

FINANCE DOCKET No. 24589

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD
CO. DISCONTINUANCE OF TRAINS NOS. 19 AND 20 BE-
TWEEN CHICAGO, ILL., AND OMAHA, NEBR.**

Decided September 21, 1967

Upon investigation, found that the operation by the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., of passenger trains Nos. 19 and 20 between Chicago, Ill., and Omaha, Nebr., is not required by public convenience and necessity and that the continued operation thereof will unduly burden interstate commerce. Investigation discontinued.

Joseph J. Nagle, H. R. Duncan, and William C. Fraser for Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

Leo I. Steffen, Jr., and Daniel J. Fay for Iowa State Commerce Commission, protestant.

James A. Parker for Illinois Commerce Commission, protestant.

Ralph W. Potter, mayor, city of Marion, Iowa, protestant.

Keith E. Roberts, State legislative representative, Brotherhood of Railroad Trainmen, protestant.

Gorden E. Cox, Charles Moerlien, J. W. Gohmann, E. L. Dirks, G. P. Gannon, Lambert C. Burkhalter, Charles M. Reisdorf, T. O. McMahon, Charles R. Pfenning, Clinton J. Gregerson, Richard R. Peppmeyer, Jean K. Orman, and Dale E. McCoy for railroad labor organizations, protestants.

Larry J. Waller and Hugh J. Hill, respectively for chambers of commerce of Marion and Tama, Iowa, protestants.

Walter J. Willett for city of Tama, protestant.

P. F. Crivaro for city of Marion, protestant.

Tom J. Kolda for Mount Mercy College, Cedar Rapids, Iowa, protestant.

Janice Ebert for Iowa School for the Deaf, protestant.

R. S. Gates for Coe College, Cedar Rapids, Iowa, protestant.

Raymond P. Weeks, Clarence E. Coombs, W. Kenaga, C. C. Birr, H. H. Lagerpusch, and Kenneth Robinson, protestants.

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REPORT OF THE COMMISSION

DIVISION 3, COMMISSIONERS TUGGLE, BROWN, AND DEASON

DLASON, *Commissioner:*

Pursuant to the provisions of section 13a(1) of the Interstate Commerce Act, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, hereinafter called the Milwaukee¹ or the railroad, a common carrier by railroad subject to the provisions of part I of the act, filed a notice and supporting statement on May 12, 1967, in which it proposed to discontinue, effective June 12, 1967, the operation of passenger trains Nos. 19 and 20 between Chicago, Ill., and Omaha, Nebr., a distance of 488 miles. Copies of the notice were served and posted in the manner prescribed by section 13a(1) of the act and the regulations of the Commission.

Upon consideration of numerous protests and complaints filed, among others, by State regulatory commissions, chambers of commerce, affected communities, individuals, railway labor organizations and educational institutions, an investigation of the proposed discontinuance of service was instituted by our order dated May 31, 1967, which required continued operation of the trains for a period not exceeding 4 months beyond the date when the discontinuance would have become effective. Because of the statutory limitation upon the time available for investigation and decision, the order provided for the omission of a report and recommended order by the hearing examiner and for certification of the record to us for initial decision. Hearings were held at Chicago, Cedar Rapids, Iowa, and Omaha.

BASIS FOR THE RAILROAD'S PROPOSAL

The Milwaukee contends that the minimal use by the public of trains Nos. 19 and 20 and the substantial deficits which have been, and will be, incurred in their operation warrant their elimination. The railroad maintains that the trains were already operating at a substantial deficit when on May 1, 1967, the Post Office Department discontinued operation thereon of a 30-foot Railway Post Office (RPO) car in which mail clerks handled the distribution and sorting of mail between Chicago and Omaha. Prior thereto, on June 1, 1966, the Railway Express Agency, Inc. (REA) discontinued the handling of less-than-carload express traffic on these trains. According to the Milwaukee, the loss of revenues due to the actions of the Post Office Department and the REA have aggravated the losses already stemming from the operation of said trains

¹See appendix A for complete list of all carriers mentioned in this report together with the shortened names by which they are referred to

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APPENDIX C

Table of Determination of the joint terminal facility expenses of the Milwaukee Railroad on trains Nos. 19 and 20 at the Chicago Union Station (passenger) and the Union Pacific Passenger Station at Omaha, Neb., for the year 1938

Items (a)	Total units all railroads (b)	Total expense all railroads (c)	Cost per unit (column c) divided by (b) (d)	Total Milwaukee Road units (e)	Milwaukee Road expense (column d x column e) (f)	Milwaukee Road savings (g)
<i>Chicago Union Station (passenger)</i>						
Total units—cars (all railroads).....	999,900	36,392,900	36.392	168,375	6,128,628	.....
Units of Milwaukee trains Nos. 19 and 20.....	3,777	.....	3,777	.....	.....	.....
Less units of Milwaukee trains Nos. 19 and 20.....	695,623	.....	13.3075	168,375	2,255,906	3,872,722
<i>Omaha joint passenger terminal</i>						
<i>Passenger station:</i>						
Total units—cars (all railroads).....	359,397	2,967,480	8.259	109,702	909,878	.....
Units of Milwaukee trains Nos. 19 and 20.....	11,898	.....	11,898	.....	.....	.....
Less units of Milwaukee trains Nos. 19 and 20.....	362,499	.....	8.9359	92,359	829,819	75,958
<i>Passenger switching:</i>						
Total units—cars (all railroads).....	58,321	299,549	5.138	2,587	13,399	.....
Units of Milwaukee trains Nos. 19 and 20.....	1,970	.....	1,970	.....	.....	.....
Less units of Milwaukee trains Nos. 19 and 20.....	56,351	.....	5.2597	577	3,025	8,374
Total savings at Omaha.....	.....	.....	.....	.....	.....	84,332
<i>For the first 6 months, January to May 1938</i>						
<i>Chicago Union Station (passenger)</i>						
Total units—cars (all railroads).....	210,530	2,302,038	10.9345	76,071	1,193,136	.....
Units of Milwaukee trains Nos. 19 and 20.....	1,339	.....	1,339	.....	.....	.....
Less units of Milwaukee trains Nos. 19 and 20.....	309,176	.....	15.7860	76,717	1,179,583	11,553
<i>Omaha joint passenger terminal</i>						
<i>Passenger station:</i>						
Total units—cars (all railroads).....	223,779	1,951,017	8.7230	39,773	346,077	.....
Units of Milwaukee trains Nos. 19 and 20.....	9,572	.....	9,572	.....	.....	.....
Less units of Milwaukee trains Nos. 19 and 20.....	118,707	.....	11.3611	39,291	343,721	32,356
<i>Passenger switching:</i>						
Total units—cars (all railroads).....	24,798	129,172	5.2130	861	4,526	.....
Units of Milwaukee trains Nos. 19 and 20.....	691	.....	691	.....	.....	.....
Less units of Milwaukee trains Nos. 19 and 20.....	24,107	5.1690	175	909	3,617
Total savings at Omaha.....	40,973

