



THE SENATE OF CANADA

INTERIM REPORT ON
PASSENGER RAIL SERVICE

PROVIDED BY

VIA RAIL CANADA INC.



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STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

THE HONOURABLE GEORGE I. SMITH, CHAIRMAN

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First Session
Thirty-second Parliament, 1980-81-82

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SENATE OF CANADA

SÉNAT DU CANADA

*Proceedings of the Standing
Senate Committee on*

*Délibérations du comité
sénatorial permanent des*

Transport and Communications

Transports et des communications

Chairman:

The Honourable GEORGE I. SMITH

Président:

L'honorable GEORGE I. SMITH

Tuesday, July 6, 1982

Le mardi 6 juillet 1982

Issue No. 30

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REPORT OF THE COMMITTEE

RAPPORT DU COMITÉ

entitled:

intitulé:

Interim Report on Passenger
Rail Service provided by
VIA RAIL CANADA INC.

Rapport provisoire sur le service ferroviaire de
transport de voyageurs fourni par
VIA RAIL CANADA INC.

Membership of the Committee

The Honourable George I. Smith, *Chairman*

The Honourable Léopold Langlois, *Deputy Chairman*

and

The Honourable Senators:

Adams, Willie	Macdonald, John M.
Bell, Ann Elizabeth	Marshall, Jack
Bonnell, M. Lorne	McElman, Charles
Charbonneau, Guy	Muir, Robert
Cottreau, Ernest G.	*Perrault, Raymond J.
Doody, C. William	Petten, William J.
*Flynn, Jacques	Riley, Daniel
Graham, Alasdair	Rowe, Frederick W.
Leblanc, Fernand	Stollery, Peter
Lucier, Paul	Wood, Dalia

*Ex Officio Members

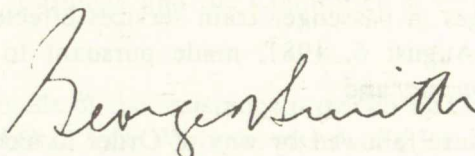
Note: The Honourable Senators Anderson, Davey, Denis, Sherwood, Lewis and Molgat also served on the Committee at various stages.

REPORT OF THE COMMITTEE

Tuesday, July 6, 1982

The Standing Senate Committee on Transport and Communications which was authorized to enquire and report upon the national rail passenger service provided to Canadians by VIA Rail Canada Inc., has, in obedience to its Order of Reference of 28 October 1981 proceeded to that inquiry and now presents its Interim Report entitled: "Interim Report on Passenger Rail Service provided by VIA Rail Canada Inc."

Respectfully submitted,

A handwritten signature in cursive script, reading "George I. Smith".

GEORGE I. SMITH,
Chairman.

Order of Reference

Extract from the *Minutes of the Proceedings of the Senate*, Wednesday, October 28, 1981:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Riley, seconded by the Honourable Senator Bielish:

That the Standing Senate Committee on Transport and Communications be instructed to inquire into and report upon the national rail passenger service provided to Canadians by VIA Rail Canada Inc, and, in particular, to examine

(a) the Federal Government's plans for reorganizing Canada's passenger train services announced by Transport Minister Jean-Luc Pepin on July 27, 1981;

(b) the changes in passenger train services effected by Order in Council P.C. 1981-2171, dated August 6, 1981, made pursuant to subsection 64(1) of the *National Transportation Act*; and

(c) the procedure followed by way of Order in Council P.C. 1981-2171 in varying the Canadian Transport Commission's Orders and Decisions respecting Canada's passenger train services.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

ROBERT FORTIER
Clerk of the Senate

Acknowledgements

During the last 8 months this Committee has held 14 public hearings and numerous *in camera* meetings.

The Committee has received the cooperation from the Minister of Transport, the Hon. Jean-Luc Pepin, the former Minister the Hon. Don Mazankowski, Les Benjamin, M.P., and Tom Siddon, M.P.; officials from Transport Canada and the Canadian Transport Commission, Mr. Frank Roberts, Chairman, officials from VIA Rail Canada Inc.; officials from C.N.; officials from C.P.; officials from Transport 2000; Mr. John DeLora, Director, Michigan Passenger Foundation and Mr. G. C. Eglington, Counsel, Joint Committee on Regulations and other Statutory Instruments. Many of these witnesses, a list of which is appended to this Interim Report, testified on numerous occasions. This type of study would have been impossible without their testimony and the Committee is very grateful for their assistance.

Particular mention must be made of the assistance provided by Committee personnel namely Mrs. Aline Pritchard and Messrs. Eric W. Innes and André Reny for their help and Mr. Jack Silverstone, Research Officer, Law and Government Division, Library of Parliament all of whom worked diligently and with dedication to carry out the necessary research, to prepare the basis and recommendations of this *Interim Report* on VIA Rail Passenger Services.

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Recommendations

1. The Committee recommends that a special joint committee of both Houses of Parliament be created for the purpose of analyzing the contemporary and future options for passenger transportation services in Canada for the current and following decade. This study should be comprehensive and include an examination of all modes of passenger transportation. This special joint committee should have as its primary objective the presentation of recommendations that will ensure viable, economical, efficient and convenient passenger services for Canadians in all regions of the country.

2. The Committee recommends that any future decisions on passenger rail service reorganization or rationalization that involve route or service cancellations, abandonments or reductions be preceded by open and representative public hearings so that all parties concerned will have an opportunity to state their views. Furthermore, such hearings should not come to be regarded as mere formalities, but rather should be seen as an integral and indispensable part of the decision-making process. Consequently, the Committee also recommends that s. 64(1) of the *National Transportation Act* be amended, or its application be restricted by amendments to other sections of the Act to ensure it will not be used to make major reductions in passenger service without proper recourse to the Canadian Transport Commission or to Parliament.

3. The Committee recommends that an enactment providing a clear and all-encompassing legislative framework for VIA Rail Canada Inc., and in consequence for passenger rail service in this country, is an essential requirement. A good deal of delay has already taken place since the initial incorporation of the company. Time now should be regarded as of the essence and the Committee earnestly recommends the introduction of such legislation at the earliest possible date. The Committee recommends that such legislation specify the right of VIA to relevant costing data, and should specify the methods to be employed in order to obtain the necessary information either from the railways directly or through the Canadian Transport Commission. The Committee also recommends that the appropriate officials of VIA be fully consulted in the course of drafting the legislation.

4. The Committee recommends that future contractual agreements between VIA and CP Rail and CN Rail incorporate a fixed charge for each service provided and eliminate post year-end billing except for cases of demonstrable errors or oversights as found and authorized by a CTC audit.

5. The Committee recommends that the CTC audit of charges to VIA be conducted more expeditiously. If necessary in order to shorten the current unacceptably long delays in the CTC's auditing procedure, additional qualified staff should be engaged.

6. The Committee recommends that the Canadian Transport Commission commence forthwith a detailed review of Costing Order R-6313 to determine its suitability given the

major changes in passenger rail service in this country since the creation of VIA Rail Canada Inc. The Committee feels that the Order may have to be substantially amended to reflect current conditions. The Committee recommends that avoidable cost structure for the Canadian rail passenger system be adopted through amendment to the existing order or through the issuance of new railway costing order.

7. The Committee recommends that the two major railroad companies, CP Rail and CN Rail, be responsible for an initial contribution figure of two-thirds of the value of free and reduced fare employee travel passes provided by VIA with the opportunity to reduce this contribution level down to a minimum of one-third of the value on the basis of an on-time passenger train performance incentive arrangement.

8. The Committee recommends that VIA Rail Canada Inc. present a plan for the acquisition of selected passenger railway stations in Canada to the CTC and the Department of Transport. This plan should include VIA's long range goals regarding these facilities including a detailed discussion of the possibility of converting them into integrated transportation centres.

9. The Committee further recommends that prior to the acquisition of any railway stations and associated facilities, or prior to the signing of any firm contractual commitment to purchase such properties by VIA, the terms and conditions of the acquisition, including the purchase price, be examined by independent auditors and evaluators in accordance with current accounting principles, and that their findings be presented for parliamentary scrutiny and discussion.

10. The Committee recommends that the date used as a partial basis for the decision taken in last autumn's route abandonments should be re-examined in great detail in order to determine if all the facts were available and properly interpreted. This examination should be undertaken by the Railway Transport Committee of the CTC and the results of the investigation should be made public at the earliest opportunity. Furthermore, the Committee recommends that, in future, relevant information concerning particular routes that might become the subject of possible abandonment or service reductions be the object of informed public discussion prior to a decision being taken.

11. The Committee recommends that the concerned parties, namely the railways providing the service, the municipalities served, the CTC, the provincial governments and Transport Canada undertake consultations and negotiations prior to any route cancellations to ensure that commuter services will be maintained where necessary, either by VIA, or one of the other operating railways, or another entity should that be deemed desirable. The Committee emphasizes that this should be done prior to the elimination of such routes so as to avoid wholesale inconvenience and economic dislocation as a result of relatively sudden changes in long standing commuter services.

The Committee further recommends that a firm technical definition of commuter services be put forward by Transport Canada without delay. This will aid in ensuring that only routes that are truly commuter services will be transferred to provincial jurisdiction.

12. The Committee recommends that LRC train equipment be introduced in regular service on routes in the Atlantic provinces and in Western Canada as soon as is practicable. This should take place no later than 1984, barring unforeseen technological impediments.

Interim Report on Passenger Rail Service Provided to Canadians by Via Rail Canada Inc.

FOREWORD

This interim report is broken down into three major areas which reflect some of the major legislative, economic, and operational factors that were revealed to the Standing Senate Committee on Transport and Communications in the course of its proceedings. As in almost all instances where many issues are presented, a report must make an effort at categorizing these elements. Likewise, in almost all instances, a certain degree of arbitrariness is present in such an attempt at categorization. Most of the major areas of discussion in this interim report are inextricably intertwined. The presentation and breakdown according to headings and subheadings reflects the Committee's judgment as to a logical, and coherent presentation of these various issues. The interim report is intended to be an integral and unified document, and the Committee earnestly hopes that no one part of the Report will be employed out of context for the purpose of justifying any one point of view.

As a result of its findings thus far, it has become clear to the Committee that the issue of Canadian rail passenger services is a complex one with profound consequences. It is for this reason that the Committee is presenting, at this time, an interim report only. The Committee believes that further study is necessary, and it will continue its investigation if the current parliamentary session is not prorogued. If the current session is prorogued this summer or autumn, the Committee will ask that it be empowered to continue its study.

A. Introduction

On November 5, 1981, the Standing Senate Committee on Transport and Communications commenced its hearings on the national rail passenger service provided to Canadian by VIA Rail Canada Inc. This series of hearings was instituted pursuant to the order of reference from the Senate of Canada of October 28, 1981 which reads as follows:

That the Standing Senate Committee on Transport and Communications be instructed to inquire into and report upon the national rail passenger service provided to Canadians by VIA Rail Canada Inc. and, in particular, to examine

(a) the Federal Government's plans for reorganizing Canada's passenger train services announced by Transport Minister Jean-Luc Pepin on July 27, 1981;

(b) the changes in passenger train services effected by Order in Council P.C. 1981-2171, dated August 6, 1981, made pursuant to subsection 64(1) of the *National Transportation Act*; and

(c) the procedure followed by way of Order in Council P.C. 1981-2171 in varying the Canadian Transport Commission's Orders and Decisions respecting Canada's passenger train services.

While the condition of passenger rail services in this country is of ongoing concern to all Canadian parliamentarians, the action of the Governor in Council in reducing, pursuant to Order in Council P.C. 1981-2171 which took effect on 15 November 1981,⁽¹⁾ the passenger rail routes and services provided by VIA by some 20%, provided the initial focus for the Committee's activities. That date came and went, and the reductions in service were implemented, but many underlying issues surrounding the decision, and indeed the whole issue of the provision of railway service to the travelling public in Canada remain outstanding. This Committee heard extensive testimony and received briefs on a wide range of issues related to the topic of passenger rail services. Many of these submissions commented on the above-mentioned decision by the Governor in Council. Various other significant issues also came to light in the course of these hearings that are, in the Committee's view, highly relevant in terms of the immediate and long-range viability, and indeed survivability, of passenger rail service in Canada.

The Report of the Committee will attempt to reflect many of these concerns and will indicate both in the substantive text and in the recommendations, constructive and practical suggestions to ensure that rail passenger services will continue to play an indispensable role in Canadian transportation.

The Committee is of the view that a modern and attractive railway passenger system can and should continue to play an important part in Canada's transportation future. A comfortable railway passenger system which is well utilized by the travelling public can provide an energy-efficient and cost-efficient method of inter-city travel. In the Committee's opinion, passenger rail service is an economical and prudent investment when compared to the very high cost of subsidies needed to underwrite the construction and maintenance of facilities for air and road transportation. Furthermore, the provision of a railway alternative can serve an important function in alleviating congestion on Canada's highways and in its airports, particularly during peak travel periods. The Committee also feels that the Canadian travelling public should be provided with a convenient choice of modes of travel.

