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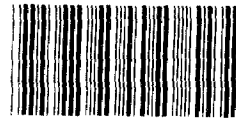
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Report to Congressional Requesters

July 1987

RAIL ABANDONMENTS

Abandonment Activity and Shipper Views on Rail Service Loss



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United States
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Washington, D.C. 20548

**Resources, Community, and
Economic Development Division**

B-226069

July 17, 1987

The Honorable Tony Coelho
House of Representatives

The Honorable Martin O. Sabo
House of Representatives

The Honorable Byron L. Dorgan
House of Representatives

In response to your request that we review issues related to railroad abandonments, this report examines mileage filed by railroads for abandonment and the Interstate Commerce Commission's actions taken on railroad abandonment requests from 1970 through 1985. We also address rail shippers' and local officials' perspectives on the abandonment process and shippers' views on the effects of abandonments on their shipping operations.

We are sending copies of this report to the Chairman of the Interstate Commerce Commission and the Director, Office of Management and Budget. Copies will also be made available to other interested parties.

This work was performed under the direction of Herbert R. McLure, Associate Director. Other major contributors are listed in appendix IV.

A handwritten signature in cursive script that reads "J. Dexter Peach".

J. Dexter Peach
Assistant Comptroller General

Executive Summary

Purpose

State transportation officials have reported a significant loss of rail freight service since the early 1970's because of railroad abandonments in their states. When evaluating an abandonment request, the Interstate Commerce Commission (ICC) considers both the railroad's losses and the potential hardships the abandonment might cause communities and shippers. Although ICC weighs the shippers' and railroads' interests, some officials have expressed concern about the equity of the rail abandonment process.

In response to a congressional request, GAO examined issues related to abandonments including (1) the amount of mileage filed by railroads for abandonment and ICC's actions on rail abandonment requests between 1970 and 1985, (2) shippers' and local officials' perspectives on the abandonment process, and (3) shippers' views on the effects of rail abandonments on their shipping operations.

Background

The Transportation Act of 1920 provided ICC the authority to either grant or deny railroad requests to abandon rail lines. From the late 1940's through the 1960's, increased competition from trucks resulted in a reduced demand for rail freight transportation and poor earnings on branch lines. Consequently, railroads sought ICC approval to abandon branch lines that were not profitable. ICC, however, generally required railroads to continue to operate these lines. For railroads pursuing abandonment, the process was long and costly. In the early 1970's the railroads urged Congress to reform rail abandonment procedures to allow expeditious processing of abandonment requests.

The Railroad Revitalization and Regulatory Reform (4R) Act of 1976 and the Staggers Rail Act of 1980 deregulated many aspects of the industry. The acts changed the abandonment process by (1) requiring railroads to provide shippers advance notice of their intent to abandon, (2) reducing case processing time limits, and (3) providing ICC the authority to exempt some railroads from abandonment processing. Neither act, however, changed the criteria ICC uses in abandonment decision making.

Results in Brief

GAO examined mileage filed for abandonment by the railroads and mileage granted and denied abandonment by ICC between 1970 and 1985. Rail industry analysts have identified various factors affecting railroad

abandonment activity. Incomplete data and interruptions in abandonment proceedings over the 16-year period, however, precluded identification of the most significant factors influencing abandonment activity.

Some rail shippers and community officials had difficulty obtaining railroad financial data and said ICC allowed them insufficient time to prepare evidence for an abandonment case. Shippers said their unfamiliarity with the abandonment process added to their difficulties. While ICC regulations specify that it is to inform shippers of available assistance, it does not normally do so until after the shippers have submitted their protest documents. By informing shippers of available assistance when railroads first notify ICC of their intent to abandon a line, ICC would allow shippers a better opportunity to obtain advice on how to best prepare their cases.

State transportation officials and rail shippers were also dissatisfied with ICC's consideration, during the abandonment process, of railroads' alternative investment opportunities when deciding a case.

Most shippers had found trucks to be an available, though more costly, substitute method of transportation after the abandonment. Shippers of bulk commodities appeared to have suffered more severe hardships. In some cases they found it necessary to relocate their businesses or modify their shipping facilities after rail abandonments.

