



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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October 15, 1982

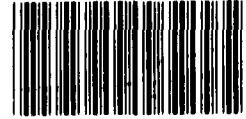
RESOURCES,
COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

RELEASED

B-209428

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The Honorable Paul S. Sarbanes
United States Senate



119979

Dear Senator Sarbanes:

Subject: Amtrak Charges for Maryland Department of Transportation Commuter Train Use of the Washington Union Station (GAO/RCED-83-35)

In your July 16, 1982, letter, you asked us to analyze the charges the National Railroad Passenger Corporation (Amtrak) is assessing for the use of the Washington Union Station terminal by Maryland Department of Transportation (MDOT) commuter trains. You asked for this analysis in view of a recent Interstate Commerce Commission (ICC) Decision Ex Parte No. 417 (Sub. 1), January 22, 1982, on Costing Methodologies for Northeast Corridor Commuter Services. You expressed concern that Amtrak may be charging costs to MDOT under the fully allocated 1/ cost principle instead of avoidable costs 2/ as ICC has required of Amtrak for other commuter facilities on the Northeast Corridor. You also asked us to analyze the costs Amtrak assesses MDOT for using the terminal to determine whether the costs are too high in light of ICC's ruling.

We briefed your staff on September 10, 1982. We reported that ICC Decision Ex Parte No. 417 (Sub. 1) provides that costs for Northeast Corridor use by commuter trains are to be allocated on an avoidable cost basis, instead of on a fully allocated cost basis. The Director of ICC's Rail Service Planning Office told us that ICC's decision applies to the allocation of Union Station costs between Amtrak and MDOT commuter trains and that Union Station is considered part of the Northeast Corridor.

1/A principle of cost allocation that assumes that all costs incurred in operating the terminal are to be considered, and that reimbursement to Amtrak for commuter train use of the terminal should be based on a percentage of actual use of the terminal by Amtrak and the commuter trains.

2/A principle of cost allocation that requires that only the additional costs incurred by Amtrak to accommodate the commuter trains are to be reimbursed to Amtrak.

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We also reported that Amtrak, through its wholly owned subsidiary, the Washington Terminal Company (WTC), which operates Washington Union Station terminal, has been assessing MDOT commuter trains using a fully allocated cost basis--Amtrak contends that WTC is not subject to ICC decisions--and that such costs would logically be higher than those calculated on an avoidable cost basis. The actual differences in these charges cannot be readily determined without (1) extensive analysis of station operations and costs, which your staff agreed would not be necessary for us to complete, and (2) negotiations between the parties to the dispute. Finally, we found also that other State commuter operations using the Northeast Corridor facilities are being assessed on the basis of avoidable costs.

ICC Rail Service Planning officials told us that we should not consider ICC's views final since our Office is not a party to the dispute. They stated that either MDOT, the operators of the commuter trains, or Amtrak-WTC would have to officially petition ICC to obtain a declaratory ruling on these issues.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our overall objective in this review was to analyze the charges Amtrak assessed MDOT commuter trains for using the Washington Union Station terminal. We wanted to determine

- if ICC Opinion Ex Parte No. 417 (Sub. 1), which prescribes the manner in which Amtrak is to allocate Northeast Corridor costs to commuter trains, is equally binding on WTC in its operation of the station and
- whether station costs were allocated to MDOT on a fully allocated or an avoidable cost basis, Amtrak being considered the dominant user of the station.

We met with Amtrak, WTC, and ICC officials to discuss Union Station operations and Northeast Corridor cost allocations. We obtained and reviewed MDOT documentation on costs and data on commuter train operations. We questioned ICC on the scope and application of ICC Decision Ex Parte 417 (Sub. 1) and the decision's effect on Amtrak-WTC operations.

We reviewed applicable legislation and related ICC opinions to determine the validity of Amtrak's and WTC's position regarding how Union Station costs are to be allocated between regular Amtrak trains and MDOT commuter trains.

Our review was performed in accordance with generally accepted government audit standards.

EX PARTE DECISION NO. 417 (SUB. 1) AND HOW IT
AFFECTS NORTHEAST CORRIDOR COSTS REIMBURSEMENT

ICC's decision was issued in accordance with section 1163 of the Northeast Rail Service Act of 1981 (Rail Act) which required that ICC

" * * *determine an appropriate costing methodology for compensation to Amtrak for the right-of-way related costs for the operation of commuter rail passenger service over the Northeast Corridor and other properties owned by Amtrak* * *."

The decision--an interim decision that will be finalized at a later date--prescribed the avoidable cost methodology.

In a September 3, 1982, letter, ICC's Director, Rail Service Planning Office, informed us that Amtrak was to be compensated by the various commuter rail passenger services for using the Northeast Corridor properties--ICC intended that Union Station was to be considered part of the corridor--on an avoidable cost basis rather than on a fully allocated cost basis. Furthermore, for the purpose of allocating Northeast Corridor costs, ICC also stated that Amtrak was to be considered the dominant user of such properties while other users of the corridor were to be considered minority users in calculating the avoidable costs that other users would pay.