This Committee believes that Canadian passenger rail service is undergoing a fundamental change. This process is generally gradual and does not normally cause much public or parliamentary outcry at least until a gap in the evolutionary movement needs filling. This is what occurred after July 27, 1981, when it was announced that \$100 million was needed to finance new equipment acquisitions, and that this money was to be found through eliminating about one-fifth of rail passenger services in Canada. This provoked a vigorous public protest.

The Committee regards this type of drastic service cut as an unfortunate ad hoc response that has detrimental long-term ramifications for the passenger rail system in Canada. The Committee believes that this sort of very important decision should not be made as a reflex reaction to a combination of circumstances that are foreseeable and should properly be the subject of well-reasoned, long-term planning.

⁽¹⁾ The text of the Order in Council and Route Schedules is reproduced in Appendix I to this report.

For all these reasons, the Committee is of the view that a comprehensive study of Canadian passenger transportation services should be undertaken with a view to producing a model for the delivery of such services until the end of this century. The Committee believes that rail passenger service should not be examined in isolation. Therefore, the Committee concludes that a study of the future of passenger transportation in Canada should include an examination of all modes of passenger carriage and their inter-relationships. Indeed, the economics of freight transport also has profound effects upon passenger services, and the study which the Committee believes necessary should be comprehensive in its scope so as to include consideration of all elements that affect passenger carriage, including the freight component. The Committee feels that this type of study is essential and should be undertaken without delay.

The topic of passenger transportation is of concern to all Canadians. The Committee feels that Canadians from all parts of the country should be able to present their views to a body investigating this important field. The Committee is of the opinion that a special joint committee of both Houses of Parliament would be the most appropriate vehicle for carrying out this comprehensive analysis of passenger transportation in Canada. This type of study is essential and should be undertaken without delay.

1. The Committee recommends that a special joint committee of both Houses of Parliament be created for the purpose of analyzing the contemporary and future options for passenger transportation services in Canada for the current and following decade. This study should be comprehensive and include an examination of all modes of passenger transportation. This special joint committee should have as its primary objective the presentation of recommendations that will ensure viable, economical, efficient and convenient passenger services for Canadians in all regions of the country.

B. Legislative, Legal and Regulatory Matters

(i) Use of Section 64 (1) *National Transportation Act*

By the implementation of Order in Council P.C. 1981-2171 dated 6 August 1981, effectively one-fifth of the passenger routes served by VIA Rail Canada Inc. were eliminated.⁽¹⁾ These route reductions and abandonments, which were referred to by the Minister as a "rationalization" of passenger rail services, involve the elimination of some heavily travelled and very significant train services. The Minister of Transport, in testimony before this Committee spoke of the reasons for these reductions:

If services were maintained at the present levels, \$446 million would be required for operations in 1983-84, leaving only \$90 million for capital developments. If things continue as they are now, knowing we are limited in the amount of money we can spend, we will find that we will not be able to assign the money to equipment.

⁽¹⁾ The list of routes affected as set out in the Schedules to the Order is reproduced in Appendix I.

The cuts will reduce operating deficits to \$355 million by 1983-84, which will leave \$182 million for capital. In other words, you are doubling the capital budget of VIA and, by so doing, allowing it to acquire proper equipment.⁽²⁾

This decision by the Governor in Council to effect substantial reductions in the service offered by the national rail passenger carrier was taken without public hearings or inquiry, and was not examined or adjudicated upon by the Canadian Transport Commission's (CTC) Railway Transport Committee (RTC). Had the Railway Transport Committee been seized of the matter, they would have been under the legal obligation to assess the route reductions in accordance with section 260, and particularly subsection (6) of that section, of the *Railway Act*.⁽³⁾ This section sets out a number of criteria which the CTC's Railway Transport Committee is obliged to consider when evaluating a request for a route discontinuance.

In assessing an application for discontinuance, section 260 of the Act specifies that the CTC shall consider, in addition to the issue of whether or not the particular route in question remains economically viable, all matters that, in its opinion, are relevant to the "public interest". This includes, *inter alia*, the existence of alternative transportation services, the probable effect on other passenger train services, and the probable future passenger transportation needs of the area affected by the proposed route cancellation. Thus, it is clear that in such instances the Railway Transport Committee is not, in its examination of an application for a route discontinuance, confined to examining economic criteria alone. In fact, it is incumbent upon the CTC to examine factors relating to the public interest generally. In addition, the Commission can receive representations and hold public hearings on the matter. Public notice of hearings and decisions must be given.

The Governor in Council through Order in Council P.C. 1981-2171, effectively bypassed the CTC, and as a result, there was no opportunity for the public to present briefs and testimony prior to the effective implementation of the route cancellations. One can only speculate as to what degree the Governor in Council considered the factors that are set out in section 260 of the *Railway Act*, or if they were considered at all. Undoubtedly, the Governor in Council takes the position, as explained by the Minister of Transport, that the decision to effect the route reductions in order to free funds for equipment is indeed a measure that it is within the public interest to ensure the long term viability of VIA.

The legal basis upon which the Minister rested his decision is to be found in section 64(1) of the *National Transportation Act*.⁽⁴⁾ That provision provides for the Governor in Council to vary, at any time, in his discretion and even of his own motion, any order or decision of the CTC. This use of section 64(1) of the *National Transportation Act* was the subject of litigation in the Federal Court of Canada, Trial Division in three instances arising out of these route cancellations. In these cases, the Federal Court held that the Governor in Council was acting within his proper jurisdiction in the use of section 64. The Committee recognizes that appeals in these judgments have been filed and that the matter remains sub judice and consequently refrains from expressing a definitive opinion.

⁽²⁾ Senate of Canada, *Proceedings of the Standing Senate Committee on Transport and Communications*, November 10, 1982, 16:7

⁽³⁾ S. 260(6) is reproduced in Appendix II.

⁽⁴⁾ S. 64(1) is reproduced in Appendix III.

Order in Council P.C. 1981-2171 is actually titled "Order Varying Canadian Transport Commission Orders and Decisions". The Order varied a number of CTC decisions bearing dates from 1976 to early 1981 wherein the RTC had detailed the provision and frequency of passenger train service on various routes. P.C. 1981-2171 substituted the decision of the Governor in Council to eliminate or drastically reduce these specified services.

However, the Committee received testimony to the effect that while the Governor in Council may indeed vary an order of his own motion, he cannot act in such a way as to implement a decision or order which is beyond the scope and power of the CTC itself. The Committee is also of the opinion that Order in Council P.C. 1981-2171 violated the rules of natural justice.⁽⁵⁾

In a similar vein this Committee (i.e the Senate Committee on Transport and Communications) also feels it relevant to be mindful in its report of the fact that the initial order effecting the route cancellations was strongly attacked as being in contravention of the provisions of the *Statutory Instruments Act*. One of the grounds for this objection was that Order in Council P.C. 1981-2171 which was made on August 6, 1981 was not transmitted for registration to the Clerk of the Privy Council within seven days as is required in the *Statutory Instruments Act*. Whether the Governor in Council agreed with the assessment that Order P.C. 1981-2171 was a regulation requiring registration is not certain. However, the Order was ultimately registered prior to its implementation and came to be known as SOR/81-892. This registration took place on 3 November 1981, nearly three months after the Order was first made.

While this may appear to be no more than an adjustment of legal formality, the Committee is of the view that when there is great controversy in the public mind as well as before the courts as to the legitimacy of an action by the Governor in Council, the strictest adherence to procedural formality regarding the order in question is of considerable importance. When the Governor in Council decrees the elimination of nearly one-fifth of the entire passenger rail service in Canada without resort to the public forum, then the minute adherence to statutory provisions concerning transmittal, recording and publication of the order in question is, it seems to the Committee, to be a minimum requirement.

The stated rationale for proceeding by way of order in council pursuant to section 64(1) was that a speedy decision was necessary and that following the CTC route would involve lengthy public hearings. Furthermore, in the government's opinion, these route discontinuances were essential in order to finance additional modern equipment for VIA, and there must have been a possibility that the CTC would not, in applying the criteria of the *Railway Act* as discussed above, reach the same conclusion with respect to the route cancellation. This would have put the Minister in a difficult, undesirable, and possibly legally indefensible position of having to instruct the CTC's Railway Transport Committee as to his view of the proper decision. For all of these reasons the route cancellation bypassed the normal CTC channels.

⁽⁵⁾ Paragraphs 1 and 2 of the Ninth Report of the Standing Joint Committee on Regulations and other Statutory Instruments, dated 12 November 1981, which set out additional legal objections to Order in Council P.C. 1981-2171, are reproduced in Appendix IV.

Again without expressing an opinion as to the legal propriety of the use of section 64 in the manner employed by the government, the Committee expresses its deep concern about the possibility of the creation of, in its view, an entirely undesirable precedent for possible further passenger rail cutbacks. Indeed, the Minister of Transport has on several occasions indicated that the actions of last November might not be the last of that nature should situations arise in the future which, in the view of the government, would call for similar action. The Committee is concerned that successive route reductions which bypass the CTC and do not consult the people affected by these route discontinuances could ultimately reduce the passenger rail service network in most parts of Canada to a very limited secondary role. In other words, through the use of section 64, the government could effectively eliminate passenger rail service as it is now known and seek to concentrate its railway resources in one or two geographical regions such as the often-mentioned Quebec-Windsor corridor. The Committee notes that two Canadian provinces are already without passenger rail services: Prince Edward Island and Newfoundland.

The Committee is of the view that this is a trend which is not in the best interests of the people of Canada and that the successive use of Cabinet initiative without reference to the Canadian Transport Commission's Railway Transport Committee would effectively deprive the travelling public of a forum in which to state their side of the case for the maintenance of any particular routes, or indeed an entire network.

2. The Committee recommends that any future decisions on passenger rail service reorganization or rationalization that involve route or service cancellations, abandonments or reductions be preceded by open and representative public hearings so that all parties concerned will have an opportunity to state their views. Furthermore, such hearings should not come to be regarded as mere formalities, but rather should be seen as an integral and indispensable part of the decision-making process. Consequently, the Committee also recommends that s. 64(1) of the *National Transportation Act* be amended, or its application be restricted by amendments to other sections of the Act to ensure it will not be used to make major reductions in passenger service without proper recourse to the Canadian Transport Commission or to Parliament.

(ii) Residual Obligations of the Existing Operating Railway Companies

Railways have played a primary role in the economic, social and political development of Canada. The Committee believes that this essential role of railways continues today. In simpler times, many railway companies provided passenger services to Canadians on a commercial basis. Through the years, these small railway companies were absorbed by the two giants of the railway industry in Canada today, Canadian Pacific Limited (CP Rail) and Canadian National Railway (CN Rail). Some of these smaller railways were acquired by outright purchase by the larger companies. Still more disappeared through a process of amalgamation and very long-term leasing whereby the current operating railways took over the entire route network and equipment of the smaller companies. These old railway mergers and reorganizations were the subject of federal and provincial enabling legislation. Most of this activity is well recorded in the old statutes, the majority dating back to before the turn of the century.

In several instances, the lessee companies which often undertook leases of railway networks for periods of over 990 years entered into agreements with the smaller lessor railways to provide specified railway passenger services. The agreements were then sanctioned by a provincial or federal legislative enactment. The degree of promised service is in some of the cases very detailed. In fact, in some instances, the actual provision of a certain number of trains per day is set out in the schedule to the enabling statute. This issue was raised before the Federal Court of Canada and continues to be the object of further proceedings in that court's appeal division. Consequently, in keeping with its stated policy, the Committee expresses no opinion on a matter which is now before the courts.

However, the Committee has considered with some interest the possibility of residual obligations of CP Rail or CN Rail where, in the course of taking over smaller railway companies, they have undertaken through contractual obligations to provide specific railway services over a given route. This matter was raised in one of the challenges to the government actions relating to last autumn's Order in Council which effected the approximate one-fifth reduction in VIA services. The Committee recognizes that this submission was rejected in first instance in the Federal Court. However, the Committee notes with interest that the door was left open in the decision of the learned trial judge as to the possibility of pursuing actions in damages by affected parties against the operating railway companies for the withdrawal of services contrary to their validly undertaken contractual obligations.

In this context, the Committee observes that CP Rail and CN Rail were providing passenger rail services in this country long before the creation of VIA Rail Canada Inc. The Committee also notes that it has pursued this line of reasoning with representatives on one of the operating railways, namely Canadian Pacific, but did not find its responses very helpful. The Committee does find itself in agreement with the representatives of CP Rail in their estimation of the serious impact of the two operating railways re-entering the passenger rail service business. No doubt the operating railways, CP Rail and CN Rail, would resist any such notion of a return to the provision of general rail passenger services when they have found the provision of equipment and services to VIA a more satisfactory enterprise.

To reiterate, the Committee is not advocating or counselling that CP Rail and CN Rail should be required to provide services which VIA has discontinued on government instructions. The Committee only notes that a serious legal issue remains outstanding in this area and awaits a final decision by the courts on this matter.

(iii) Confidentiality and the Canadian Transport Commission

In its operation of passenger rail services in Canada, VIA has entered into contractual arrangements with CP Rail and CN Rail for such things as the use of locomotives and power units, for the maintenance of rolling stock and other equipment, for stationary facilities such as railway stations, and for roadbed services such as switching. The amounts of money involved in these contractual arrangements are very considerable indeed and, in fact, constitute the major portion of VIA's annual budget. For 1980, VIA paid approximately \$290 million to CN and \$66 million to Canadian Pacific. These charges from the operating railways to VIA take the form of monthly statements, adjusted by final post year-end bills. This billing system will be discussed in more detail later in the Report.