Principal Findings

Branch Line Abandonment Activity

According to ICC records, total annual mileage filed by the railroads for abandonment from 1970 through 1985 ranged from a low of 1,600 miles in 1976 to a high of 4,800 in 1980. ICC records showed that from 1970 through 1985 total annual mileage granted by ICC ranged from a low of 500 miles in 1974 to a high of 3,500 in 1972. (See ch. 2.)

Of the 36,900 miles for which ICC decided to either grant or deny abandonment from 1970 through 1985, 6.9 percent was denied. With the exception of 3 years, during the 16-year period denial rates were less than 6 percent of the total mileage ICC considered each year. (See ch. 2.)

Rail industry analysts have identified various factors that have influenced railroads' decisions to abandon lines including increased competition from trucks, mergers, and bankruptcies. Inconsistent record keeping and incomplete abandonment data prevented GAO from determining which of these factors were the most important influences on rail abandonment activity. (See ch. 2.)

Shippers' Views on the Rail Abandonment Process

GAO's nationwide survey of protesters of rail abandonments and interviews with state transportation officials indicated that they believe their inexperience in the abandonment process contributed to their difficulties in challenging abandonment requests. Protesters were generally unaware that they could receive assistance from ICC in filing their protests. (See ch. 3.)

Protesters and state transportation officials strongly opposed the manner in which ICC considers the railroads' opportunity costs as part of its decision making. Opportunity cost is the cost that a railroad would incur if it did not abandon a line and invest its proceeds elsewhere. ICC measures a railroad's opportunity cost in relation to an ICC-determined cost of capital for railroads. The opportunity cost for a rail line proposed for abandonment is the dollar amount resulting from the multiplication of the net salvage value of the line by the railroad's cost of capital. In general, protesters believed that the cost of capital ICC derives for railroads' use in determining opportunity cost is too high and allows railroads to abandon profitable lines. ICC officials have noted that increasingly more railroads are seeking abandonment of marginally profitable lines. Therefore, although opportunity cost had not been a critical factor in the past because abandonments generally involved nonprofitable lines, ICC officials told GAO that it will become a more important consideration in deciding future abandonment requests. (See ch. 3.)

Shippers' Perceptions of the Effects of Abandonments

Most shippers that were once dependent on rail transportation but have lost rail service have generally used trucks as a substitute. Many shippers believed the shift to trucks has increased their shipping costs. The average of reported increases was 19 percent. Further, some grain, fertilizer, lumber, and steel shippers relocated their businesses or modified their shipping facilities citing the abandonment as the major reason for these changes. (See ch. 4.)

Recommendation

GAO recommends that the ICC modify its regulations to require that shippers be informed of available assistance when railroads first notify ICC of an impending abandonment request. (See ch. 3.)

Agency Comments

In commenting on a draft of this report, ICC stated it generally agreed with the issues discussed in the report and is considering the recommendation regarding earlier notification to protesters of available assistance. ICC stated it has not yet decided to implement the recommendation because it does not know to what extent an additional workload would be created or the extent of public benefit by offering help earlier in the abandonment process. ICC also provided a few minor technical corrections, which we have incorporated, as appropriate, in the text of the report.

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Abbreviations

AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
Conrail	Consolidated Rail Corporation
4R Act	Railroad Revitalization and Regulatory Reform Act of 1976
GAO	General Accounting Office
ICC	Interstate Commerce Commission
LRSA	Local Rail Service Assistance
NCSRO	National Council of State Railway Officials
NERSA	Northeast Rail Service Act of 1981
NSV	net salvage value
OPA	Office of Public Assistance
OSC	Office of Special Counsel
3R Act	Regional Rail Reorganization Act of 1973
USRA	United States Railway Association

Introduction

The Interstate Commerce Commission (ICC) regulates abandonment of transportation services on a rail line or segment of a rail line. In so doing, ICC weighs the loss a railroad would incur to continue operations against the potential harm the abandonment would cause communities and shippers. Some rail shippers and communities formerly served by railroads and various state transportation officials are dissatisfied with some aspects of ICC's rail abandonment process. This report describes (1) the amount of mileage filed by railroads for abandonment of freight services and ICC actions on abandonment requests from 1970 through 1985, (2) shippers' perspectives on the abandonment process, and (3) shippers' and communities' perceptions of the effects of abandonment on their shipping operations and communities.

