, the injunctive relief should have been denied. Id. at 56. The Court reasoned that because "there can be no dispute over 'representation' where there are no employees, the RLA's representation dispute resolution procedures could not have justified enjoining picketing before W & LE became an active railroad with a workforce." Id. The defendant argues that like Wheeling, the dispute that led to the picketing is one between BMW and Corman's subsidiary, over whether the buying entity, will enter into an agreement to provide for the hiring of the new subsidiary's employees. Since R.J. Corman is not subject to the RLA until it begins operations, the RLA does not apply in such a way as to prevent BMW from engaging in self help.

The Court's analysis begins with its April 28, 1995, injunction. The argument of BMW that the Preliminary Injunction does not apply to the present picketing is dependent on either a mischaracterization of what it is doing, or a misunderstanding of what this Court's previous opinion said. BMW's suggestion that the Preliminary Injunction was based solely on the national versus local bargaining dispute, demonstrates a fundamental misunderstanding of that Order which the parties should not have at this stage of the litigation. Accordingly, the Court will take a moment to review the applicable language. The Preliminary Injunction is based on prevention of violations of the RLA. The opinion states, that while the RLA did not prohibit

strikes, "it contained a complex set of procedures for delaying strikes . . . in order to ensure that the parties have a sufficient opportunity to negotiate and mediate their disputes." 883 F. Supp. at 758. The Court further stated that "[w]hile [a] dispute is working its way through these stages, neither party may unilaterally alter the *status quo*. §§ 2 Seventh, 5 First, 6, 10." Id. (quoting Brotherhood of R.R. Trainmen v. Jacksonville Terminal Co., 394 U.S. 369, 378 (1969)). Finally, the Court stated that:

There is no doubt that the parties have not exhausted these procedures. Although the parties did not initially confer about their disputes, the NMB's decision to proffer its services sua sponte provides the parties with an opportunity to begin to exhaust the RLA procedures. Given the fact that the parties' dispute is currently in mediation, it appears at first blush that the BMW is required to refrain from altering the status quo by striking or resorting to some other means of self help until the RLA's remedies are exhausted. Id.; Detroit & Toledo, 396 U.S. at 148; Delaware & Hudson, 450 F.2d at 607. Thus, it would seem that it would be appropriate to grant the carriers' request for an injunction in order to prevent the BMW from engaging in improper strikes.

Thus, it is clear that the Preliminary Injunction was ordered in large part to require compliance with the procedures associated the § 6 notices. The Court believes in this instance that the BMW is employing self help to secure from Conrail locally, what it asked for in the November 1, 1994 § 6 notices. Because the BMW is prohibited at the present time from picketing over those subjects, its picketing violates the terms of the Preliminary Injunction.

BMW attempts to escape the terms of the Preliminary Injunction by arguing that its conduct is not in violation of the RLA. The Court finds that the BMW's reliance on Wheeler is misplaced. BMW claims that its conduct does not violate the RLA, but the present case differs from Wheeling in several material respects.⁵ This case involves a strike against the selling

⁵The defendant has not placed before the Court any convincing reasons why this Court should treat the dictum of another circuit as dispositive authority in this Court. The

entity, Conrail. While Wheeling, did involve an attempted strike against NS (the seller) and W & LE (the buyer), the Court never held even in dictum that the union was entitled to strike N & S. As even BMW E noted, the relevant language in that opinion states that "[w]e do not hold that the Unions could not have picketed W & LE's employment office or headquarters before W & LE became a 'carrier.'" 914 F.2d at 56 (emphasis added).⁶ In that case the union had picketed both the seller and sellee and the Court found no violation of the RLA with regards to W & LE (the sellee).⁷ In this case, it is Conrail that is actually operating the Clearfield Cluster pending the consummation of the sale. They do have employees, they are in mediation with those employees, and those employees are enjoined from picketing Conrail over successorship rights. Under the rationale of Wheeling this Court might be powerless to enjoin the defendant from engaging in a strike of R.J. Comman's office in Kentucky. But it is not R.J. Comman which is feeling the heat here, but Conrail. This case differs in another material respect from Wheeling. That case involved the union making demands on the sellee to negotiate. The Court recognizes that this has also been done here, but this case presents the additional circumstance of BMW E making demands of Conrail relating to its employer-employee relationship with BMW E, and most important, picketing over those demands. Significantly, the demands parallel, in most material respects, the obligations of a seller under the § 6 Successorship proposal.

Court believes even applying the reasoning of Wheeling the injunctive relief is warranted.