In presenting its bills to VIA, the two operating railways have in the past produced essentially undifferentiated, and unitemized statements. This means that charges are not broken down into components. Thus, VIA, as CP and CN's best customer for this type of service, is in a position of having to pay these charges without knowing their constituent elements, and VIA can hardly take its business elsewhere as the roadbeds in this country are operated by the two major transcontinental rail companies.

In the voluminous contractual arrangements between CP Rail, CN Rail and VIA, there are no provisions for the supply or breakdown of detailed costing data. Component charges that go into an operating railway's monthly statement to VIA cannot, on a bilateral basis, be broken down into justifiable components. In other words, if a specific amount is charged for a particular service, VIA management wishes to determine what elements are being attributed to that charge. This information has been generally unavailable to the national passenger carrier. The mechanism available to VIA to obtain this data, which its senior management feels is essential in order to evaluate the service they are obtaining for the substantial amounts of money being paid, is through the Canadian Transport Commission.

The CTC can obtain such costing data. However, the CTC takes the position that based upon section 331 of the *Railway Act*,⁽¹⁾ this type of information must be treated confidentially. The CTC, in its legal opinion, cannot release this data except in the face of a formal request from VIA. Then sufficient time has to be given to the CTC to make inquiries as to the validity of VIA's need for the data. An opportunity for the operating railways, namely CN Rail and CP Rail, to make their cases as to why such information should not be made available to VIA or to any other entity interested in obtaining it would also have to be provided.

It must be noted the operating railways contend that the release of such data is generally unnecessary for effective management of VIA and that further, the release of this type of information could have detrimental consequences to the railways by providing competitors such as the highway carriers (i.e. buses, and trucking firms) with valuable commercial intelligence which would provide them with an unfair advantage. In the Committee's view, this argument against releasing information to VIA is exaggerated and unreasonable. The Committee doubts whether the provision of the type of data asked for by VIA could work to the detriment of CP Rail or CN Rail. However, if that is a cause of concern to the railways, surely VIA could provide an adequate undertaking to keep pertinent data confidential and for its own use alone.

There was considerable controversy in the testimony presented by senior counsel of the Railway Transport Committee of the CTC and the general counsel for VIA as to the course of events surrounding VIA's initial request for this information. This Committee does not intend to adjudicate on this significant dispute. However, the Committee does note that this argument has benefited no one—certainly not the users of passenger rail services in this country. The Committee believes that the current system, which is largely determined by certain provisions of the *Railway Act*, works to prevent VIA from obtaining vital costing information. VIA finds itself in the undesirable position of having to embark on an adversarial course of action to obtain data which the Committee feels is needed without the

⁽¹⁾ S. 331 of the *Railway Act* is reproduced in Appendix V.

long delays such a procedure entails. The Committee notes with regret that more than two years have passed since VIA first put forward its request for costing data until March of this year when it reformulated its application in a manner presumably more in keeping with the legal requirements as perceived by the CTC. The results of this latest effort to obtain relevant costing information from the CTC remain to be seen.

The Committee feels that the access to this type of information, although not necessarily all the information sought by VIA is essential for its administrators to assess properly what are substantially unitemized statements of account that are not subject to a management audit and that amount to the major proportion of its annual operating budget. The Committee is aware of the operating railways' reluctance to making certain elements of component costing data available, but it does not favour a general refusal to provide this type of information and hopes that in the future a more cooperative, reasonable and sensitive attitude will prevail. It notes with satisfaction that such a change in attitude has become somewhat evident in recent months, especially on the part of CN Rail.

To a certain extent, this controversy arises out of an interpretation of a section of the *Railway Act*, which is the determining statute with regard to railway operations, passenger and otherwise, in this country. In the absence of an express and comprehensive statutory basis for railway passenger services, legislative regulation will, by default, fall to an Act that does not necessarily reflect nor respond to the current state of affairs in the passenger rail area. This is especially true of the procedures open to VIA to obtain necessary management information. Under the current system, an adversarial and litigious process is involved in Canada's rail passenger carrier attempts to obtain vital data. The Committee feels that the current system is therefore not adequate.

(iv) The Need for Legislation

VIA Rail Canada Inc. has had an inauspicious legislative beginning. It was incorporated pursuant to the *Canada Business Corporations Act* (S.C. 1974-75, c. 33 as amended) on 12 January 1977, and was thereafter acquired by the Canadian National Railway Company as a non-comprised subsidiary. In 1977, the entity was deemed to be a railway company pursuant to a \$1 Appropriation Act vote.⁽¹⁾ This provision allowed for VIA Rail Canada Inc. to enter into contracts with the other railway companies, subject to the approval of the Minister of Transport, in order to provide passenger rail service. The Minister of Transport was given authority to prescribe regulations concerning the conclusion of contracts with VIA Rail Canada Inc. for the provision of rail passenger services so as to "improve efficiency, effectiveness and economy in rail passenger services in Canada". Then on 1 April 1978, VIA became a Crown Corporation by Order in Council.⁽²⁾

The Committee notes with regret this use of an Appropriation Act vote to implement an important policy decision. The creation of a national passenger rail company should have had a proper and complete legislative basis. The Committee heard persuasive evidence as to the important positive effects a sound statutory foundation has had on the Amtrak system in

⁽¹⁾ *Appropriation Act No. 1, Vote 52nd, (S.C. 1976-77, c. 7).*

⁽²⁾ P.C. 1978-954, 23 March 1978.

the United States. It may have initially appeared that VIA, being unfettered by complex and restrictive legislation, would be able to operate more freely in its formative stages. Such has not been the case. The rights and duties of the railway, in relation to the regulatory bodies with which it must contend as well as its relations with the other operating railways, and its position with respect to the Minister, are not provided for. The Committee feels that this has worked to the detriment of VIA. The senior management of VIA has, before this Committee, repeatedly urged the enactment of a Via Rail Canada Act. Apparently, discussions with the Minister on this matter have taken place. However, no timetable for the introduction of such legislation has been set.

3. The Committee recommends that an enactment providing a clear and all-encompassing legislative framework for VIA Rail Canada Inc., and in consequence for passenger rail service in this country, is an essential requirement. A good deal of delay has already taken place since the initial incorporation of the company. Time now should be regarded as of the essence and the Committee earnestly recommends the introduction of such legislation at the earliest possible date. The Committee recommends that such legislation specify the right of VIA to relevant costing data, and should specify the methods to be employed in order to obtain the necessary information either from the railways directly or through the Canadian Transport Commission. The Committee also recommends that the appropriate officials of VIA be fully consulted in the course of drafting the legislation.

C. Issues relating to Economic Factors and Financial Procedures

The Committee wishes to express its serious reservations as to the wisdom of abandoning viable, high ridership rail services in order to free funds to finance new equipment purchases. The Committee has significant doubts as to whether the amounts expected to become available as a result of the cancellations will be as high as initially anticipated when considering the overall picture. Thus, when about one-fifth of the VIA rail passenger network is ordered abandoned as it was last November, a very substantial amount of revenue in the form of ticket sales is lost to the company. It must be kept in mind that some of the routes that were cut, especially "The Atlantic", were heavily utilized.

The rail service reductions are designed ultimately to produce a \$100 million saving but this saving will not be realized in the first budget year following the cutbacks. The words of Mr. J. F. Roberts, Chairman and President of VIA Rail Canada Inc. in his testimony before this Committee on 3 December 1981, are relevant:

I think the minister said that the changes would be worth about \$100 million, and that is quite correct. I think the estimate shows approximately \$45 million worth of savings in the first year, that is, 1982, but it escalates each succeeding year, and by 1984 it will be about \$100 million.

There are other costs involved in such an abandonment project. A considerable number of jobs were lost which forced VIA employees into early retirement or into job re-allocation, all of which will cost the company a substantial amount of money estimated by VIA to be between \$2 and \$2.5 million. In addition, a fund of up to \$30 million has been set aside, to be administered by Transport Canada, for severance pay, early or accelerated retirement,

retraining and relocation for railway employees affected by the passenger train cutbacks. As a further spin-off consequence, there will be, in the Committee's view, certain adverse effects on tourism and recreational travel in the absence of certain traditionally well-travelled train routes that were used for sightseeing and conveying passengers particularly during recreational seasons.

The consequences of such route abandonments will be felt more profoundly among certain groups of Canadians. Trains traditionally have been the mode of travel used for medium and long distances at relatively low cost to the travelling public. Passengers on these trains are trading time for considerable savings. This has been particularly true, and the Committee feels continues to remain true, for persons on fixed incomes such as pensioners, students, and many other groups. Furthermore, certain undoubted hardships will be placed upon other Canadians who are living in geographically disadvantaged areas of the country and who have made use of railway transport in order to provide them with a certain degree of employment mobility, recreational travel, and opportunities to maintain family contacts over long distances.

(i) The Issue of the 13th and 14th Bills

As previously mentioned, VIA receives from the two operating railroads from which it leases services, monthly statements of the charges incurred for these services. The Committee notes with concern and indeed surprise, that these statements have in the past been generally unitemized. An example of a type of charge that is in issue is that of switching. CN Rail does provide a break down of such a charge by place and time. However, there is no component data available to VIA to assist it in determining the elements that comprise the charge. Therefore, VIA cannot determine the real value of the service. VIA has confirmed that this problem has been somewhat mitigated in the most recent contract negotiations particularly with CN Rail, and that they are receiving more of the cost breakdowns. This will surely facilitate the implementation of proper management decisions given that these payments exceed more than two-thirds of VIA's entire budget.

However, the one issue that perhaps stands out more than any other in connection with financial procedures and relations between VIA and the two operating railways is the issue of the 13th and 14th bills. As one would logically expect, there are twelve monthly statements presented by the railways to VIA Rail Canada Inc. for payment. However, in addition to these invoices, the contractual arrangements sanctioned by the Canadian Transport Commission provide for the presentation of a 13th bill or yearly statement of adjustment of charges to be paid by VIA to the railways in addition to the expenses settled in the monthly statements. This 13th bill represents an opportunity for CP and CN to recoup any amounts they failed to bill in the monthly statements, either because of incorrect estimates or delays in computing various charges. It is conceivable that this might involve a refund to VIA but, not surprisingly, so far the adjustments have always meant additional charges.

In addition to the 13th bill presented after the fiscal year end, there is also provision for a so-called "14th bill". This invoice represents a final adjustment figure which the operating railways can charge to VIA after their charges have been examined and approved by the CTC. Thus VIA Rail Canada Inc. is in the unenviable position of being faced with

unpredictable and substantial charges beyond the already huge amounts paid to the operating railways for services rendered. These additional post year-end invoices have had serious effects upon VIA's ability to plan, and indeed to show profitability, and will continue to do so if the current billing structure is retained.

While the amounts of these 13th and 14th bill charges have not so far been very large in terms of percentage points per annum, this has still amounted to very substantial sums of money. For example, in 1980, the so-called 13th bill or charge from CN was in the neighbourhood of \$11.1 million. CP Rail's charges will be approximately \$3.1 million. In addition, it came to light in the course of the Committee's hearings, apparently for the first time, that there are going to be 14th bills submitted for 1979 involving a payment of approximately \$1.2 million to CP and a little over \$2 million to CN Rail.

While these percentages are small portions of VIA's total budget, it has, in the view of the senior management of VIA, and in this the Committee concurs, the effect of creating serious problems for budgeting and planning for that company. No enterprise, be it private, public or quasi-public, can function effectively without being able to control costs to the extent that this is commercially feasible. The presentation of considerable charges in the millions of dollars two and three years after the fact can only have serious detrimental consequences on the company charged with paying them. The Committee feels that the system allowing for 13th and 14th bills is not one which should be looked upon with favour for the future. The development of VIA will not be enhanced by this type of arrangement.

The Committee favours the development of a contractual arrangement between VIA on the one hand and CP and CN Rail on the other in the form of a fixed price, or fixed cost contract. This would mean that VIA would be charged a specified amount for each particular service for which it had contracted. Adjustments beyond the presentation of these billings would not be permitted. This would have two positive effects in the Committee's view. Firstly, it would establish a more reasonable commercial relationship between VIA and the operating railways which would in turn permit more rational and effective financial planning for the national rail passenger carrier. The absence of unanticipated cost adjustments beyond the corporation's fiscal year would greatly enhance its ability to conduct its affairs in a more orderly fashion.

Secondly, such an arrangement would provide a substantial incentive for the operating railways to keep their own costs down. As it stands now, the operating railways have little incentive to reduce costs incurred through inefficiencies or unprofitable procedures in that any losses are effectively passed on to VIA which, for the most part, must make good the increased charges. After all, VIA can hardly take its business elsewhere. Under a fixed cost arrangement, if a particular service could be provided at a cost lower than that set in an operating agreement, the opportunity for increased profit would presumably provide a valuable incentive in reducing railway operating costs throughout the system without entailing higher costs to VIA.