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APPENDIX D

The Milwaukee's "cities" trains

Read down		Stations	Read up		
Trains Nos. 101 and 103 city of San Francisco and city of Los Angeles	Trains Nos. 105 and 111 city of Denver and city of Portland		Trains Nos. 106 and 112 city of Denver and city of Portland	Trains Nos. 102 and 104 city of Los Angeles and city of San Francisco	
6:00 p.m.	3:00 p.m.	Lv. Chicago	Ar.	10:15 a.m.	11:59 a.m.
6:45 p.m.	3:45 p.m.	Lv. Elgin	Ar.	9:21 a.m.	11:00 a.m.
7:21 p.m.	4:25 p.m.	Ar. Davis Junction	Lv.	8:43 a.m.	10:22 a.m.
7:21 p.m.	4:25 p.m.	Lv. Davis Junction	Ar.	8:43 a.m.	10:22 a.m.
8:21 p.m.	5:21 p.m.	Ar. Savanna	Lv.	7:48 a.m.	9:27 a.m.
8:28 p.m.	5:28 p.m.	Lv. Savanna	Ar.	7:41 a.m.	9:20 a.m.
9:56 p.m.	6:54 p.m.	Ar. Marion	Lv.	6:14 a.m.	7:54 a.m.
9:56 p.m.	6:54 p.m.	Lv. Marion	Ar.	6:14 a.m.	7:54 a.m.
11:52 p.m.	8:48 p.m.	Ar. Perry	Lv.	4:13 a.m.	5:53 a.m.
11:57 p.m.	8:53 p.m.	Lv. Perry	Ar.	4:08 a.m.	5:48 a.m.
2:20 a.m.	11:15 p.m.	Ar. Omaha	Lv.	2:00 a.m.	3:40 a.m.

NOTE:

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APPENDIX E

Summary of other common carrier passenger service rendered at points served by trains Nos. 19 and 20, or available in immediate territory

Points served by trains Nos. 19 and 20	Carrier	Distance between points	Alternate service points	Distance to alternate points
Chicago	The Milwaukee			
Do	CB&Q Railroad			
Do	CR&P Railroad			
Do	C&NW Railway			
Do	Illinois Central			
Do	Ozark Airlines			
Do	United Air Lines			
Elgin	The Milwaukee	37		
Hampshire	do	14	Elgin	14
Genoa	do	8	do	22
Do	do	8	Davis Junction	21
Kirkland	do	9	do	12
Davis Junction	do	13		
Do	Peoria-Rockford	12		
Lanark	The Milwaukee	40	Savanna	18
Do	Scenic Stage Lines	40		
Mount Carroll	The Milwaukee	8	Savanna	10
Do	CB&Q Railroad	8	do	10
Do	Scenic Stage Lines	8		
Savanna	The Milwaukee	10		
Do	CB&Q Railroad	10		
Do	C&NW Railway	10	Clinton, Iowa	18
Do	Scenic Stage Lines	10		
Do	River Trails Transit Lines, Inc	10		
Delmar	The Milwaukee	35	Savanna	35

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Summary of other common carrier passenger service rendered at points served by trains Nos. 19 and 20, or available in immediate territory—Continued

Points served by trains Nos. 19 and 20	Carrier	Distance between points	Alternate service points	Distance to alternate points
Do	CB&Q Railroad	35	Savanna	35
Do	River Trails Transit Lines, Inc	35	Maquoketta, Iowa	7
Oxford Junction	The Milwaukee	19	Marion	35
Do	Ozark Airlines	19	Cedar Rapids	24
Do	Central Greyhound Lines	19	do	24
Marion	The Milwaukee	35		
Do	Central Greyhound Lines	35		
Do	Iowa Coaches	35		
Do	Ozark Airlines	35	Cedar Rapids	8
Do	United Air Lines	35	do	8
Tama	The Milwaukee	54	Marion	54
Do	Central Greyhound Lines	54	Tama-Toledo	3
Maxwell	The Milwaukee	44	Perry	37
Do	Sedalia-Marshall-Boonville Stage Line, Inc.	44	do	37
Madrid	The Milwaukee	22	do	15
Do	Central Greyhound Lines	22		
Do	Sedalia-Marshall-Boonville State Lines, Inc	22	Perry	15
Perry	The Milwaukee	15		
Do	Sedalia-Marshall-Boonville Stage Lines, Inc	15		
Do	Ozark Airlines	15	Des Moines	35
Do	United Air Lines	15	do	35
Coon Rapids	The Milwaukee	30	Perry	30
Do	Sedalia-Marshall-Boonville Stage Lines, Inc	30		
Manning	The Milwaukee	20	Perry	50
Do	Sedalia-Marshall-Boonville Stage Lines, Inc	20		
Manilla	The Milwaukee	11	Perry	61
Do	do	11	Omaha	65

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and contributed to its decision to discontinue. The Milwaukee asserts that alternative means of transportation are available to those few who now use the considered trains, and points to its substantial deficits from passenger operations and the need to effectuate eliminations wherever appropriate to enable its survival to perform other essential transportation services.