⁶This reading is further supported by language in the opinion suggesting that the "affected railroad must find a specific mandate of the RLA that prohibits the picketing." 914 F.2d at 56.

⁷As there can be no dispute over 'representation' where there are no employees, the RLA's representation dispute resolution procedures could not have justified enjoining picketing before W & LE became an active railroad with a workforce." 914 F.2d at 56.

Moreover, in Wheeling the court predicated the grant of injunctive relief on a violation of the RLA. In the present case, like Wheeling the Preliminary Injunction was employed to prevent violation of the RLA. However, unlike Wheeling, there can be no argument that this Court's previous injunction was not predicated on prevention of a legitimate potential violation of the RLA. The § 6 notices were then, and presently remain, in mediation. The injunction was to prevent strikes while the mediation was continuing.

Thus, ultimately, the real question for this Court is whether BMW's present picketing involves the same issues presented in that § 6 notice. If they do, then the picketing is already prohibited by an existing Preliminary Injunction. As the Court has tried to make clear throughout this analysis, the Court believes the present picketing is to force Conrail to negotiate some of the same issues that BMW is prohibited from picketing over until mediation is completed. As previously stated, the Court's intent in issuing the Preliminary Injunction was to maintain the status quo while mediation was pending. With this in mind, the BMW should not be able to continue its picketing here.^{*} BMW seeks from its picketing largely the same protections as it demanded in its Successorship proposal. The defendant admitted as much when it conceded had the Successorship clause been in existence it would have provided much of the same protections that BMW now seeks to obtain through picketing. For this Court to adopt BMW's suggestion that these § 6 notices somehow involve different issues would require the Court to place form over substance. This is something the Court will not do. Contrary to the defendant's suggestion, the consummation of the sale prior to the Successorship proposal being adopted does not break the link in the chain connecting this action with the

^{*}Or as it suggests expand its picketing to wherever the BMW has workers.

enjoined conduct. In sum, the Court finds that the dispute here is over the same subject covered by the defendant's previously filed § 6 notices. Accordingly, unlike the case in Wheeling, there exists a violation of the RLA making the issuance of injunctive relief appropriate.

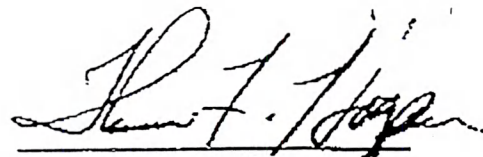
Finally, BMW argues that this Circuit has held that secondary picketing, such as its picketing of Conrail, has been left unregulated by the RLA. See Central Vermont Ry. v. BMW, 793 F.2d 1298, 1302-03 (D.C. Cir. 1986). BMW argues that because the picketing of Conrail is "secondary," it is not cognizable under the RLA's major dispute provisions. In Central Vermont this Circuit held that injunctive relief to require mediation in the case of secondary picketing would have the practical effect of banning conduct that Congress left unregulated. Id. In other words, it would make little sense for the Court to require a union and a carrier to enter into mediation when workers picket, where there is no employer-employee relationship. The carrier in that situation has no relationship to the strikers, and the RLA only applies to situations where a relationship exists.

The attempt of BMW to characterize its picketing as "secondary" does not make it so. In the present case, Conrail and BMW, unlike the situation in Central Vermont, have an employer-employee relationship. Both parties are presently in RLA mediation over issues that mirror some of those that BMW is picketing over here. Finally, there is an existing Preliminary Injunction prohibiting BMW from striking or picketing Conrail over this subject. The Court need not find whether this picketing is "primary" or "secondary" to hold that it is a far cry from the secondary picketing that the Circuit found unregulated by the RLA in Central Vermont. Regardless of the label placed upon BMW's actions towards Conrail, it is subject to the RLA.

CONCLUSION

The Court has carefully considered the arguments made in the plaintiffs' motions, as well as BMW's opposition. The Court finds that the picketing by BMW of Conrail is conduct which the BMW has previously been enjoined from undertaking. Accordingly, the Court will order the BMW to cease and desist from its present picketing of BMW. Failure to comply with this Court's Order will result in BMW being subject to a civil contempt judgment and civil contempt fines.

December 15th, 1995



Thomas F. Hogan
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

DEC 15 1995

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

ALTON & SOUTHERN RAILWAY
CO., et al.

Plaintiff,

v.

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYES,

Defendant.