4. The Committee recommends that future contractual agreements between VIA and CP Rail and CN Rail incorporate a fixed charge for each service provided and eliminate post year-end billing except for cases of demonstrable errors or oversights as found and authorized by a CTC audit.

(ii) The Canadian Transport Commission's Auditing Process and the Railway Costing System

The charges made to VIA, including the 13th and 14th bills previously discussed, are the subject of audits by the Railway Transport Committee of the Canadian Transport Commission. The Committee has, in the course of its proceedings on the topic of passenger rail service, become acutely concerned with two important problems associated with these CTC audits. The first problem is the question of delays in the conduct of these audits, and the second relates to the nature of the audit itself.

In the first case, the Committee was disappointed to discover that up until this year the CTC scrutiny of charges to VIA by CP Rail and CN Rail were years in arrears. The Committee was informed that the verification of 1978-79 railway charges to VIA were completed only in March 1982. The 1980 charges are scheduled for audit completion by the end of the 1982 calendar year, while the 1981 examination of charges is to be completed by March of 1983. Thus, it is clear that VIA, and for that matter the operating railways, are faced with very substantial, and in the Committee's view, detrimental delays in obtaining the results of the CTC audits. It is true that the delays are being gradually reduced year by year. Furthermore, it was pointed out to the Committee by the CTC that the current delay is substantially shorter than it was prior to the existence of the contractual arrangements with VIA for the provision of rail passenger services. The CTC has as its goal the provision of final audit results approximately 12 months after the fact by 1984.

While the Committee is pleased to see these inordinate delays being shortened, it feels nevertheless that no commercial entity providing service to the public, be it of a private or public nature, should be expected to function with auditing delays of such considerable length. Perhaps the 12-month delay is the best that can be done under the present system; but even that, in the Committee's opinion, is not satisfactory. It must be kept in mind that VIA Rail Canada Inc. is basically a captive customer of CP Rail and CN Rail with the CTC performing an essential regulatory function. Charges made to VIA must be paid in an essentially non-competitive relationship. This magnifies the importance of the CTC audits.

What corporation could explain to its shareholders that audits for tens and indeed hundreds of millions of dollars of expenditures would not be available promptly? This would surely represent an untenable position for any management group. The Committee cannot but conclude that this has a serious detrimental affect upon the ability of VIA's management to conduct proper financial and operational planning. Surely the cost of engaging additional qualified audit personnel to the CTC staff in order to reduce the backlog in audit results would be money well spent in order to ensure that millions of dollars in charges are promptly accounted for.

5. The Committee recommends that the CTC audit of charges to VIA be conducted more expeditiously. If necessary in order to shorten the current unacceptable long delays in the CTC's auditing procedure, additional qualified staff should be engaged.

The second important factor relating to the CTC audits is the character or nature of the audit function. The audit conducted by the CTC may be described as one which is more concerned with whether or not a specific item or charge is of an authorized nature in relation

to the costing regulations, rather than whether value is received for the money expended. In other words, the CTC audit consists primarily of determining if the charges made were in line with the costing regulations rather than whether or not they were justifiable given the service provided. Representatives of the CTC indicated to the Committee that there is a breakdown of charges for the various components making up the charge to VIA, but that the scrutiny was not what could be described as a management audit. Rather, it is characterized as a procedural audit.

The auditing aspect of the CTC's function can have important consequences for the cost of rail passenger services. For example, CN Rail's 1980 13th bill was reduced by some \$2.4 million on the basis of a CTC preliminary determination that certain charges to VIA were too high with respect to general administration, communication and roadway maintenance costs. Nevertheless, the Committee wishes to draw attention to the fact that the scope of the audit performed by the CTC is too limited to provide necessary information for VIA's management purposes.

Given the lack of detailed costing data made available to VIA either from the railways themselves or through the CTC, VIA is placed in the unenviable position of having to pay substantially uninvestigated charges amounting to millions of dollars. While the Committee recognizes the value of the CTC audit in determining whether or not the charges are in line with the costing regulations, the inability of VIA to determine its "value for money" position is obvious. Again this can only have unfortunate effects upon management's ability to make proper decisions. The Committee recognizes the limitations on the CTC's capability or authority to conduct management type audits in accordance with acceptable management accounting practice. Consequently, this Committee urges the elimination of this problem by the provision of detailed costing data either directly to VIA or through the CTC by the two major railway companies. This supplying of detailed cost data has been sorely lacking in the past, and the Committee hopes that the trend toward a greater degree of provision of information that has apparently become evident over the past several months will continue and expand.

The CTC audits the charges made to VIA to ensure that they are in compliance with its "Railway Costing Regulations"⁽¹⁾ as set out in Order R-6313. This Order, first implemented in 1969, sets out the nature and categories of costs related to railway operations in Canada. Order R-6113 has been studied and revised by the CTC over the years, but the Committee feels that there is need for innovation and improvement in view of the fact that the structure of railway passenger services in this country changed dramatically when CP and CN turned over this functions to the new VIA Rail Canada Inc. For this reason, the Committee urges all participants in the regulatory process to make every effort to ensure that the costing order is, from all points of view, appropriate to the new circumstances and that it is applied with an appreciation for the contemporary state of the railway passenger industry. If necessary, changes to the order should be made through a consultative process in order to ensure that VIA is able to provide the services required of it in a commercially efficient fashion.

In this regard, the Committee was impressed by the costing method employed by the Amtrak system in the United States. There, the passenger rail authority (Amtrak) pays to

⁽¹⁾ Reproduced in Appendix VI.

the operating railroads, from whom it leases and purchases services, only what are known as "strictly avoidable costs". Avoidable costs, as set out in the Amtrak legislation, are essentially those costs that the railway can establish as being incurred only because of the operation or service undertaken for Amtrak. It should be noted that the definition excludes all costs that are not incurred as a result of providing the passenger service and the onus is on the operating railway to show that it falls within these terms.

Such avoidable costs do include a variable portion of the common costs, but again they must be those expenditures which would not have been made but for the provision of the passenger rail service. The avoidable costs definitely exclude from their calculation the allocation of any common costs which do not vary as a consequence of providing the service to the passenger rail system, rent, return on investment, and any other costs which the operating railway carrier cannot establish as being necessarily and reasonably incurred as a result of furnishing services to Amtrak.

In Canada, VIA does not benefit from an avoidable cost arrangement. Instead, VIA is billed on "a long-run variable cost" basis which involves payments of a portion of common expenses that are not direct results of provision of services to the passenger carrier. This produces a rather dramatic difference in budget terms. The Amtrak authority expends substantially less of its overall budget on payments to the operating railways from which it obtains services. The proportional amount is less than one-third of Amtrak's budget, while VIA pays out nearly two-thirds of its budget to CP and CN.

It should be noted, however, that in the United States, Amtrak itself has assumed direct responsibility for many services. This is particularly true in its operations in the densely populated northeastern section of its network. VIA does not discharge all of the services for which Amtrak has taken on responsibility. Presumably, were VIA to follow a similar approach, many of the dollars saved through an avoidable cost system would go to financing these services which are now provided by the other two railways in Canada.

On page 49 of a Staff Report of the Railway Transport Committee of the CTC, dated March 31, 1982, and titled "A Comparison of Amtrak and VIA Costing Approaches", the following statement appears:

To summarize this examination of the effects of using US strictly avoidable costing in place of Canadian long-run variable costs, there would appear to be an annual saving to VIA of the order of \$9.5 million under Train Operations, \$11.3 to \$20 million under Maintenance of Way, and \$8.5 million under Station Services. In total, the savings to VIA would therefore be in the broad range of \$30-\$40 million. There is one further adjustment to be made before finalizing this range. As indicated earlier, Amtrak has been paying incentives to the contracting railways at a rate somewhat higher than that paid by VIA. If VIA were to adopt a similar rate of incentive payment to that made by Amtrak, this would increase costs by some \$5 million, reducing the range of savings from adopting the US costing methodology to \$25-\$35 million.

VIA officials think this estimate of annual savings is conservative. They place the figure at between \$50 and \$55 million per year. Whatever the precise figure, it is clear to the Committee that there would be substantial savings for VIA if a strictly avoidable costing system was implemented in Canada.

6. The Committee recommends that the Canadian Transport Commission commence forthwith a detailed review of Costing Order R-6313 to determine its suitability given the major changes in passenger rail service in this country since the creation of VIA Rail Canada Inc. The Committee feels that the Order may have to be substantially amended to reflect current conditions. The Committee recommends that avoidable cost structure for the Canadian rail passenger system be adopted through amendment to the existing order or through the issuance of new railway costing orders.

(iii) The Cost of Reduced Fare Employee Passes

The issuance of free or reduced fare travel passes by VIA to the employees of CP Rail and CN Rail is a topic upon which the Committee wishes to touch briefly in this Report. It must be noted that the annual value of these passes in the year 1981 amounted to approximately \$13 million. Of that amount, VIA was responsible for some \$12 million having received approximately \$900,000 in compensation from the other railway companies. Under the VIA-CN operating agreement, CN Rail has an opportunity to earn back, as it were, some portion of its contribution to the railway pass fund based upon on-time passenger train performance standards as established by the operating agreement. The Committee certainly favours this type of incentive arrangement in the hope that it will produce the desired maximization of productivity. Nevertheless, the Committee feels that it would be desirable in the future to see both CP and CN contributing a greater proportion of the funds that are required to finance this employee pass program.

The Committee is aware of the fact that employee passes for reduced fare travel are widespread not only in the railway industry but in other modes as well, including bus and air carriers. The third parties concerned with this program, namely the labour unions representing the workers who benefit through the extension of these pass privileges, are an important factor in determining the extent to which these passes will be made available. That forms part of a collective labour agreement which is negotiated between the railway companies and their employees' representatives, and the Committee is certainly not advocating the elimination of the railway pass program. It is undoubtedly an important incentive in encouraging use of railway passenger services. However, as stated previously, the amounts involved are very substantial and it would, in the Committee's view, be totally appropriate to see CP Rail and CN Rail contributing in a more equitable fashion to this arrangement.

The fact that reduced fare travel passes are traditional in the transportation industry does not mean that they are inviolate as the costs of such a program mount. Rather than see a reduction in the extension of such passes, the Committee believes that an increased contribution by the two major railways providing services to VIA would ensure the continuation of this program without producing an undue financial burden on Canada's fledging national railway passenger carrier.

7. The Committee recommends that the two major railroad companies, CP Rail and CN Rail, be responsible for an initial contribution figure of two-thirds of the value of free and reduced fare employee travel passes provided by VIA, with the opportunity to reduce this contribution level down to a minimum of one-third of the value on the basis of an on-time passenger train performance incentive arrangement.

(iv) Transfer of Additional Facilities to VIA Rail Canada

In the course of the Committee's proceedings, VIA Rail Canada Inc. expressed its desire to acquire certain other facilities associated with railway passenger services in Canada. Most specifically, the company is interested in acquiring facilities in various cities in the form of railway stations from the two major railroads. They wish in this way to cease having to pay substantial leasing charges for use of these stations. These charges, which form a global amount not broken down to show charges for individual stations, comprise part of the monthly and annual billings paid by VIA to CP Rail and CN Rail. VIA, if it were able to acquire these stations, could more easily control costs and could itself gain revenue from leasing concessions and office space in these buildings.

In addition, VIA outlined a concept which the Committee regards as most interesting: that is the development of railway stations into so-called "transportation centres" which would integrate rail service in Canada's cities with other modes of communication and transportation. The Committee believes that this type of innovative planning and use of existing facilities could constitute a major advantage in the future for railway passenger service. It is certainly an interesting idea which merits further exploration and study.

8. The Committee therefore recommends that VIA Rail Canada Inc. present a plan for the acquisition of selected passenger railway stations in Canada to the CTC and the Department of Transport. This plan should include VIA's long range goals regarding these facilities including a detailed discussion of the possibility of converting them into integrated transportation centres.

However, a *caveat* must be registered. The acquisition of these facilities from the operating railways would undoubtedly involve large capital expenditures. The Committee notes that it has become evident in the course of its proceedings that the current owners of these stations, namely CP Rail and CN Rail are not anxious to negotiate the transfer of these presumably profitable properties. Often these railway stations are situated in prime downtown locations in Canada's major cities and the land itself can be worth a great deal.

However, the Committee hopes that the railway companies would recognize that if they are no longer in the business of providing general passenger services, they should be ready, after appropriate negotiations to determine adequate compensation, to transfer many of these facilities to the national rail passenger carrier. Such compensation should take into account any subsidies that may have been paid over the years for the support of railway stations. Clearly, railway stations are absolutely indispensable elements in providing passenger services. Logic would indicate that such facilities should be under the control of the entity charged with providing that service.

The Committee feels it relevant to draw attention to the fact that when VIA was constituted, it acquired a great deal of equipment in the form of rolling stock from the two operating railroads at that time. Much of the equipment that was acquired at that time was antiquated and continues to require a considerable amount of maintenance and modernization. A great deal of it is ready to be scrapped.

The Committee recognizes that such a program will require substantial funds which may be difficult to underwrite given VIA's present circumstances. While the Committee

believes that modernization and innovation in railway passenger carriage is one of the keys to future success, it would not wish to see substantial funds diverted from much needed and heavily used rail passenger services.