OPERATION OF TRAINS NOS. 19 AND 20

Trains Nos. 19 and 20 operate daily between Chicago, and Omaha, the former traveling westward and the latter eastward. In addition to Chicago and Omaha, the trains serve the stations at Elgin, Hampshire, Genoa, Kirkland, Davis Junction, Lanark, Mount Carroll, and Savannah, Ill., Delmar, Oxford Junction, Marion, Tama, Maxwell, Madrid, Perry, Coon Rapids, Manning, Manilla, Earling, and Council Bluffs, Iowa. The trains carry passengers, storage or pouch mail, and baggage. The usual consist of the trains include a mail and express car, and one reclining seat air-conditioned lounge coach with a seating capacity of approximately 66 persons. In addition, train No. 20 has a storage-mail car moving from Omaha to Milwaukee, Wis., and a flexivan car containing two vans moving from Marion to Chicago. The trains are powered with diesel locomotives, and the crews of each consists of an engineer, a fireman, a conductor, a brakeman, and a baggageman, who work on alternate days on designated portions of the run between Chicago and Omaha. This necessitates a total of 32 crew members for both trains.

Under existing schedules, train No. 19 leaves Chicago at 8:10 p.m. est., and arrives in Omaha at 7:50 a.m. est. Train No. 20 departs from Omaha at 9 p.m. est., and arrives in Chicago at 8:50 a.m. est. Detailed schedules of the trains and the populations of the communities served by them are set forth in appendix B.

USE MADE OF PASSENGER SERVICE

During 1966 and the first 5 months of 1967, trains Nos. 19 and 20 carried a total of 25,452 passengers and 8,840 passengers, respectively. During the first 5 months of 1966, they carried 9,162 passengers. Approximately 58 percent of these passengers utilized train No. 20.

The average number of revenue passengers per trip transported during recent periods on trains Nos. 19 and 20 for the entire running distance of 488 miles between Chicago and Omaha, regardless of the distances traveled by them, is portrayed by the following table:

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TABLE NO. 1

Train No.	1963	1964	1965	1966	First 5 months of 1966	First 5 months of 1967
19	29.9	28.6	27.4	28.9	27.8	25.4
20	41.8	44.8	39.8	40.8	32.9	33.5
19 and 20	35.9	36.7	33.6	34.9	30.3	29.5

The average number of miles traveled per revenue passenger for given periods is depicted in table No. 2:

TABLE NO. 2

Train No.	1966	First 5 months of 1966	First 5 months of 1967
19	187.7 miles	154.7	161.2
20	228.7 miles	184.4	164.4
19 and 20	211.7 miles	170.8	163.0

The average number of passengers per train-mile for the considered runs is shown in table No. 3:

TABLE NO. 3

Train No.	1963	1964	1965	1966	First 5 months of 1966	First 5 months of 1967
19	11.8	11.4	10.4	11.1	8.8	8.4
20	18.5	20.0	16.8	19.1	12.4	11.3
19 and 20	15.3	15.7	13.6	15.1	10.6	9.8

Upon the basis of the stated coach capacities of 66 passengers each, train No. 19 was 17 percent and train No. 20 was 29 percent occupied per mile on the average during 1966.

Tables Nos. 1, 2, and 3 disclose, that on an average, no appreciable change occurred in the passenger patronage for the periods shown. Nevertheless, it cannot be gainsaid that the patronage of the trains was and is low. The Milwaukee attributes the somewhat improved 1966 showing to added traffic occasioned by the airlines strike which occurred during July and August of that year.

A breakdown of the figures given in table No. 1 discloses that of the average of 28.9 revenue passengers who utilized train No. 19 in 1966, an average of 24.2 passengers entrained at Chicago (20.6 during the first 5 months of 1966²; 1.4 entrained at Elgin (1.3); 1.1 passengers

² All subsequent figures within the parentheses in this and the succeeding paragraph contain comparative averages for the first 5 months of 1967.

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entrained at Marion (1.6); and various fractions of less than 1 percent entrained at the other stations served by the train before its arrival in Omaha. Of the same 28.9 statistic, an average of 7.4 passengers detrained at Elgin (7.2); 6.4 at Omaha (4.5); 4.5 at Mount Carroll (4.7); 1.6 at Savanna (1.6); 1.3 at Marion (1.2); 1 at Hampshire (.7); 1 at Genoa (1), and various fractions of less than 1 at the remaining stations. Of the (7.2) who detrained at Elgin, an average of 5.5 traveled on commuter tickets from Chicago.

Of the average of 40.8 revenue passengers who utilized train No. 20 per run during 1966, an average of 12 passengers boarded the train at Omaha (7.7); 10.7 at Elgin (13.8); 4.7 at Council Bluffs (2.1); 2.5 at Marion (1.9); 2.3 at Mount Carroll (2.5); 1.6 at Savanna (.9); 1.5 at Perry (1.2); 1 at Genoa (.7); 1 at Hampshire (.8); and various fractions of less than 1 at each of the other 12 stations. Of the same 40.8 average, 33.2 detrained at Chicago (26.8); 2.1 at Marion (2.0); 1.2 at Elgin (1.1); 1.2 at Perry (.9), and various fractions of less than 1 at each of the other 17 stations.

OPERATING RESULTS OF TRAINS NOS. 19 AND 20

The Milwaukee presented evidence of the operating results of trains Nos. 19 and 20 both on a fully distributed and an out-of-pocket cost basis. The Commission does not recognize fully distributed costs in cases of this type. *New York, N. H. & H. R. Co. Discontinuance of Service*, 320 I.C.C. 714, 718. Accordingly, our analysis will be based on the out-of-pocket costs which the railroad expects to save in the event of a discontinuance of the trains. Pertinent statistics submitted by the railroad to show revenues, out-of-pocket expenses, and resulting losses incurred by trains Nos. 19 and 20 in 1966 and the first 5 months of 1967 after reflecting exclusion of revenues from RPO mail and less-than-carload express formerly handled by REA, are given in table No. 4 below.

In computing the revenues and out-of-pocket expenses, passenger revenues were determined by an analysis of the actual tickets collected by conductors or tickets honored and not lifted, and cash fares collected by conductors.