Civ. No. 94-2365 (TRH)

ORDER

For the reasons expressed in the Court's Memorandum Opinion, it is hereby

ORDERED that the present strike by defendant, BMWF against Conrail is related to the dispute or disputes arising from the § 6 notices served in the round of bargaining that commenced on or about November 1, 1994; and it is further

ORDERED that the defendant was enjoined on April 28, 1995, from engaging in or continuing any strikes, picketing, work stoppages, or other self help against Conrail related to the § 6 notices served in the round of bargaining that commenced on or about November 1, 1994; and it is further

ORDERED that the defendant, its divisions, lodges, locals, officers, General Chairmen, agents, employees, members, and all persons acting in concert with any of them, be, and they hereby shall cease and desist from engaging in or continuing any strikes, picketing, work stoppages, or other self help against Conrail at Clearfield; and it is further

ORDERED that continuation of strikes, picketing, work stoppages, or other self help

against Conrail by BMW E may result in a civil contempt judgment and civil contempt fines against the defendants.

December 15 1995



Thomas F. Hogan
United States District Judge

IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALTON & SOUTHERN RAILWAY, *et al.*

Plaintiffs,

v.

Civil Action No. 94-2365 TFH

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYES,

Defendant

DECLARATION OF JED DODD

JED DODD hereby declares pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct to the best of his knowledge, information and belief.

1. Declarant is and has been since September 1, 1983, the General Chairman of the Pennsylvania Federation of the Brotherhood of Maintenance of Way Employees (BMWE). Under the BMWE Constitution, with respect to Maintenance of Way employees employed by Consolidated Rail Corporation (Conrail) on the former Pennsylvania Railroad system, the Pennsylvania Federation and declarant, as its General Chairman, together with the Grand Lodge, are responsible for negotiating, interpreting and applying agreements covering wages, hours, and other conditions of employment of those employees. Declarant's authority to represent employees who are members of the Pennsylvania Federation is well known to Conrail, for shortly after declarant's election in 1983, Conrail and the National Mediation Board were informed by the Grand Lodge President at that time, O.M. Berge, that declarant was the "duly

authorized representative of the Maintenance of Way class or craft of employees for purposes of the Railway Labor Act" with whom Conrail should treat.

2. On October 27, 1994, Grand Lodge President Mac A. Fleming sent a letter to all carriers and to all BMWE general Chairmen, including declarant, informing the carriers that the BMWE had concluded that it would not consent to multi-employer bargaining over the notices which the carriers and the various System Divisions and Federations were preparing to serve under Section 6 of the Railway Labor Act, 45 U.S.C. § 156, to change certain provisions of the current agreements concerning rates of pay, rules and working conditions. This is consistent with the manner in which declarant handled the previous round of bargaining with Conrail, for the Pennsylvania Federation did not participate in "national handling" of the 1988 Section 6 notices on Conrail, but rather, bargained over those proposed changes directly with Conrail.

3. On November 1, 1994, declarant served Conrail with a Section 6 notice, proposing to change certain rates of pay, rules and working conditions as they pertain to Conrail employees who are members of this Federation. A copy of that notice and cover letter are attached hereto as Dodd Exhibit 1.

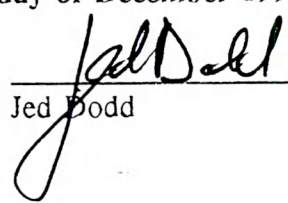
4. After declarant served Conrail with the employees' Section 6 notice, Conrail furnished declarant with a copy of a letter and attached notice that had purportedly been served on the BMWE by the National Carriers' Conference Committee (NCCC) on behalf of certain carriers, including Conrail. That copy did not include what was identified as Attachment A to the letter, which is the list of carriers which have given the NCCC their power of attorney with respect to the BMWE. Declarant subsequently obtained Attachment A from the Grand Lodge. A copy of the NCCC's letter and attachments are attached hereto as Dodd Exhibit 2.

Attachment A shows that Conrail is one of the carriers which have authorized the NCCC to represent them; but, according to a notation on that attachment, Conrail's power of attorney reserved to it the "[r]ight to approve any changes in job security, employee protective conditions, or similar and/or related arrangements before same may become applicable to [Conrail]" Ex. 2 at Attachment A, p. 2.

5. After several unsuccessful attempts to have Conrail or its designated representative meet with declarant over the Section 6 notice served by the Pennsylvania Federation, declarant sent a letter to Conrail Board of Directors protesting Conrail's refusal to comply with its obligations under the Railway Labor Act. A copy of that letter and attachments as addressed to James Hagen (one of the Board of Directors) is attached hereto as Dodd Exhibit 3; that same letter was separately addressed to each of Conrail's Board members.

JED DODD hereby declares under penalty of perjury that the foregoing is true and correct.

Executed in Philadelphia, PA this 22nd day of December 1994.



Jed Dodd