9. The Committee further recommends that prior to the acquisition of any railway stations and associated facilities, or prior to the signing of any firm contractual commitment to purchase such properties by VIA, the terms and conditions of the acquisition, including the purchase price, be examined by independent auditors and evaluators in accordance with current accounting principles, and that their findings be presented for parliamentary scrutiny and discussion.

(v) Comparative Analysis of other National Railway Systems

In the course of testimony and proceedings before this Committee, there have been numerous references, comparisons and allusions to the experience of other countries with passenger rail services. Detailed information was presented by various witnesses as to the amount of government subsidies provided to railway passenger transport in a number of European countries and especially to the Amtrak system in the United States. Considerable discussion in the course of the proceedings was centered around new technology in railway passenger trains now available in England, France and Japan.

The Canadian passenger rail system does not operate in a vacuum and taking advantage of information as to technological, organizational and financial structuring of foreign railway systems, must certainly not be overlooked. It can indeed be a profitable experience for foreign analogies to be examined in sufficient detail. On the other hand, superficial comparisons with the Canadian experience are to be avoided. In every country, and this is certainly true in Canada, historical, sociological and geographical factors are most important. In the Canadian case, this particularly includes climatic factors. As well, government structuring and indeed political orientation will have profound effects upon the development of any particular transportation system. Therefore, while direct comparisons can be instructive, caution must be exercised in view of the differences in various national settings.

In almost every instance, these comparisons with foreign countries revealed an apparently higher incidence of government and private sector investment in railway passenger services and the implementation of costly, but effective advanced railway passenger technology. The Committee certainly feels that further study is merited, but cautions against wholesale importation of foreign experiences which may not be entirely applicable to Canada.

For this reason, the Committee refers back to its first recommendation regarding the establishment of a joint parliamentary committee which would be charged with studying, over a period of time, all aspects of passenger transportation policy in this country. Such a study would be deficient if it did not include an analysis of passenger transport systems in other countries. This should include discussions with foreign transportation administrators and technologists concerning their countries' experience with various aspects of administration and development of their passenger transportation systems.

(vi) The Issue of Comparative Subsidies to other Modes of Transportation

The issue of comparative subsidies to other forms of transportation in Canada has come up time and time again in the course of this Committee's proceedings. The arguments have ranged around whether railways are receiving a disproportionate amount of government subsidization when compared with other modes of passenger carriage. It has, on the other hand, been argued that when a true comparison is made, which takes into account all the factors associated with subsidizing a particular mode of transportation, railways are in fact relatively inexpensive when compared with the total amounts of money invested in the air and highway modes.

Particularly relevant to railways is the question of subsidies to bus lines. The conception that buses are essentially not subsidized at all by the federal or provincial governments was questioned during the course of the Committee's proceedings on the basis that buses use heavily subsidized public highways and roads in order to transport passengers. The comparative cost of building, rebuilding, conducting snow and ice removal and generally maintaining these roadways has been unfavourably compared to the cost of railway subsidies.

The roads and highways used by bus services are generally a provincial responsibility, but one must keep in mind the very considerable federal financial assistance in this field. Some examples from the recent and the present include: the "roads to resources" programs, Trans-Canada Highway subsidies, the "Urban Transportation Assistance Program" (UTAP), and the capital assistance program for intercity bus transport in the Atlantic Provinces. These are all multi-million dollar federal aid programs.

Transportion subsidies are not inherently undesirable. They should be regarded as a form of investment in the development of the country. But like any investment, the return must be calculated and must, given all the circumstances, result in a satisfactory yield. This yield need not be calculated in dollars alone. Long-term economic advantages, and social consequences should also be carefully considered. This should be kept in mind by those who have been justifying a reduction in railway subsidies on the basis that railways produce the lowest yield for the subsidy dollar.

Furthermore, the Committee cautions against wholesale superficial comparisons between one mode of transport and the other. Clearly, this type of analysis is most relevant to any discussion on Canadian transportation policy. However, the Committee has not been convinced, one way or the other, as to the strength of the arguments surrounding the real cost of subsidies on either side. For this reason, the Committee again refers back to its first recommendation and expresses its view that this issue of comparative subsidies be included in a long-range study of the future Canadian passenger transportation services.

D. Operational Factors Relating to Route Cancellations and to Railway Passenger Service Generally

(i) Sufficiency of Data

When the 20% reduction in passenger services was announced last autumn, the underlying rationale for this action was the need to make funds available out of VIA's

budget for new equipment. Undoubtedly, when selecting routes to be eliminated and services to be reduced, and when assessing the factors relevant to the decision to procure funds in this fashion, various statistical and other data was considered. In the course of its proceedings, the Committee has noted that there have been considerable disagreements as to the interpretation of the data on which decisions were presumably based.

For example, the ability of Transport Canada, the CTC, and the railways to isolate load factors and occupancy rates on particular portions of some of the abandoned routes was subject to question. Indeed, there was considerable discussion as to what the actual use of the terms "load factor", "occupancy rate", and "ridership" actually meant in terms of decision-making. The confusion as to the use of these terms, their applicability, and proper analysis of the data available causes the Committee some disquiet.

The Committee also notes with interest the inconsistency in the evidence as to ridership growth on passenger trains. An expert on American passenger rail service in testimony before this Committee, stated that Amtrak ridership had increased in 1981 despite declines in all other modes of passenger carriage. This appears to be in contrast to the general impression in Canada, as became evident in some of the testimony before the Committee, that passenger train use is steadily and inexorably declining in all developed countries. The Committee believes a careful re-examination of the data is necessary.

The Committee is of the view that when drastic action is taken, such as was implemented last autumn, that involves very substantial service reductions, the operational data available and considered by those in positions of authority, should be impeccable. Once a rail service is abandoned, it is rarely, if ever, reinstated. Consequently, utmost care should be taken in evaluating the available data in deciding what action is to be taken with respect to a particular route or network and every effort should be made to ensure that the data itself is sufficient and reliable.

10. The Committee recommends that the data used as a partial basis for the decision taken in last autumn's route abandonments should be re-examined in great detail in order to determine if all the facts were available and properly interpreted. This examination should be undertaken by the Railway Transport Committee of the CTC and the results of the investigation should be made public at the earliest opportunity. Furthermore, the Committee recommends that, in future, relevant information concerning particular routes that might become the subject of possible abandonment or service reductions be the object of informed public discussion prior to a decision being taken.

(ii) Effect of Route Abandonments on Passenger Rail Service Generally

The elimination of selected routes as a result of the decision by the Governor in Council of last fall, resulted in a substantial number of Canadians being without rail service. In addition and perhaps of equal importance, is the fact that many points within Canada are now accessible by rail only after tedious, inconvenient, and expensive detours. Substantial increases in travel time between points previously served are now a reality for train users.

Undoubtedly, it is the essence of a continued and vital passenger rail service in the future that it be heavily utilized by the travelling public. One of the principal arguments in

supporting certain individual route discontinuances was that they were not being used sufficiently by passengers. However, the Committee believes that this is something of an unbalanced equation in that now not only are many routes lost but the routes that do exist may be under-utilized due to the fact that potential passengers would have to incur increased costs and a great deal of lost time in making connections as a result of the remaining routes and schedules. This may result in a loss of revenue for VIA through a reduction in ridership on certain trains, which could in turn provide a rationale for further cutbacks. This, in the view of the Committee, would be a truly disastrous trend for rail passenger services.

This type of problem is further exacerbated by a deterioration in some services on the routes left in existence. These service problems include reduced train frequencies, less available sleeping accommodation, and a reduction in dining services. This combined with continued maintenance problems can only have negative effects on the VIA system. It is indeed commendable to wish to acquire new equipment for the system; this is in fact an essential requirement. However, if the existing routes are left to deteriorate in quantity and quality of service, the travelling public will not be much inclined to continue to use or to switch to these services.

(iii) The Issue of Commuter Services

Some of the routes discontinued as a result of the Governor in Council's action last fall, included certain short haul passenger lines that were classified by Transport Canada as commuter services. The Committee understands commuter services to mean comparatively short distance routes involving the transport of passengers between suburban areas and a large nearby urban centre. The Committee has doubts as to whether all of the routes that were so categorized by Transport Canada are truly commuter services.

The Committee notes with concern that provincial authorities have expressed some reluctance to undertake control of this type of service in certain instances, and municipalities simply do not have the legislative or financial capability to step in should they wish to do so. This has already produced some serious problems for certain numbers of rail passenger commuters who find themselves either without service, with reduced service, or with the prospect of losing service in the near future.

11. The Committee recommends that the concerned parties, namely the railways providing the service, the municipalities served, the CTC, the provincial governments and Transport Canada undertake consultations and negotiations prior to any route cancellations to ensure that commuter services will be maintained where necessary, either by VIA, or one of the other operating railways, or another entity should that be deemed desirable. The Committee emphasizes that this should be done prior to the elimination of such routes so as to avoid wholesale inconvenience and economic dislocation as a result of relatively sudden changes in long standing commuter services.

The Committee further recommends that a firm technical definition of commuter services be put forward by Transport Canada without delay. This will aid in ensuring that only routes that are truly commuter services will be transferred to provincial jurisdiction.

(iv) Implementation and Expansion of LRC Train Services

The Committee is aware of the fact that a great deal of emphasis is being placed upon the introduction of the "light, rapid comfortable" (LRC) trains into the VIA system. These trains are already in regular service in the Quebec-Windsor corridor, and VIA has just committed itself to purchase an additional ten train sets from the manufacturer, Bombardier Ltd.

It is presumed that a great deal of the money supposed to become available as a result of last fall's service cuts will be directed towards the purchase of this new equipment. While the Committee welcomes the integration of this modern equipment into VIA service, it also notes with some concern that some initial difficulties have become apparent in this system. It is, of course, to be hoped that these are nothing more than "teething" problems. The Committee has been repeatedly assured by representatives of VIA that no serious or major problems have been encountered thus far in the introduction of these trains into service.

These LRC trains represent a significant technological improvement over the current equipment in use in the VIA system. The Committee has been assured that these trains provide a comfortable and modern environment for their passengers. However, the Committee notes that great savings in time are not likely to result from the introduction of these trains into service because of the fact that they cannot operate at their maximum or optimum speed because they have to travel over track and roadbeds that are used by freight trains and are poorly suited for high speed passenger train travel. The LRC trains can operate over such roadbeds, in a quiet, comfortable and efficient manner. However, in order to have them function at speeds of which they are capable, the roadbed would have to be improved and a so-called "dedicated corridor", namely a roadbed that would handle high speed passenger traffic only, might be required. This would be a very costly undertaking.

The concept of dedicated corridors, and possibly the electrification of these corridors to provide for still more advanced technology trains was raised before the Committee. Again, the costs involved in such an undertaking appear to be formidable. However, the Committee feels that the attractions and advantages of such a concept should be more thoroughly investigated in the course of a policy review.

Notwithstanding any of the reservations mentioned above, the Committee earnestly hopes that the LRC trains will indeed operate in an efficient and profitable manner. The Committee also notes with great interest that both the Minister of Transport and the President of VIA Rail Canada Inc. stated in the course of their testimony that they intend to see the LRC equipment introduced into routes beyond the Quebec-Windsor corridor in the near future. The Atlantic and Western provinces were specifically mentioned. A target date of 1984 has been mentioned. The Committee feels that it is essential that this commitment be implemented at the earliest possible moment.

12. The Committee recommends that LRC train equipment be introduced in regular service on routes in the Atlantic provinces and in Western Canada as soon as is practicable. This should take place no later than 1984, barring unforeseen technological impediments.

Appendix I

Canada Gazette, Part II, Vol. 115 (No. 22) p. 3352

(Published as an Extra, November 6, 1981)

Registration
SOR/81-892 3 November, 1981

NATIONAL TRANSPORTATION ACT

Order Varying Canadian Transport Commission Orders and Decisions

P.C. 1981-2171 6 August, 1981

His Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to subsection 64(1) of the National Transportation Act, of its own motion hereby varies the Canadian Transport Commission Orders and Decisions referred to in Schedules I to XVII hereto in the manner set out in those schedules.

SCHEDULE I

Halifax-Moncton-Saint John-Montréal Passenger-Train Service (Eastern Transcontinental "Atlantic")

1. Order No. R-24328 of the Railway Transport Committee of the Canadian Transport Commission dated the 4th day of February 1977, is hereby varied as follows:

(1) The second section 1 on page 3 of the said Order, which refers to passenger-train services provided by Canadian Pacific Limited, is revoked and the following substituted therefor:

"1. The Railways and VIA Rail Canada Inc. shall continue operation of the said passenger-train services, with the exception of the passenger-train service provided by trains 41 and 42 (now trains 11 and 12) between Montréal and Saint John which shall be discontinued between Montréal and Fredericton Junction effective the 15th day of November 1981."

2. The decision of the Railway Transport Committee of the Canadian Transport Commission entitled the "Final Plan for Eastern Transcontinental Passenger-Train Service" dated June 1979 is hereby varied as follows:

(1) Clause (i) on pages 2 and 3 of the said Final Plan and all other references to the passenger-train service entitled "The Atlantic", which is provided between Halifax, Saint John, Fredericton Junction and Montréal, are deleted effective the 15th day of November 1981.