TABLE NO. 4

Revenues	1966		First 5 months of 1967	
Passenger:				
Local.....	\$137,968		\$37,855	\$38,368
Feeder.....	2,193	\$140,161	513	

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TABLE NO. 4—Continued

Revenues—Continued	1966		First 5 months of 1967	
Mail:				
Storage-line-haul.....	\$188,069		\$71,600	
Storage-terminal.....	49,143	\$237,212	18,703	\$90,303
Express:				
Carload.....		13,466		2,700
Newspapers.....		5,717		2,200
Remains.....		2,072		578
Total revenues ¹		398,608		134,149
Expenses				
Wages of conductors, brakeman, and baggagemen.....	172,752		74,910	
Wages of engineers and firemen.....	175,597		74,375	
Meals and lodgings of traincrew.....	18,772		9,489	
Diesel locomotive fuel.....	53,493		17,069	
Diesel locomotive repairs.....	90,754		35,236	
Passenger train car repairs.....	75,964		25,274	
Train supplies and expenses.....	69,963		23,679	
Lubricants and other locomotive supplies.....	5,405		2,098	
Enginehouse expenses.....	16,776		6,513	
Terminal expenses-Chicago.....	32,722		13,653	
Terminal expenses-Omaha.....	84,973		40,803	
Foreign car rental.....	4,172		2,650	
Flex-van rental.....	6,431		2,553	
Claims.....	10,341		2,390	
Payroll taxes.....	43,571		17,793	
Total expenses.....		861,686		348,485
Excess of out-of-pocket expenses over revenues.....		(463,078)		(214,336)

¹Excludes revenues from RPO car \$221,578, and revenues from less-than-carload express \$22,643, in 1966, and \$73,176 and \$1,693, respectively for the same categories of revenues in the 1967 period.

²Includes vacation pay and health insurance.

Passenger tickets for local movements between Chicago and Omaha were assigned 100 percent to trains Nos. 19 and 20. Passenger revenues attributable to travel beyond-the-line (feeder revenues) were prorated according to the mileages applicable to the distances traveled on trains Nos. 19 and 20 between Chicago and Omaha. The so-called 50-percent formula, often used by the Commission to determine the expenses associated with earning the feeder revenues was not employed in this case in view of the limited number of beyond-the-line passengers and the fact that no perceptible saving in expenses for this item would necessarily follow discontinuance of the trains. Revenues paid by REA for the handling of small express shipments are an allocation of system less-than-carload express revenues to the considered trains on a car-foot

mile basis. For carload express traffic, the actual revenues were allocated to the train run on a mileage basis. Appropriate allocations were used to determine revenues from the transportation of newspapers and human remains.

Crew wages are actual and include amounts for paid vacations and health insurance. Payroll taxes represent actual payments computed by using applicable payroll tax percentages. Meal and lodging payments represent actual payments for meal allowances and lodging for trainmen and enginemen away from home terminals. Operating expenses for diesel locomotive fuel, diesel locomotive repairs, passenger-train car repairs, train supplies and expenses, lubricants and other supplies for train locomotives, and enginehouse expenses, were allocated to trains Nos. 19 and 20 upon the basis of the actual results experienced by the carrier on its system operations. We have repeatedly sanctioned the use of systemwide expenses in making appropriate allocations with respect to expenses such as the foregoing which, as here, are not itemized in the carrier's accounts. See *Chicago, M., St. P. & P. R. Co. Discontinuance of Service*, 320 I.C.C. 566, 572, 585.

Joint terminal expenses reflect the differences between the Milwaukee's present costs for the use of the terminals at Chicago and Omaha and those which would remain if trains Nos. 19 and 20 discontinue their use. The resulting savable expenses are based upon formulas contained in contracts introduced and received in evidence covering the joint use of the terminals by the Milwaukee and other railroads. Briefly, and as pertinent herein, the use of the Chicago terminal is covered under an agreement executed July 2, 1915, whereby, the Chicago Union Station Company granted each of its four proprietary companies³ equal rights in the common use of the terminal for the handling of passengers, mail, and express traffic (section 2). The agreement provides for monthly computations and payment of the terminal's net operating and maintenance expenses by each proprietary company of prorata amounts representing the ratio between its total number of locomotives and cars which have used the terminal during the preceding month and the total number of locomotives and cars of all proprietary companies which have similarly used the terminal. Locomotives are counted as 2 cars, and cars of suburban or local trains whose operations are limited to a 52-mile radius of the terminal, are counted as four-fifths of a car (section 7).

Use of the Omaha terminal is covered by an agreement dated September 1, 1898, as modified and extended, whereby the Union Pacific

³Chicago, Burlington and Quincy Railroad Company; the Milwaukee; the Pittsburgh, Cincinnati, Chicago and St. Louis Railway Company; and the Pennsylvania Company.

Railroad Company (the UP) undertook to and constructed a passenger terminal at that point and granted certain railroad companies, including the Milwaukee, the right to use it jointly with itself (article II). The agreement provides for monthly computations of the terminal's operating and maintenance expenses and payment to UP by each of the user companies of amounts representing the ratio which its number of engines and cars arriving at and departing from the terminal bears to the total number of engines and cars arriving at and departing therefrom (article V). Formulas are given for computing the number of engines and cars.

Documentary evidence was submitted to show how the terminal expenses were arrived at in accordance with the agreements of July 2, 1915, and September 1, 1898. Tables summarizing the said computations are contained in appendix C hereof. The joint-facilities expenses herein recognized as prospective savings are deemed supported by specific and concrete proof. See *Denver & R. G. W. R. Co. Discontinuance*, 330 I.C.C. 108, 116.

Amounts for flexi-van car rentals were arrived at by applying the rate per car-mile or per day to the flexi-van car-miles operated on trains Nos. 19 and 20. Claims paid represent the actual amounts incurred from the operation of said trains.

The Milwaukee listed \$33,489 and \$13,954, respectively, as "depreciation on equipment" expenses incurred during 1966 and the first 5 months of 1967 from the operation of rolling equipment on trains Nos. 19 and 20. It alleged that this equipment would be released for service elsewhere. However, no evidence was adduced as to whether the equipment would replace other of its equipment elsewhere, or would merely be added thereto. Thus, no basis exists for a finding that the depreciation expenses incurred in connection with said equipment will cease to be incurred in the event the considered trains are discontinued, and, accordingly, they are disallowed.

