



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-201129

December 9, 1980

The Honorable Adam Benjamin, Jr.
Chairman, Subcommittee on Legislative
Branch
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

I appreciate your prompt response to my letter of November 14, 1980, and the benefit of your views that even absent an appropriation, section 302 of the Staggers Rail Act authorizes me to appoint Board members and to obtain staff services to initiate Board activities. Notwithstanding our difference of opinion regarding the extent to which I can proceed with Board activities in the absence of an appropriation pursuant to the Act, I believe that progress can be made towards achieving the Act's goals within the anticipated time-frame by use of the staff of the General Accounting Office. Accordingly, I have directed my staff in the General Accounting Office to perform preliminary staff work for me in order to expedite Board action once an appropriation is obtained.

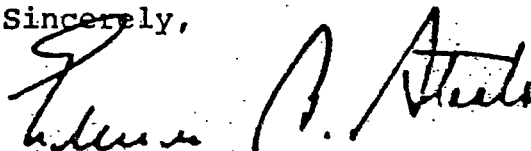
I continue to believe, however, that absent an appropriation, I am unable to call a meeting of the Board or to obtain the necessary staff services to initiate Board activities. As you know, section 302 of the Staggers Rail Act adds to chapter 111 of title 49 of the United States Code a new subchapter IV, entitled "Railroad Cost Accounting." Section 11161(a) authorizes the establishment of a Railroad Accounting Principles Board consisting of the Comptroller General, as chairman, and six members appointed by me. Section 11161(b) directs that appointed Board members "shall receive compensation" at 1/260th of the rate prescribed for level IV of the Executive Schedule for each day engaged in the actual performance of duties vested in the Board. Until an appropriation is available for obligation, I would not be able to call any appointed Board members to a meeting to initiate Board action

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on the substantive issues we will face in developing cost accounting principles. Also, section 11161 (c) and (d) authorizes the "Board" to utilize personnel from the Federal Government "to assist the Board in carrying out its functions and responsibilities" and to obtain "such financial assistance as may be agreed upon by the Board and the Federal * * * agency involved." Such authority does not appear to provide an appropriate basis for me as Chairman of the Board to use personnel or financial assistance from other agencies.

Notwithstanding my inability to proceed with the Board activities, I believe that through the use of my staff in the General Accounting Office, progress can be made towards meeting the Act's timeframe. I look forward to working with you on this issue during the remainder of my term of office.

Sincerely,



Comptroller General
of the United States