The Rail Service Planning Director also informed us that the basic question of applying the decision to WTC operations appears to be clearly answered by the statutory language of section 1163. The act states that a costing methodology is to be developed for services provided over properties owned by Amtrak in the Northeast Corridor. It was also pointed out that nothing in the statute suggests that the way in which Amtrak owns WTC controls whether or not ICC decisions should apply to WTC. It was noted that Amtrak owns all of WTC's voting stock, controls WTC's Board of Directors, and uses its employees in all top WTC management positions, thus it would be difficult to argue that Amtrak does not own any property which is, in fact, owned by WTC. Accordingly, ICC stated that the Ex Parte Decision No. 417 (Sub. 1) applies to the compensation paid for using WTC's properties. Nonetheless, the Rail Service Planning Director has noted that the prescribed procedures are interim and may in fact be modified by any final decision it may issue.

ICC noted that our Office was not a party to the dispute between MDOT and Amtrak-WTC. Therefore, ICC has suggested that any of the parties involved desiring a determinative resolution of these issues may obtain one by petitioning ICC for a declaratory order on the subject. In such a proceeding, the views of all parties would be presented and considered by ICC. Finally, ICC Rail Service Planning Office officials noted that the Rail Act provides that ICC decisions do not preclude Amtrak and other Northeast Corridor users from settling such disputes among themselves, independent of its rulings.

MDOT COMMUTER TRAIN COST ALLOCATIONS

MDOT has no direct operating relationship with Amtrak or WTC. Its commuter trains are currently operated under agreements with the Baltimore and Ohio Railroad (B. & O.) and the Consolidated Rail Corporation (Conrail). WTC, the Amtrak subsidiary which operates Union Station, bills both railroads which in turn are reimbursed by MDOT.

On June 1, 1981, WTC and B. & O. entered into an agreement whereby B. & O. would continue to use the terminal on a fully allocated cost basis. Charges under this agreement amounted to \$61 per train unit. Conrail has a separate agreement with Amtrak for using the terminal also on a fully allocated cost basis. Charges for Conrail commuter train movements average about \$68 per train unit. The differences in the amounts per train unit result from different methods of calculating costs and units of train movement that had been separately negotiated with WTC. These charges are over and above actual time and material charges for services WTC performed on individual cars, such as repair work, car cleaning, and inspection.

WTC billed B. & O. and Conrail for terminal services provided in June 1982, for which MDOT reimbursement was required, as follows.

<u>Operator</u>	<u>Train units</u>	<u>Unit cost</u>	<u>Total</u>	<u>Repair, cleaning, and inspection costs</u>
B. & O.	1,410	@\$61.00	\$86,010.00	\$57,172.09
Conrail	347	@68.16	23,651.98	9,782.73

WTC has informed us that the June charges are fairly representative of average monthly billings for B. & O. and Conrail (MDOT) commuter train services provided at Union Station by WTC.

WTC's Controller told us that to compare the allocation of costs for terminal operations on a fully allocated as compared to an avoidable cost basis would involve extensive analyses of station operations and the costs incurred. Your staff agreed it would not be necessary for us to compute such costs.

Conrail has been legislatively mandated to discontinue operating commuter trains as of January 1, 1983. MDOT is currently negotiating an agreement whereby Amtrak would operate MDOT commuter trains. WTC stated that these negotiations involve the same detailed analyses of station operations and costs about which you have expressed concern.

CONCLUSIONS

Amtrak officials have informed us that various commuter train users of the Northeast Corridor are being assessed costs on an avoidable cost basis, as provided by ICC Decision Ex Parte 417 (Sub. 1). ICC Rail Service Planning Office officials told us that it was ICC's intent that the decision would equally apply to the allocation of Amtrak-WTC costs of operating the Washington Union Station terminal. Costs for the use of the terminal by MDOT commuter trains, however, are being assessed by Amtrak-WTC on a fully allocable cost basis and would be higher than if assessed on an avoidable cost basis. The actual difference in amount cannot be readily determined without extensive cost analysis and negotiation between the parties involved.

Resolution of the matters in dispute in this case can be obtained by any one of the parties to the dispute seeking a declaratory ruling from ICC. With or without such a ruling, however, the parties involved could independently resolve these matters by negotiating an agreement which would allocate costs for operating the station on any mutually agreeable basis.

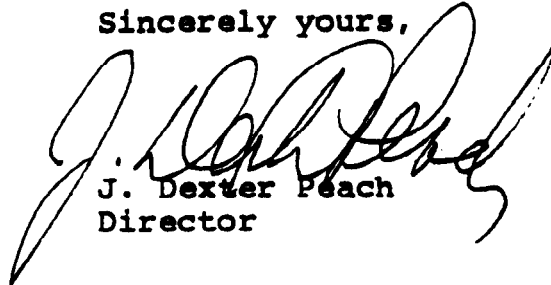
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At your request, we did not take the additional time to obtain agency comments, but the matters covered in this report were discussed with Amtrak-WTC, MDOT, and ICC officials. Their comments are included in the report where appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of the report until 15 days from the date of this report. At that time we will send copies to cognizant congressional

committees; the President of Amtrak; the Secretary of Transportation; the Chairman of ICC; and the Director, Office of Management and Budget. Copies will also be made available to others on request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Dexter Peach", written in a cursive style. The signature is positioned above the typed name and title.

J. Dexter Peach
Director