The Milwaukee stresses that its claimed savable expenses do not fully reflect certain increases in costs already in effect or pending which will cause further deterioration in the operating results of trains Nos. 19 and 20. Specifically, its system operating employees were awarded \$2,050,000 in annual wage increases, effective August 12, 1966, and its nonoperating employees received wage increases totaling \$3,650,000, effective January 1, 1967. Other added costs for its entire system in 1967 will include additional vacation allowances of \$560,000, payroll taxes of \$158,000, increases of \$546,000 in retirement and medicare taxes effective January 1, 1967, taxes for supplemental annuities,

to support hospital, medical, and life insurance plans for operating employees amounting to \$260,265.

Mail revenue represents the amount actually paid by the Post Office Department for use of space on trains Nos. 19 and 20 and for terminal per piece handling for said trains. An agreement effective April 24, 1966, as amended effective August 1, 1966, between the Milwaukee and the Post Office Department provides for the transportation of mail in flexi-van or piggyback service in passenger and/or freight train service between Chicago and Omaha, between Chicago and Madison, Wis., and between Chicago and Minneapolis-St. Paul, Minn. Pursuant to this agreement, the Milwaukee is paid on the basis of rates prescribed by this Commission. For the purpose of ascertaining the compensation to be paid, the parties to the agreement combine the mail transported in piggyback trailers moving in freight trains with mail transported in passenger trains moving between the aforementioned points. By mutual consent, the parties agreed verbally to compute the said compensation by combining the amounts of mail handled daily in such freight trains with the mail transported daily in trains Nos. 19 and 20 so as to enable the Post Office Department to avail itself of volume discounts. Lump sum checks are remitted by it in payment for the handling of such mail. Of these lump-sum amounts, the Milwaukee makes monthly computations to ascertain the portions actually allocable to trains Nos. 19 and 20.

The record discloses that the Post Office Department remitted \$17,677⁴ to the Milwaukee for the handling of mail from May 1, 1967, through May 19, 1967, pursuant to the aforementioned agreements. Summarized computations, together with copies of the original underlying documents kept by the Milwaukee in the regular course of its business, give the following breakdown of the said sum:

\$6,586	--- revenues credited to train No. 19
6,029	--- revenues credited to train No. 20
567	--- revenues credited to freight train No. 98
3,813	--- revenues credited to freight train No. 61
279	--- line-haul revenues for passenger train No. 5
403	--- terminal handling earnings for passenger train No. 5
<u>17,677</u>	--- Total

The revenues of \$12,615 which actually enured to the credit of trains No. 19 and 20 are \$4,500 less than what the Post Office Department indicated in its first letter to the protestant (see footnote 4) as having been paid for the transportation of mail on the said trains. It is signif-

⁴A protestant introduced two letters from the Post Office Department which gave this figure as \$17,205. However, as shown in the record, this was an estimate subject to adjustment.

icant, however, that in its second letter, the Post Office Department specifically stated "the \$17,205 paid for the first 19 days in May include revenues for mail handled in freight service between Chicago and Omaha." Thus, Department's projection of the said \$17,205 19-day sample to an annual estimate of what would enure as revenues to the said trains was not only inaccurate, but extremely speculative. For its own part, the Milwaukee testified that the revenues from the handling of line-haul and terminal mail on trains Nos. 19 and 20 for May 1966 and May 1967 were \$17,373 (excluding RPO mail) and \$16,543, respectively, a decrease of \$830.

ALTERNATE TRANSPORTATION FACILITIES

Train No. 19 leaves Chicago at 8:10 p.m. and arrives in Elgin, 37 miles away, at 9 p.m. Among others, "commuter" trains leave Chicago daily, except Saturday, at 7:35 p.m. and 9:15 p.m., and arrive in Elgin at 8:50 p.m. and 10:25 p.m., respectively. Train No. 20 departs from Elgin at 7:50 a.m., and arrives in Chicago at 8:50 a.m. Among others, one "commuter" train is available leaving Elgin daily at 7:34 a.m., arriving in Chicago at 8:39 a.m. Also, the Milwaukee's so-called "cities" trains which, as pertinent herein, also operate between Chicago and Omaha, serve most of the larger points along this route in common with trains Nos. 19 and 20, namely Elgin, Davis Junction, Savanna, Marion, and Perry (see appendix D for time schedules). Hampshire and Genoa, not served by the "cities" trains, are 14 miles and 22 miles, respectively, from Elgin; Kirkland is 12 miles from Davis Junction; Lanark, Mount Carroll, and Delmar are, respectively, 18, 10, and 35 miles from Savanna; Oxford Junction and Taina are, respectively, 35 miles and 54 miles from Marion; Maxwell, Madrid, Coon Rapids, Manning, and Manilla, are, respectively, 37, 15, 30, 50, and 61 miles from Perry; and Manilla, Earling, and Council Bluffs, are, respectively, 65, 49, and 3 miles from Omaha.

The Burlington also operates passenger trains between Chicago and Omaha, with trains among others, leaving Chicago daily at 10:45 p.m., arriving Omaha at 8:45 a.m. (train No. 19, as noted, departs Chicago at 8:10 p.m., and arrives in Omaha at 7:50 a.m.). From Omaha, the Burlington has trains, among others, departing daily at 7:15 p.m., and 10:30 p.m., arriving in Chicago at 4:30 a.m., and 7:50 a.m., respectively (train No. 20 departs Omaha at 9 p.m., and arrives in Chicago at 8:50 a.m.). The said Burlington trains also serve Council Bluffs. This railroad also operates seven trains daily in each direction between Chicago and Savanna.

The Rock Island operates between Chicago, Council Bluffs, and Omaha. It has a train departing Chicago daily at 12:45 p.m., arriving Omaha at 11:20 p.m. Eastward, a train departs from Omaha daily at 9:30 a.m., and arrives in Chicago at 7:55 p.m. Both trains serve Des Moines, which is approximately 35 miles from Perry and 30 miles from Madrid.

The Chicago and North Western operates trains between Chicago and Clinton, Iowa (approximately 22 miles from Savanna), one leaving from Chicago at 5 p.m. daily, except Sundays and holidays, arriving in Clinton at 7:25 p.m., and another leaving Chicago at 8:31 p.m. on Sundays and holidays, arriving in Clinton at 10:55 p.m. In the opposite direction, trains leave Clinton at 6:30 a.m. daily, except Sundays and holidays, and 5 p.m. Sundays and holidays, arriving in Chicago at 8:55 a.m. and 7:25 p.m., respectively. These trains also serve Morrison, Ill., approximately 12 miles southeast of Mount Carroll.