(2) The references to the bus connection provided between Fredericton and Fredericton Junction on page 11 of the said Final Plan are deleted effective the 15th day of November 1981.

SCHEDULE II

Edmundston-Moncton Passenger-Train Service

1. Order No. R-28953 of the Railway Transport Committee of the Canadian Transport Commission dated the 28th day of June 1979, is hereby varied as follows:

(1) Paragraph 1(b) on page 2 of the said Order is revoked and the following substituted therefor:

"(b) discontinue the operation of the passenger-train service between Edmundston and Moncton effective the 15th day of November 1981."

2. The decision of the Railway Transport Committee of the Canadian Transport Commission entitled the "Final Plan for Eastern Transcontinental Passenger-Train Service" dated June 1979 is hereby varied as follows:

(1) Clause (ii) on page 7 of the said Final Plan and all other references to the provision of passenger-train service between Edmundston and Moncton are deleted effective the 15th day of November 1981.

SCHEDULE III

Québec (Ste. Foy)-Chambord Passenger-Train Service

1. Order No. R-25988 of the Railway Transport Committee of the Canadian Transport Commission dated the 22nd day of December 1977, is hereby varied as follows:

(1) The second section 1 on the fourth page, under the heading "The Committee hereby orders that", of the said Order is revoked and the following substituted therefor:

"1. The Canadian National Railways and VIA Rail Canada Inc. shall not discontinue the operation of the said passenger-train services, with the exception of the passenger-train service provided by trains 176, 177, and 199 (now trains 138 and 139) between Québec (Ste. Foy) and Chicoutimi, which shall be discontinued effective the 15th day of November 1981."

2. Order No. R-28150 of the Railway Transport Committee of the Canadian Transport Commission dated the 29th day of December 1978 is hereby varied as follows:

(1) Sections 3 and 4 of the said Order which are in respect of passenger-train service between Québec and Chambord are revoked effective the 15th day of November 1981.

SCHEDULE IV

Québec (Ste. Foy)-Hervey Junction Passenger-Train Service

1. Order No. 28149 of the Railway Transport Committee of the Canadian Transport Commission dated the 29th day of December 1978, as amended by Order No. R-28795 of the Railway Transport Committee of the Canadian Transport Commission dated the 26th day of April 1979, is hereby varied as follows:

(1) Section 2 of the said Order is revoked and the following substituted therefor:

"2. Canadian National Railways and VIA Rail Canada Inc. shall discontinue operation of the passenger-train service between Québec (Ste. Foy) and Hervey Junction effective the 15th day of November 1981."

SCHEDULE V

Montréal-Labelle-Mont-Laurier Passenger-Train Service

1. Order No. R-29129 of the Railway Transport Committee of the Canadian Transport Commission dated the 12th day of June 1979, as amended by Order No. R-29407 of the Railway Transport Committee of the Canadian Transport Commission dated the 7th day of August 1979, is hereby varied as follows:

(1) Paragraphs (a) to (d) of section 1 on page 2 of the said Order are revoked and the following substituted therefor:

"(a) discontinue the operation of passenger-train service between Montréal and Mont-Laurier and between Montréal and Labelle effective the 15th day of November 1981."

SCHEDULE VI

Montréal-Sherbrooke Passenger-Train Service

1. Order No. R-28952 dated the 28th day of June 1979, of the Railway Transport Committee of the Canadian Transport Commission is hereby varied as follows:

(1) Section 2 of the said Order is revoked and the following substituted therefor:

"2. Orders VIA Rail Canada Inc. and Canadian National Railways, who are responsible for providing these passenger-train services, to discontinue the passenger-train service provided by trains 620, 621, 624 and 625 (now trains 623, 624, 625 and 626) between Montréal and Sherbrooke effective the 7th day of September 1982."

2. The decision of the Railway Transport Committee of the Canadian Transport Commission entitled the "Final Plan for Eastern Transcontinental Passenger-Train Service" dated June 1979 is hereby varied as follows:

(1) Clause (i) on page 6 of the said Final Plan and all other references to the provision of passenger-train service between Montréal and Sherbrooke are deleted effective the 7th day of September 1982.

SCHEDULE VII

Montréal-Lachute-Montebello-Ottawa Passenger-Train Service

1. Order No. R-25782 of the Railway Transport Committee of the Canadian Transport Commission dated the 18th day of November 1977, is hereby varied as follows:

(1) Section 1 on page 6 of the said Order is revoked and the following substituted therefor:

"1. Canadian Pacific Limited and VIA Rail Canada Inc. shall not discontinue the operation of the said passenger-train services, with the exception of the passenger-train service provided by trains 132, 133, and 134 (now trains 170, 171, and 172) between Montréal, Lachute, Montebello, and Ottawa, which shall be discontinued effective the 15th day of November 1981."

SCHEDULE VIII

Toronto-Stouffville Passenger-Train Service

1. Order No. R-32318 of the Railway Transport Committee of the Canadian Transport Commission dated the 29th day of May 1981, is hereby varied as follows:

(1) The second section 1 on page 1 of the said Order is revoked and the following substituted therefor:

"1. VIA Rail and Canadian National Railways shall discontinue operation of the said passenger-train service effective the 7th day of September 1982."

SCHEDULE IX

Toronto-Havelock Passenger-Train Service

1. Order No. R-32317 of the Railway Transport Committee of the Canadian Transport Commission dated the 29th day of May 1981, is hereby varied as follows:

(1) Section 1 on the second page of the said Order is revoked and the following substituted therefor:

"1. VIA Rail and Canadian Pacific Limited shall discontinue operation of the said passenger-train service effective the 7th day of September 1982."

SCHEDULE X

Edmonton-Drumheller Passenger-Train Service

1. Order No. R-24501 of the Railway Transport Committee of the Canadian Transport Commission dated the 21st day of March 1977, is hereby varied as follows:

(1) Section 3 on page 2 of the said Order is revoked and the following substituted therefor:

"3. Orders that Canadian National Railways and VIA Rail Canada Inc. shall discontinue operation of the said passenger-train service effective the 15th day of November 1981."

SCHEDULE XI

Prince Albert-Saskatoon-Regina Passenger-Train Service

1. Order No. R-29855 WD of the Railway Transport Committee of the Canadian Transport Commission dated the 8th day of November 1979, is hereby varied as follows:

(1) Section 1 of the said Order is revoked and the following substituted therefor:

"1. VIA Rail Canada Inc. and Canadian National Railways

(a) shall not discontinue the operation of the passenger-train service provided by trains 680 and 683 between Regina and Saskatoon; and

(b) shall discontinue the operation of the passenger-train service provided by trains 680 and 683 between Saskatoon and Prince Albert effective the 15th day of November 1981."

SCHEDULE XII

Sudbury-White River Passenger-Train Service

1. Order No. 1981-01 of the Review Committee of the Canadian Transport Commission dated the 12th day of February 1981, as amended by Order No. 1981-03 of the Review Committee dated the 17th day of July 1981, is hereby varied as follows:

(1) Sections 2 and 3 of the said Order are revoked and the following substituted therefor:

"2. During the off-peak period of the year, VIA Rail Canada Inc. and Canadian Pacific Limited shall provide, on the transcontinental passenger-train service between Sudbury and White River, the local passenger, mail and express services now provided by trains 185 and 186 effective the 15th day of November 1981. During the off-peak period of the year, local passenger-train service provided by trains 185 and 186 shall be discontinued effective the 15th day of November 1981.

3. During the peak period of the year, VIA Rail Canada Inc. and Canadian Pacific Limited shall operate a tri-weekly local passenger train service, which also provides mail and express services, in each direction between Sudbury and White River, Ontario, effective the 15th day of November 1981."

SCHEDULE XIII

Capreol-Hornepayne Passenger-Train Service

1. Order No. 30915 dated the 29th day of May 1980, of the Railway Transport Committee of the Canadian Transport Commission is hereby varied as follows:

(1) Section 4 of the said Order is revoked effective the 15th day of November 1981.

SCHEDULE XIV

Winnipeg-Armstrong Passenger-Train Service Sudbury-Capreol-Winnipeg Passenger-Train Service

1. Order No. 30914 of the Railway Transport Committee of the Canadian Transport Commission dated the 29th day of May 1980, is hereby varied as follows:

(1) Sections 3 to 5 of the said Order are revoked and the following substituted therefor:

"3. Passenger-train service between Capreol and Winnipeg shall be provided by VIA Rail Canada Inc. and the Canadian National Railways.

4. Effective the 15th day of November 1981, Capreol shall be used as the terminal for passenger-train service provided by trains 7 and 8, with a connecting bus service to be provided between Capreol and Sudbury."

SCHEDULE XV

Western Transcontinental Passenger-Train Service Toronto-Barrie Passenger-Train Service

1. Order No. R-22125 of the Railway Transport Committee of the Canadian Transport Commission dated the 29th day of January 1976, is hereby varied as follows:

(1) Section 1 on page 2 of the said Order is revoked and the following substituted therefor:

"1. VIA Rail Canada Inc. and Canadian Pacific Limited shall not discontinue operation of the said passenger-train service, with the exception of the passenger-train service between Montréal and Ottawa (via Vankleek Hill) which shall be discontinued effective the 15th day of November 1981."

2. Order No. R-22346 of the Railway Transport Committee of the Canadian Transport Commission dated the 26th day of February 1976, is hereby varied as follows:

(1) Section 1 on the second page of the said Order is revoked and the following substituted therefor:

"1. VIA Rail Canada Inc. and Canadian National Railways shall not discontinue operation of the said passenger-train service, with the exception of the passenger-train service provided by trains 168 and 169 (now trains 146 and 147) between Toronto and Barrie, which shall be discontinued effective the 7th day of September 1982, and the passenger-train service between Winnipeg and Saskatoon and the passenger-train service between Jasper and Vancouver which shall be discontinued effective the 15th day of November 1981."

3. The "Final Plan for Western Transcontinental Passenger-Train Service" of the Railway Transport Committee of the Canadian Transport Commission dated October 1977 as implemented by Order No. R-26520 of the Railway Transport Committee dated the 8th day of March 1978 and as amended is hereby varied as follows:

(1) Clauses (i) to (iv) under the heading "The Final Plan" on page 1 of the said Final Plan are hereby revoked and the following substituted therefor:

"(i) a daily Montréal-Toronto-Vancouver train via Thunder Bay, Winnipeg and Calgary effective the 15th day of November 1981. The present passenger-train service between Montréal and Ottawa (via Vankleek Hill) shall be discontinued effective the 15th day of November 1981;

(ii) coach service for the passenger-train services between Ottawa and Sudbury and between Saskatoon and Edmonton effective the 15th day of November 1981; and

(iii) full service for passenger-train service between Edmonton and Jasper effective the 15th day of November 1981.

The passenger-train service between Winnipeg and Saskatoon and passenger-train service between Jasper and Vancouver shall be discontinued effective the 15th day of November 1981."

SCHEDULE XVI

1. Order No. R-31300 dated the 14th day of August 1980, of the Railway Transport Committee of the Canadian Transport Commission is hereby varied as follows:

(1) Groups 6, 7 and 23 of Schedule I of the said Order are revoked effective the 15th day of November 1981.

(2) Groups 1, 3, 5, 16, 17, 22, and 25 of Schedule I of the said Order are revoked and the following groups dated the 15th day of November 1981 substituted therefor effective the 15th day of November 1981.

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: I

Page: I-1A

Date: November 15, 1981 /
Le 15 novembre 1981

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
101 Halifax-Truro	CN	21	21	
102 Sydney-Truro	CN	14	14	
103 Truro-Amherst	CN	14	14	
104 Charlottetown-Amherst	—	7	7	Connecting highway service / Service routier de correspondance
105 Amherst-Moncton	CN	14	14	
106 Charlottetown-Moncton	—	7	7	Connecting highway service / Service routier de correspondance
107 Moncton-Campbellton	CN	14	14	
108 Campbellton-Matapédia	CN	7	7	
109 Gaspé-Matapédia	CN	7	7	
110 Matapédia-Mont-Joli	CN	7	7	
111 Mont-Joli-Charny	CN	14	14	
112 Sainte-Foy-Charny	CN	14	14	

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: I

Page: I-1B

Date: November 15, 1981 /
Le 15 novembre 1981

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
113 Charny-Saint-Hyacinthe	CN	28	28	
114 Moncton-Saint John / Saint-Jean	CN	7	7	
115 Saint John / Saint-Jean-Fredericton Jct.	CP	7	7	
116 Fredericton-Fredericton Jct.	CP	7	7	
118 Sherbrooke-Saint-Hyacinthe	CN	7	7	
119 Saint-Hyacinthe-Montréal	CN	35	35	

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
303 McGivney-Fredericton	—	7	7	Connecting highway service / Service routier de correspondance

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
501 Montréal-Hervey Jct.	CN	3	3	Connecting highway service / Service routier de correspondance
503 Hervey Jct.-Senneterre	CN	3	3	
504 Senneterre-Cochrane	CN	3	3	
505 Senneterre-Val-d'Or	—	6	6	
506 Hervey-Rivière-à-Pierre	CN	3	3	
508 Rivière-à-Pierre-Chambord	CN	3	3	
509 Chambord-Chicoutimi	CN	3	3	
510 Chambord-Dolbeau	—	7	7	Connecting highway service / Service routier de correspondance

SCHEDULE/TABLEAU: I

VIA RAIL CANADA INC.