Illinois Central operates passenger trains between Chicago, Genoa, Rockford, Des Moines, and Freeport, the latter point being available to travelers to or from Mount Carroll and Lanark.

Central Greyhound operates bus services between Chicago, Cedar Rapids, Council Bluffs, and Omaha. Its lines parallel to a degree those of the Milwaukee, but, at times, notably in Illinois, they are approximately 20 to 25 miles apart. In Iowa, they run much closer to each other, for example, Earling is approximately 13 miles by all-weather road from its bus stop in Dunlap. Among others, Greyhound has buses leaving Chicago daily at 11:30 p.m., arriving in Council Bluffs and Omaha at 10:55 a.m. and 11:15 a.m., respectively. Also, among others, a bus departs from Chicago at 11:30 p.m., arriving in Cedar Rapids at 7:50 a.m. Eastbound buses leave Cedar Rapids at 10 a.m., 4:25 p.m., and 5:10 p.m., arriving in Chicago at 5:30 a.m., 11 p.m., and 11:59 p.m., respectively. One of its buses departs from Chicago at 7:30 p.m. and arrives in Omaha at 6 a.m. In the reverse direction, buses leave Omaha at 5:45 p.m., and 10 p.m., arriving in Chicago at 5 a.m. and 9 a.m., respectively. The same buses depart from Council Bluffs at 6 p.m. and 10:15 p.m., respectively. Others cover the same route with stops at Clinton. This bus company also operates buses between Chicago and Elgin, between Cedar Rapids and Marion, and between Tama, Madrid, and Rockford.

Scenic Stage operates buses between Mount Carroll and Savanna. It also serves Clinton, Lanark, and Mount Carroll. One can go from either of the last two named cities to Savanna, which is served by the Burlington.

Sedalia Stage runs buses between Coon Rapids, Perry, and Chicago, and also between Cedar Rapids (adjacent to Marion) and Chicago. It also serves Manilla Junction (1 mile from Manilla) and Manning.

Peoria Bus offers service between Davis Junction, and Rockford. Continental Trailways provides bus service between Cedar Rapids and Des Moines.

Iowa Coaches serves Cedar Rapids, Des Moines, and Marion.

Missouri Transit runs buses between Cedar Rapids and Chicago.

Interstate 80, a multiple-lane divided access highway parallels the route of trains Nos. 19 and 20 between Chicago and Omaha, at varying distances from zero up to approximately 40 miles.

Ozark Air Lines operates nine flights daily between Chicago and Cedar Rapids, some except Saturday or Sunday; three daily between Chicago and Omaha, six daily, except Saturday or Sunday, from Chicago to Omaha; and three daily, except Saturday, from Omaha. It also serves Clinton, Des Moines, and Rockford near Davis Junction.

United Air Lines has 7 flights daily, 1 except Saturday, from Chicago to Cedar Rapids, and 10 daily from Chicago to Omaha. It has eight flights daily, one except Saturday and one except Sunday, from Cedar Rapids to Chicago, and nine flights daily from Omaha to Chicago.

Of the 22 cities or communities served by trains Nos. 19 and 20, 14⁵ would continue to have common carrier service in the event the trains are discontinued. Patrons at Manilla would be served at Manilla Junction, located approximately 1 mile from Manilla. The communities⁶ which would no longer be served by common carrier have a total population of 10,199 persons. However, the inhabitants of all of these communities would be able to secure service at other nearby points. A summary of other common carrier passenger service is contained in appendix E.

FINANCIAL CONDITION OF THE MILWAUKEE

The Milwaukee's general balance sheet, as of March 31, 1967, shows total assets aggregating \$733,208,228, consisting principally of current assets amounting to \$61,322,425; investments of \$26,443,400; and tangible properties, less depreciation and amortization, of \$627,356,361. Liabilities included current liabilities (exclusive of long-term debt due within 1 year) of \$56,778,531; equipment obligations due within 1 year of \$15,588,557; equipment obligations due after 1 year of \$108,524,543; other long-term debt of \$182,858,300; reserves of \$1,523,915; other liabilities and deferred credits \$7,580,715; capital stock of \$269,424,800; and retained income of \$90,928,867.

Its income statements for 1965, 1966, and the first 3 months of 1967 show net revenue from railway operations of \$49,683,867, \$53,-

⁵Chicago, Elgin, Davis Junction, Lanark, Mount Carroll, Savanna, Marion, Tama, Madrid, Perry, Coon Rapids, Manning, Council Bluffs, and Omaha.

⁶Hampshire, Kirkland, Delmar, Oxford Junction, Maxwell, and Earling.

330,664, and \$11,805,655, respectively, and net income of \$7,262,884, and \$8,129,944, and a deficit of \$491,154, respectively. Net income for the first 3 months of 1966 was \$2,875,279.

In every year since 1950, the Milwaukee has had a lower rate of return on property investment than the average of class I railways in the United States. However, as indicated by the following table, its operating results have shown a marked improvement over the last 5 years:

Rate of return on net investment for the Milwaukee System during the 5 years 1962 to 1966 both inclusive

Line Number	Item	1962	1963	1964	1965	1966
		(000)				
1	Investment in railway property used in transportation service (end of year).	\$847,543	\$843,038	\$853,820	\$856,426	\$878,518
2	Material and supplies on hand December 31.	16,784	17,798	16,386	17,172	15,413
3	Cash fund as of December 31.	5,130	6,794	6,320	4,109	5,854
4	Gross Investment.....	869,457	867,630	876,436	877,707	899,785
5	Accrued Depreciation as of December 31.	268,592	264,018	269,779	267,869	274,097
6	Net Investment (after accrued depreciation).	600,865	603,612	606,657	609,838	625,688
7	Net railway operating income..	11,440	14,301	13,106	15,289	16,344
8	Rate of return on net investment (7 ÷ 6).	1.90%	2.37%	2.16%	2.51%	2.61%

Source—Lines 1 to 7—annual reports to Interstate Commerce Commission

EFFECT ON EMPLOYEES OF TRAINS NOS. 19 AND 20

The Milwaukee is confident and certain that no loss of employment would result to any of the trains' crews in the event of a discontinuance. It asserts that normal attrition and retirements of employees on other trains in its system will absorb all those displaced.

PROTESTANTS

Eighteen witnesses appeared in opposition to the railroad's proposal during the hearings. Collectively, they argue for themselves and for others similarly situated that the railroad's existence stems from the so-called "land grants" of the 19th century, and that it owes the public an obligation to continue passenger-transportation services even though such services may be unprofitable; that individuals in small but growing communities not on the stations of the "cities" trains should not be compelled to travel to those that are; that a deci-

sion on the proposal should await outcome of the pending merger application between the UP and the Rock Island,⁷ because in the event of an approval therein the UP could utilize the Rock Island tracks between Omaha and Chicago rather than those of the Milwaukee and cause the withdrawal of the "cities" trains from service; and that they consider trains better suited to the needs of the elderly and those who do not desire to drive their automobiles or travel by airplane, and safer than other modes of transportation.

Additionally, some blame the Milwaukee for the lack of patronage experienced by trains Nos. 19 and 20. They point to the absence of pullman car or dining and snackbar service, necessitating an overnight trip without affording an opportunity for the rental of a pillow, the purchase of food, or the purchase of milk for children. They voice complaints regarding the untidy condition of the trains, the fact that the air-conditioning or heater systems do not work on occasion, and the lack of courtesy displayed by the traincrews towards passengers.

Protestants representing educational institutions of higher learning testified to the need of the trains' facilities by many of their students to facilitate travel to and from their homes located in communities on or near the stations served by them. A resident of Worthington, Iowa (near Marion), prefers the services of the trains for his child and other children attending a school for the deaf in Council Bluffs and finds their conductors "wonderful." He considers bus trips for groups of such children unfeasible. He stated that approximately 30 children utilize the trains on the last weekend of every month, arriving in Marion at 3:05 a.m. Friday and leaving 1:30 a.m. Monday. This affords his child the most time possible for a visit with its parents within the allotted period. The school psychologist of the same institution corroborated the said statement and pointed to the benefits derived by the children from visits with their families.

One protestant desires continuance of trains Nos. 19 and 20 because they enable good connections out of Chicago. Another, who lives in Mount Carroll, travels to Chicago every week, would have no bus transportation to Savanna, the nearest "cities" train station, and his wife is too ill to drive him to that point. A protestant who resides in Manilla knows that a bus runs along the highway outside of town, but does not know whether or where it maintains a bus stop. At times, he takes the Greyhound at Denison (15 miles from Manilla), which is a stop on the considered trains' route between Chicago and Omaha, but he considers boarding the train at Mount Carroll more convenient.

⁷In Finance Docket No. 23286. Union Pacific Railroad Co.—Merger—Chicago, Rock Island & Pacific Railroad Co. continued hearing set at Chicago for September 18, 1967

A young brakeman who works on trains Nos. 19 and 20, among others, fears the loss of his position in the event of their discontinuance because he has but 2 years seniority, and even now he works sporadically during the winter months. This protestant requests an opportunity to collaborate with the Milwaukee in an ambitious effort to generate more passenger traffic for the considered trains. He proposes to institute both a vigorous advertising campaign and a course in public relations for the traincrews to teach them how to deal with passengers. Another brakeman also fears the loss of his job.

Finally, one of the protestants requests that if a discontinuance is permitted, that Manilla be made a flag stop for the "cities" trains. The Iowa Commerce Council asks that, in the event the trains are discontinued, Manilla and Huxley (the latter is not now served by trains Nos. 19 and 20) be made stops for the "cities" trains.

MISCELLANEOUS

The record discloses that pullman car and food service on trains Nos. 19 and 20 were discontinued in September 1965, but that prior to that time it was offered between Manilla and Chicago. Until the end of October of that year, the trains operated a diner-lounge car between Savanna and Chicago. The record of on-time performance at final destination of train No. 19 ranged between 93 percent and 100 percent for the first 5 months of 1967, and from 80 percent to 97 percent for train No. 20. The "cities" trains provide pullman sleepers, dome-lounge cars, dome-dining cars, coffee-shop lounges, dome coaches, and reclining seats with leg rest coaches between Omaha and Chicago, and they are vigorously advertised, among others, by colorful brochures. A reason ascribed by the Milwaukee for not serving food on the subject trains is that train No. 19 leaves Chicago at 8:10 p.m. and train No. 20 leaves Omaha at 9 p.m., both after dinner time, and they travel during the night hours. While it professes a desire to attract business for all of its passenger trains, admittedly, aside from listing the considered trains in its time tables, it does not advertise them to the public. With respect to the students at the School for the Deaf at Council Bluffs, the railroad proposes to provide accommodations for them on one of its "cities" trains, whereby they would depart from Omaha at 2 a.m., and arrive in Marion at 6:14 a.m., and would return leaving Marion at 6:45 p.m., arriving in Omaha at 11:15 p.m. And with respect to the requests regarding Manilla and Huxley, the Milwaukee points out that the record discloses no evidence whatsoever concerning the latter point, and that at Manilla only 318 persons detrained from train No. 19 in 1966 for an average of 0.9

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persons per trip, and 74 passengers boarded for an average of 0.2 per trip. On train No. 20, 166 persons detrained for an average of 0.5, and 179 persons boarded, for an average of 0.8.

DISCUSSION AND CONCLUSIONS

The Commission has repeatedly enunciated in cases of this type that, among others, the factors to be considered are the population of the communities served, the use made by the public of the service sought to be discontinued, the availability of other means of transportation services in the area, and the financial losses sustained by the carrier in providing the service. In the absence of a demonstrated need for the considered service, the fact that the carrier's overall system operations are profitable is not controlling. See *Chicago, M. St. P. & F. R. Co. Discontinuance of Service*, 320 I.C.C. 566, and the cases cited therein.