GROUP/GROUPE: 16

Page: I-16

Date: November 15, 1981/

Le 15 novembre 1981

Segment/Tronçon	Track owned by/ Prop. de la voie	Minimum frequency per week (each direction)/ Fréquence minimum par semaine (chaque direction)		Notes
		Normal/ Normale	Peak/ Pointe	
1602 Ottawa-North Bay	CP	3	3	
1603 North Bay-Sudbury	CP	3	3	
1604 Sudbury-White River	CP	7	10	
1605 White River-Thunder Bay	CP	7	7	
1606 Thunder Bay-Winnipeg	CP	7	7	CN, Norcran Jct.-Winnipeg
1607 Winnipeg-Regina	CP	14	14	CN, Winnipeg-Portage La Prairie
1608 Regina-Calgary	CP	7	7	
1609 Calgary-Kamloops	CP	7	7	
1610 Kamloops-Vancouver	CP	7	7	CN, Sapperton-Vancouver

SCHEDULE/TABLEAU: I

VIA RAIL CANADA INC.

GROUP/GROUPE: 17

Page: I-17A

Date: November 15, 1981/

Le 15 novembre 1981

Segment/Tronçon	Track owned by/ Prop. de la voie	Minimum frequency per week (each direction)/ Fréquence minimum par semaine (chaque direction)		Notes
		Normal/ Normale	Peak/ Pointe	
1701 Toronto-Barrie	CN	13-14	13-14	Northbound-Southbound (see also 1501)/ En direction nord-en direction sud (voir aussi 1501)
1702 Barrie-Washago	CN	8-9	8-9	Northbound-Southbound (see also 1501)/ En direction nord-en direction sud (voir aussi 1501)
1703 Washago-South Parry	CN	7	7	
1704 South Parry-Sudbury	CP	7	7	
1705 Sudbury-Capreol	—	3	3	Connecting highway service/ Service routier de correspondance
1706 Capreol-Hornepayne	CN	3	3	
1707 Hornepayne-Nakina	CN	3	3	
1708 Nakina-Armstrong	CN	3	3	
1709 Armstrong-Sioux Lookout	CN	3	3	
1710 Sioux Lookout-Farlane	CN	3	3	
1711 Farlane-Winnipeg	CN	3	4	

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: 16

Page: I-16

Date: November 15, 1981 /
Le 15 novembre 1981

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
1602 Ottawa-North Bay	CP	3	3	
1603 North Bay-Sudbury	CP	3	3	
1604 Sudbury-White River	CP	7	10	
1605 White River-Thunder Bay	CP	7	7	
1606 Thunder Bay-Winnipeg	CP	7	7	CN, Norcran Jct.-Winnipeg
1607 Winnipeg-Regina	CP	14	14	CN, Winnipeg-Portage la Prairie
1608 Regina-Calgary	CP	7	7	
1609 Calgary-Kamloops	CP	7	7	
1610 Kamloops-Vancouver	CP	7	7	CN, Sapperton-Vancouver

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: 17

Page: I-17A

Date: November 15, 1981 /
Le 15 novembre 1981

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
1701 Toronto-Barrie	CN	13-14	13-14	Northbound-Southbound (see also 1501) / En direction nord-en direction sud
1702 Barrie-Washago	CN	8-9	8-9	(voir aussi 1501) Northbound-Southbound (see also 1501) / En direction nord-en direction sud
1703 Washago-South Parry	CN	7	7	(voir aussi 1501)
1704 South Parry-Sudbury	CP	7	7	
1705 Sudbury-Capreol	—	3	3	
1706 Capreol-Hornepayne	CN	3	3	Connecting highway service / Service routier de correspondance
1707 Hornepayne-Nakina	CN	3	3	
1708 Nakina-Armstrong	CN	3	3	
1709 Armstrong-Sioux Lookout	CN	3	3	
1710 Sioux Lookout-Farlane	CN	3	3	
1711 Farlane-Winnipeg	CN	3	4	

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: 17

Page: I-17B

Date: November 15, 1981 /
Le 15 novembre 1981

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
1713 Saskatoon-Edmonton	CN	7	7	
1714 Edmonton-Jasper	CN	3	3	
1716 Kamloops Jct.-Kamloops	—	7	7	Connecting highway service / Service routier de correspondance Connecting highway service / Service routier de correspondance
1717 Kamloops-Kelowna	—	7	7	

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: 22

Page: I-22

Date: November 15, 1981 /
Le 15 novembre 1981

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
2201 Regina-Saskatoon	CN	7	7	

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: 25

Page: I-25

Date: November 15, 1981 /
Le 15 novembre 1981

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
2501 Jasper-Prince Rupert	CN	3	3	

SCHEDULE XVII

1. Order No. R-31300 dated the 14th day of August 1980, of the Railway Transport Committee of the Canadian Transport Commission is hereby varied as follows:

(1) Groups 10 and 11 of Schedule I of the said Order are revoked effective the 7th day of September 1982.

(2) Groups 1 and 17 of Schedule I of the said Order dated the 15th day of November 1981 are revoked and the following groups dated the 7th day of September 1982 substituted therefor effective the 7th day of September 1982.

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: I

Page: I-1A

Date: September 7, 1982 /

Le 7 septembre 1982

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
101 Halifax-Truro	CN	21	21	
102 Sydney-Truro	CN	14	14	
103 Truro-Amherst	CN	14	14	
104 Charlottetown-Amherst	—	7	7	Connecting highway service / Service routier de correspondance
105 Amherst-Moncton	CN	14	14	
106 Charlottetown-Moncton	—	7	7	Connecting highway service / Service routier de correspondance
107 Moncton-Campbellton	CN	14	14	
108 Campbellton-Matapédia	CN	7	7	
109 Gaspé-Matapédia	CN	7	7	
110 Matapédia-Mont-Joli	CN	7	7	
111 Mont-Joli-Charny	CN	14	14	
112 Sainte-Foy-Charny	CN	14	14	

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: I

Page: I-1B

Date: September 7, 1982 /

Le 7 septembre 1982

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
113 Charny-Saint-Hyacinthe	CN	28	28	
114 Moncton-Saint John / Saint-Jean	CN	7	7	
115 Saint John / Saint-Jean-Fredericton Jct.	CP	7	7	
116 Fredericton-Fredericton Jct.	CP	7	7	
119 Saint-Hyacinthe-Montréal	CN	28	28	

SCHEDULE / TABLEAU: I

VIA RAIL CANADA INC.

GROUP / GROUPE: 17

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Date: September 7, 1982 /

Le 7 septembre 1982

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
1701 Toronto-Barrie	CN	8-9	8-9	Northbound-Southbound (see also 1501) / En direction nord—en direction sud (voir aussi 1501)
1702 Barrie-Washago	CN	8-9	8-9	Northbound-Southbound (see also 1501) / En direction nord—en direction sud (voir aussi 1501)
1703 Washago-South Parry	CN	7	7	
1704 South Parry-Sudbury	CP	7	7	
1705 Sudbury-Capreol	CN	3	3	Connecting highway service / Service routier de correspondance
1706 Capreol-Hornepayne	CN	3	3	
1707 Hornepayne-Nakina	CN	3	3	
1708 Nakina-Armstrong	CN	3	3	
1709 Armstrong-Sioux Lookout	CN	3	3	
1710 Sioux Lookout-Farlane	CN	3	3	
1711 Farlane-Winnipeg	CN	3	4	

Segment / Tronçon	Track owned by / Prop. de la voie	Minimum frequency per week (each direction) / Fréquence minimum par semaine (chaque direction)		Notes
		Normal / Normale	Peak / Pointe	
1713 Saskatoon-Edmonton	CN	7	7	
1714 Edmonton-Jasper	CN	3	3	
1716 Kamloops Jct.-Kamloops	—	7	7	Connecting highway service / Service routier de correspondance
1717 Kamloops-Kelowna	—	7	7	Connecting highway service / Service routier de correspondance

Appendix II

The Railway Act, R.S.C. 1970, c. R-2, ss. 260(6)

(6) In determining whether an uneconomic passenger-train service or parts thereof should be discontinued, the Commission shall consider all matters that in its opinion are relevant to the public interest including, without limiting the generality of the foregoing,

- (a) the actual losses that are incurred in the operation of the passenger-train service;
- (b) the alternative transportation services, including any highway or highway system serving the principal points served by the passenger-train service, that are available or are likely to be available in the area served by the service;
- (c) the probable effect on other passenger train service or other passenger carriers of the discontinuance of the service, or of parts thereof; and
- (d) the probable future passenger transportation needs of the area served by the service.

Appendix III

National Transportation Act, R.S.C. 1970, c. N-17, ss. 64(1)

Governor in Council may vary or rescind

64. (1) The Governor in Council may at any time, in his discretion, either upon petition of any party, person or company interested, or of his own motion, and without any petition or application, vary or rescind any order, decision, rule or regulation of the Commission, whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application; and any order that the Governor in Council may make with respect thereto is binding upon the Commission and upon all parties.

Appendix IV

Paragraphs 1 and 2 of the *Ninth Report of the Standing Joint Committee on Regulations and Other Statutory Instruments*, in *Minutes of Proceedings and Evidence*, 12 November 1981, 45:4

1. In accordance with its permanent reference, section 26 of the *Statutory Instruments Act*, S.C. 1970-71-72, c. 38, your Joint Committee has determined to draw to the special attention of both Houses SOR/81-892, Order Varying Canadian Transport Commission Orders and Decisions. (For convenience this regulation will be referred to as "the Order".)

2. Your Joint Committee's objections to the Order rest on four of its criteria, namely:

"Whether any Regulation or other Statutory Instrument within its terms of reference, in the judgment of the Committee;

2. has not complied with the provisions of the *Statutory Instruments Act* with respect to transmittal, recording, numbering or publication;
4. makes some unusual or unexpected use of the powers conferred by the enabling statute...
8. appears for any reason to infringe...the rules of natural justice;
10. in the absence of express authority to that effect in the enabling statute or prerogative, appears to amount to the exercise of a substantive legislative power properly the subject of direct parliamentary enactment, and not merely to the formulation of subordinate provisions of a technical or administrative character properly the subject of delegated legislation;"

Appendix V

Railway Act, R.S.C. 1970, c. R-2, s. 331

Information bearing on costs

331. Where information concerning the costs of a railway company or other information that is by its nature confidential is obtained from the company by the Commission in the course of any investigation under this Act, such information shall not be published or revealed in such a manner as to be available for the use of any other person, unless in the opinion of the Commission such publication is necessary in the public interest. 1966-67, c. 69, s. 70.

Appendix VI

Canadian Transport Commission, *Railway Costing Regulations*

FOREWORD

On March 28, 1977, Canadian Pacific Limited (CP) applied to the Railway Transport Committee of the Canadian Transport Commission for an amendment to the existing cost regulations as set out in Order R-6313. Specifically, CP requested that income tax be included in the cost of capital for the purposes of sections 253, 256, 258, 260 and 261 of the *Railway Act*. A hearing into this application was held in Ottawa between May 14 and June 5, 1979. During the course of the hearing the application was amended to apply to only sections 256, 258 and 261 of the *Railway Act*.

The Railway Transport Committee (the Committee) rendered its Decision on August 17, 1979. The *Railway Costing Regulations* reflect that Decision. The Railway Costing Regulations 1980-3 Rail were registered pursuant to the *Statutory Instruments Act* on May 1, 1980, Registration No. SOR/80-310. Subsequently, on December 9, 1980, by Order C.T.C. 1980-12, paragraph 5(5)(a) of the Regulations was revoked and replaced by the paragraph which is found in the attached Consolidation of the Railway Costing Regulations. The Registration No. under the *Statutory Instruments Act* for this amendment is SOR/80-940 dated December 10, 1980.

The *Railway Costing Regulations* are essentially the same as those regulations found in Order R-6313. Certain substantive changes have, of course, been made to reflect the Committee's Decision of August 17, 1979. In view of the relationship between the *Railway Costing Regulations* and Order R-6313, the "Reasons for Order No. R-6313 Concerning Cost Regulations" remain valid except as modified by the Decision of August 17, 1979 in respect of cost submissions for the years 1979 and following. Moreover, R-6313 in its entirety (including the Reasons) remains applicable for cost submissions filed with the Committee for the years prior to 1979.

Finally, all persons making use of the present Office Consolidation of the Railway Costing Regulations are advised that it has received the sanction of the Railway Transport Committee of the Canadian Transport Commission, but that the Consolidation has no official sanction from any other branch of the Government of Canada.

REGULATIONS RESPECTING COSTS FOR THE PURPOSES OF SECTIONS 252 TO 261, 264, 272, 276, 277, 278, 329 AND 330 OF THE RAILWAY ACT, C.T.C. 1980-3 RAIL, SOR/80-310 1 May, 1980 as amended by C.T.C. 1980-12, SOR/80-940 10 December 1980.