As noted, the intermediate points served by trains Nos. 19 and 20 between Chicago and Omaha, with the exception of Elgin, Savanna, Council Bluffs, Perry, and Council Bluffs, have populations under 3,000 persons. However, all of the aforementioned cities are stations served by the "cities" trains. Such intermediate points on the route as Kirkland, Council Bluffs, Oxford Junction, Maxwell, Manilla, and Earling count less than 1,000 persons as residents. The remaining communities are not significantly more populous (see appendix B).

The uncontroverted statistics presented by the Milwaukee illustrate that while the patronage of the considered trains has not varied appreciably during recent years, the public support afforded them has been weak (see tables Nos. 1, 2, and 3), and it is sustaining annual operating pocket expenses approximating \$450,000 over revenues in their operation. It is noteworthy that these trains provided pullman car and food service until the latter part of 1965, yet the traveling public showed no greater use of their services than they do now. Despite the ambitious and well-intentioned proposals advanced by some to oppose the discontinuance to nurture by various means a revival of public interest and patronage for these trains, it is strongly doubted that much, if anything, could be accomplished to induce a telling improvement in their operating results, bearing in mind that their time tables provide for a slow all-night multiple-stop trip, which can be speedily provided by the use of speedier trains or other modes of transportation. That the public is already well acquainted with the existence of the considered trains and the services afforded by them is amply demonstrated by the numerous letters and signed petitions beseeching their discontinuance. However, no warrant exists for requiring the railroad to

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to bear the brunt of continued substantial losses pending the outcome of efforts to augment their revenues to a level whereby the trains would pay for themselves. In the latter connection, the figures in table No. 4 disclose that revenues would have to increase approximately threefold to eradicate the trains' deficit operations. Nothing in the evidence even remotely indicates that an increase of such proportion could be achieved in the foreseeable future.

As stated and as seen in appendix E, all of the points served by trains Nos. 19 and 20 have alternate transportation services available to them. The Milwaukee's "cities" and "commuter" trains, those operated by other railroad companies and services provided by bus and airlines at the said points or within reasonable distances therefrom should adequately fulfill the needs of the traveling public. The fact that such services may not be completely satisfactory to all travelers is not a sound reason for requiring the railroad to continue operation of the trains in the circumstances of this case.

There is no cogent evidence that the Milwaukee purposely downgraded the services of trains Nos. 19 and 20 or discouraged their use. In the latter regard, the record discloses that the Milwaukee has conferred with officials of the Iowa School for the Deaf concerning the requirements of their students for space on the involved trains.

As stated, the Milwaukee is certain that the trains' employees will not be adversely affected. While this factor has also entered into our determination herein, we are without authority to impose employee protective conditions should the trains be discontinued.

Contentions of the parties as to either law or fact not specifically discussed have been given consideration and have been found to be without material significance or not justified. The possibility of a merger between the UP and the Rock Island has no bearing upon this case. Each must be decided on its own facts.

Upon consideration of the entire record, including, among other things, the carrier's substantial out-of-pocket losses incurred from operation of the considered trains, their minimal use by the public, the additional losses that will accrue by reason of the withdrawal of the RPO car by the Post Office Department, the cessation by the REA of the handling of less-than-carload express traffic on the said trains, and the abundance of alternate transportation service at or near virtually all of the points served by the trains, we find that operation by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of passenger trains Nos. 19 and 20 between Chicago, Ill., and Omaha, Nebr., is not required by the public convenience and necessity and that the continued operation thereof would constitute an undue burden on interstate commerce.

An appropriate order will be entered discontinuing the investigation.

APPENDIX A

Passenger carriers referred to in this report

Full names	Shortened names
Chicago, Milwaukee, St. Paul and Pacific Railroad Co.	The Milwaukee, or the railroad
Chicago, Burlington & Quincy R. Co.	The Burlington
Chicago, Rock Island and Pacific R. Co.	The Rock Island
Chicago and North Western Ry. Co.	The Chicago and North Western
Illinois Central R.	Illinois Central
Central Greyhound Lines	Central Greyhound
Scenic Stage Lines	Scenic Stage
Sedalia-Marshall-Boonesville Stage Line, Inc.	Sedalia Stage
Peoria-Rockford Bus Co.	Peoria Bus
Continental Trailways	Continental Trailways
Iowa Coaches, Inc.	Iowa Coaches
Missouri Transit Lines, Inc.	Missouri Transit

APPENDIX B

Schedules of trains Nos. 19 and 20 and population of communities served

(Read down) Train No. 19	Miles	City	(Read up) Train No. 20	Population
<i>p m</i>			<i>a m</i>	
8:10	0	Lv. Chicago	8:50	1,520,000
9:00	17	Lv. Elgin	7:50	153,000
9:17	51	Lv. Hampshire	7:30	1,309
9:25	59	Lv. Genoa	(f) 7:20	22,862
(f) 9:34	68	Lv. Kirkland	(f) 7:10	928
10:05	80	Lv. Davis Junction	6:55	250
10:45	120	Lv. Lanark	6:10	1,473
10:55	128	Lv. Mount Carroll	6:00	2,056
11:25	138	Lv. Savanna	5:45	25,200
<i>a m</i>				
12:05	173	Lv. Delmar	4:36	556
12:21	192	Lv. Oxford Junction	4:08	725
1:30	227	Lv. Marion	3:30	215,267
2:23	281	Lv. Tama	1:59	2,925
	325	Lv. Maxwell	(f) 12:58	773
3:36	347	Lv. Madrid	12:35	2,286
			<i>a m</i>	
4:08	362	Lv. Perry	11:37	6,442
4:46	392	Lv. Coon Rapids	11:04	1,560
(f) 5:14	412	Lv. Manning	(f) 10:41	1,676
5:55	423	Lv. Manilla	10:25	939
6:10	436	Lv. Earling	9:56	431
(f) 7:20	485	Lv. Council Bluffs	(f) 9:05	252,957
7:50	488	Lv. Omaha	9:00	1345,598
			<i>p m</i>	

Notes: All times are central standard time. Except as otherwise indicated, population figures are taken from the U. S. Department of Commerce, Bureau of Census, final population counts for 1960.

(*) January 1, 1965 estimates.

(f) Federal, State, or local counts taken since 1960 decennial census.

(f) Stops on signal to take or leave revenue passengers.