Short Title

1. These Regulations may be cited as the *Railway Costing Regulations*.

Interpretation

2. In these Regulations,

"Act" means the *Railway Act*; (*Loi*)

"branch line" means a line of railway in Canada of a railway company that is subject to the jurisdiction of Parliament that, relative to a main line within the company's railway system in Canada of which it forms a part, is a subsidiary, secondary, local or feeder line of railway, and includes a part of any subsidiary, secondary, local or feeder line of railway; (*embranchement*)

"Committee" means the Railway Transport Committee of the Canadian Transport Commission; (*Comité*)

"costs" means

(a) in relation to a branch line, for the purpose of calculating actual loss, the costs that after allowing a reasonable period of time for adjustment to the new condition, would have been avoided or would be avoided by a company if, in any financial year, it did not maintain and operate the branch line and did not incur the variable cost of carrying the traffic originating or terminating on the line irrespective of when or in what manner or by whom such costs were incurred, and

(b) in relation to a passenger-train service, for the purpose of calculating actual loss, the costs that after allowing a reasonable period of time for adjustment to the new

condition, would have been avoided or would be avoided by a company in the carriage of passengers by the service if, in any financial year, the company did not operate the service irrespective of when or in what manner or by whom such costs were incurred; (*frais*)

“passenger-train service” means such train or trains of a company as are capable of carrying passengers and are declared by an order of the Committee, for the purposes of sections 260 and 261 of the Act, to comprise a passenger-train service; (*service de trains de voyageurs*)

“Uniform Classification of Accounts” means the uniform classification and system of accounts prescribed by the Commission pursuant to section 328 of the Act. (*classification uniforme des comptes*)

Application

3. Subject to section 11 and to any exemption ordered by the Commission pursuant to section 46 of the *National Transportation Act*, these Regulations shall apply in respect of cost submissions filed by all companies under the jurisdiction of the Commission for the year 1979 and the following years.

Variable Costs of the Carriage of Goods

4. For the purposes of these Regulations, the variable cost of the carriage of goods referred to in section 278 of the Act shall

(a) be calculated on the basis of carloads of thirty thousand pounds in the standard railway equipment for such goods and such other weights as are required for purposes of determining a rate; and

(b) if the goods concerned may move between points in Canada by alternative routes of two or more railway companies, be computed on the basis of the costs of the lowest cost rail route.

Actual Loss Under Sections 252 to 258, 260 and 261 of the Act

5. (1) For the purposes of the calculation of actual loss under sections 252 to 258 and 260 and 261 of the Act, costs in relation to a branch line or in relation to a passenger-train service shall, subject to subsections (2) to (5), be based on expense accounts maintained under the *Uniform Classification of Accounts* and accounts reconcilable therewith or on such special studies of items and factors of costs as the Committee may order pursuant to section 46 of the *National Transportation Act*.

(2) In computing the costs of a company for the purposes of section 256, 258 or 261, there shall be included an allowance for depreciation on a periodic basis

(a) that will reflect the annual decline in the net value that could be realized from the salvage of depreciable road property that the Committee is satisfied could or would be retired if the line were abandoned or the service discontinued, and that is required for continued operation; and

(b) at rates approved under the *Uniform Classification of Accounts* applied to the book value of such other depreciable assets and of such new assets as the Committee is satisfied are required for continued operation of the line or service.

(3) In computing the costs of a company for the purpose of section 256, 258 or 261, there shall be included in the costs, for the last year of operation prior to abandonment of a line or discontinuance of a service that had previously been ordered retained, an allowance for depreciation on such new assets as the Committee is satisfied are required to comply with the order for retention, which allowance for depreciation shall be equal to the undepreciated cost of such new assets calculated by deducting from the actual cost of the assets their salvage value and the accumulated depreciation allowed on them for subsidy purposes in previous years.

(4) In computing costs of a company for the purposes of section 253 or 260, there shall be included an allowance for cost of capital as follows:

(a) either

(i) the rate of return on capital, excluding any allowance for income tax, that, in the opinion of the Committee, is appropriate for the company at the time the application is made, applied to the salvage value of the road property that the company proposes to retire if the line is abandoned or the service discontinued, to an amount not exceeding the net book investment, computed on the basis of the group plan or accruing depreciation, or

(ii) the rate of return on capital, excluding any allowance for income tax, that, in the opinion of the Committee, is appropriate for the company at the time the application is made, applied to the net book investment of the road property that the company proposes to retire if the line is abandoned or the service discontinued, on condition that the company can develop depreciation charges and net investment calculations acceptable to the Committee as reflecting the specific aging characteristics of the road property; and

(b) the rate of return on capital, excluding any allowance for income tax, that, in the opinion of the Committee, is appropriate for the company at the time the application is made, applied to the net book value of all other property that the Committee is satisfied is required in the operation of the line or service.

(5) In computing the costs of a company for the purposes of section 256, 258 or 261, there shall be included an allowance for cost of capital as follows:

(a) the rate of return on capital, including an allowance for income tax, that, in the opinion of the Committee, is appropriate for the company at the time the computation is made, applied to the salvage value of the road property that the Committee is satisfied could or would be retired if the line were abandoned or the service discontinued and that the Committee is satisfied is required for purposes of continued operation of the line or service, to an amount not exceeding the net book investment computed on the basis of the group plan of accruing depreciation;

(b) where the Committee is satisfied that investments in new assets are necessary for the continued operation of the line or service, there shall be applied to the net book value of such investments the rate of return on capital, including an allowance for income tax, that, in the opinion of the Committee, is appropriate for the company at the time the investments in new assets are made; and

(c) the rate of return on capital, including an allowance for income tax, that, in the opinion of the Committee, is appropriate for the company at the time the computation is made, applied to the net book value of all other property that the Committee is satisfied is necessary for continued operation of the line or service.

Categories of Costs to Appear in Cost Submissions

6. For the purposes of the calculation of actual loss under sections 252 to 258 and 260 and 261 of the Act, the following categories of costs shall be shown in the cost submissions, with a separation between "labour" and "material and other" costs and, in the case of branch lines, a separation between "on-line" and "off-line" costs:

(a) "Category I cost" being all expenses that can be directly identified with the branch line or with the passenger-train service through company records;

(b) "Category II cost" being transportation and maintenance expenses that would be avoided if the line were abandoned or the service discontinued and that are shared in common with other traffic or other services, including the off-line costs of traffic originating or terminating on the branch line;

(c) "Category III cost" being all other expenses that would be avoided if the branch line were abandoned or the passenger-train service discontinued and that are not included in Categories I and II, including, where appropriate,

(i) superintendence expense,

(ii) traffic expense,

(iii) general expense,

(iv) communications expense, and

(v) non-revenue freight expense; and

(d) "Category IV cost" being the cost of capital calculated on the basis set forth in subsections 5(4) and (5).

Basis of Costs for Purposes of Sections 264, 272 and 276 to 278

7. For the purposes of section 264, 272, and 276 to 278 or for other purposes pertaining to rates for the carriage of goods,

(a) costs shall be variable costs based either on the expense accounts maintained under the *Uniform Classification of Accounts* and accounts reconcilable therewith or on such special studies of items and factors of costs as the Committee orders pursuant to section 46 of the *National Transportation Act*, and shall include the increases or decreases in

rail operations expenses resulting from changes in the volume of traffic, after allowing a reasonable period of time for adjustment in view of the traffic to be handled;

(b) there shall be included in the variable costs an allowance for cost of capital based on a rate of return, including an allowance for income tax, that, in the opinion of the Committee, is appropriate for CP Rail (a Division of Canadian Pacific Limited) applied to the variable portion of the net book value of the assets related to the movement of the traffic; and

(c) variable costs shall be shown in the cost submissions separated between "labour" and "material and other" costs, in the categories identified in the costing manuals filed pursuant to any order of the Committee.

Specific Costs

8. Whenever specific costs are known or can be readily determined from company records, such costs shall be used in lieu of averaged or allocated costs.

Costing Manuals to be Filed

9. Cost submissions made pursuant to these Regulations shall be prepared in accordance with such costing manuals as the Committee shall, by order, require.

Information to be Made Available to the Committee

10. Railway companies shall make available to the Committee all unit costs, output units and other statistical and supporting information required by order from time to time by the Committee in determining whether cost submissions are acceptable for purposes of the Act.

Cost Submissions for Other than Class I Railways

11. Cost submissions to the Committee by railways other than Class I railways shall be made as follows:

(a) the submissions shall be based on direct costing to the extent feasible;

(b) where feasible, an empirical adaptation of factors employed by Class I railways shall be made for other than direct assignment of costs;

(c) cost submissions shall be in the same form as those prescribed for Class I railways and shall be supported by a complete description of the methods and procedures used in determining output units and in assigning and allocating cost; and

(d) cost submissions shall include an allowance for cost of capital as follows:

(i) where the railway companies have developed a capital structure satisfactory to the Committee, at an approved cost of capital rate developed in the same manner as prescribed for Class I railways in these Regulations, or

(ii) where the railway companies have not developed a capital structure satisfactory to the Committee, at a cost of capital rate prescribed by the Committee.

Applications Under Section 106

12. Applications for abandonment of any line of railway under section 106 of the Act shall be accompanied by a statement of costs and revenues, showing the actual loss incurred in the operation of the line of railway, prepared in the same manner as these Regulations require for the purposes of actual loss calculations under section 253 of the Act, unless the Committee directs otherwise pursuant to section 46 of the *National Transport Act*.

Appendix VII

Issue	Date	Witnesses
15	81-11-05	Mr. Les Benjamin, M.P.,
16	81-11-10	The Hon. Jean-Luc Pepin, P.C., M.P. Minister of Transport; Mr. Garth Campbell, Vice-President of Marketing, VIA Rail Canada Inc.; Mr. Robert Giroux, Administrator, Canadian Surface Transportation Administration; Mr. Ken Henderson, Director General, Railway Transportation.
17	81-11-17	The Hon. Don Mazankowski, P.C., M.P.; Mr. Thomas Siddon, M.P.
18	81-11-26	Mr. Guy Chartrand, President, Transport 2000, Canada; Mr. David L. Jeanes, Member of Transport 2000, Ottawa Region.
19	81-12-03	VIA Rail Canada Inc.: Mr. J.F. Roberts, Chairman and President; Mr. J. Hanna, Vice-President, Finance and Administration; Mr. G. Fortin, Q.C., Vice-President, Law and Secretary of the Company; Mr. G.C. Campbell, Vice-President, Marketing.
20	81-12-10	Mr. G.C. Eglington, Counsel, Joint Committee on Regulations and other Statutory Instruments. Canadian Transport Commission: Mr. J.T. Gray, Chairman; Dr. J. Heads, Executive Director; Mr. D.I. Murray, Chief, Special Costing Studies; Mr. W.S. Nasi, Assistant Director, Rail Services Analysis Branch; Mr. K.W. Thompson, Senior Counsel.

- 21 82-02-11 C.P. Rail:
Mr. H.C. Wendlandt, Senior Solicitor;
Mr. W.H. Somerville, General Manager, Grain and Passenger
Service.
- 22 82-02-25 C.P. Rail:
Mr. H.C. Wendlandt, Senior Solicitor;
Mr. D.J. Deegan, Assistant Secretary.
- 23 82-03-04 Railway Transport Committee of the Canadian Transport
Commission:
Mr. John Magee, Chairman;
Dr. John Heads, Executive Director;
Mr. K.W. Thompson, Senior Legal Advisor.
- 24 82-03-11 VIA Rail Canada Inc.:
Mr. J.F. Roberts, Chairman, President and Chief Executive
Officer;
Mr. Gabriel Fortin, Q.C., Vice-President, Law and Secretary of
the Company;
Mr. B.E. Horsman, Vice-President, Operations.
- 25 82-03-18 CN Rail:
Mr. R.E. Lawless, President;
Mr. J.H. Easton, General Manager, CN Rail Passenger;
Mr. P.H.B. Casgrain, Director, CN Rail Costing.
- 26 82-03-25 Mr. G.C. Eglington, Counsel, Joint Committee on Regulations
and other Statutory Instruments.
- 27 82-06-03 Mr. John DeLora, Director, Michigan Passenger Foundation;
Railway Transport Committee of the Canadian Transport
Commission:
Dr. J. Heads. Executive Director;
Mr. D. Parry, Assistant Director, Costing Systems Development,
Rail Economic Analysis Branch;
Mr. D.I. Murray, Chief, Special Costing Studies Rail Economic
Analysis Branch;
Mr. P. Dawes, Senior Analysis, Rail Services Analysis, Rail
Economic Analysis Branch;
Mr. D. Merritt, Senior Research Analyst, Costing Systems
Development, Rail Economic Analysis Branch;
Mr. J.A.D. McNeil, Chief, Systems Applications and
Determinations, Rail Services Analysis, Rail Economic Analysis
Branch.

Transport Canada:
Mr. Robert Giroux, Administrator, Canadian Surface
Transportation Administration;
Mr. Robert Titley, Director General, Rail Passenger.
VIA Rail Canada Inc.:
Mr. J. Frank Roberts, Chairman, President and Chief Executive
Officer;
Mr. Gabriel Fortin, Q.C., Vice-President, Law and Secretary of
the Company.
Canadian Transport Commission:
Mr. Keith Thompson, Senior Counsel;
Dr. John Heads, Executive Director, Railway Transport
Committee.