The Criterion ICC Applies in Deciding Abandonments

A railroad abandonment occurs when a rail carrier permanently or indefinitely stops all transportation services on an entire rail line or segment of a line. ICC was given authority to regulate railroad abandonments with passage of the Transportation Act of 1920. The act requires a railroad to petition ICC for permission to abandon or discontinue service on its lines. ICC must then grant or deny the railroad's request.

The Transportation Act of 1920 also provided ICC a general standard to use in guiding its decisions on whether to grant or deny an abandonment request. The standard allows an abandonment only if ICC finds that "... the present or future public convenience and necessity requires or permits such abandonment or discontinuance." Although the act did not define the standard, ICC interprets it to mean that ICC must weigh the loss incurred by the railroad and the line's potential for profitability against any potential hardship the abandonment would cause communities and shippers.

Increased Truck and Barge Competition Has Been a Trigger in Railroads' Decisions to Abandon

In 1925 the railroads handled about 80 percent of all intercity freight traffic. By the late 1930's, trucks and barges began to absorb a considerable share of the market for rail freight traffic. Trucks often proved to be a preferred transportation alternative for the rail shipper because trucks could ship commodities faster and more cheaply than trains, especially for high-value commodities. Federal funds aided the development of intercity highway systems, thereby enhancing growth in the use of truck transportation. Similarly, federal subsidies for the nation's inland waterways surpassed those for railroads. Like trucks, barges began to capture a portion of the market for rail freight services.

As competition from trucks and barges increased in the 1940's, segments of rail lines or branch lines became relatively costly operations for rail carriers. In the late 1940's, 1950's, and 1960's railroads continued to lose their markets as high-value commodities—such as textiles, fabricated metal products, and motor vehicles—were diverted to truck transportation and bulk commodities—such as ore, grain, chemicals, and coal—were diverted to barge transportation. Government subsidies of the railroad industry remained low in comparison to subsidies available to transportation competitors through the 1960's.

Poor earnings on branch lines and poor prospects for return of business lost to trucks and barges plagued the railroads. Capital expenditures needed to maintain branch lines often proved prohibitive since the branch lines no longer generated the revenues necessary to fund maintenance. As a result, carriers often deferred maintenance on their lines. This in turn caused deterioration of the railroad's physical facilities, as well as a decline in services.

Following several decades of rail industry decline, Penn Central and several other major Northeast-region railroads, which accounted for more than one half of the rail mileage in the Northeast, declared bankruptcy.¹ The effects of financial decline appeared in the Midwest with the bankruptcies of the Rock Island and Milwaukee railroads. As more shipments were being transported by trucks and barges, the railroads' share of intercity freight traffic had fallen to about 40 percent by 1970.²

Despite the decrease in demand for some branch line services and deterioration of earnings, rail carriers claimed that they were frequently required by ICC to continue unprofitable services on the grounds that the public convenience and necessity required them.

The rail industry urged the Congress to reform ICC procedures so as to allow, among other things, expeditious processing of abandonment petitions submitted for unprofitable freight routes and services. Railroads felt the abandonment process was too long, too costly, and not responsive to their needs for immediate relief. The railroads also urged the Congress to allow the industry more rate-making freedom. Railroads

¹Richard P. Barke, Economic Political Determinants of Regulatory Decisions: The Interstate Commerce Commission and Railroad Abandonments (Ann Arbor, Mich.: University Microfilms International, 1980), p. 71.

²Railroad Facts, 1985 Edition (Washington, D.C.: Association of American Railroads), p. 32.

believed ICC controls on maximum rates prohibited them from raising rates as rapidly as necessary to keep pace with inflation.

Legislative Reform of ICC's Rail Abandonment Procedures: 1973-1981

Acknowledging rail industry concerns about the abandonment process, ICC regulation of rail rates, and shipper needs for rail service, the Congress enacted regulatory reforms including the Regional Rail Reorganization (3R) Act of 1973, the Railroad Revitalization and Regulatory Reform (4R) Act of 1976, the Staggers Rail Act of 1980, and the Northeast Rail Service Act of 1981. Although all four pieces of legislation were far reaching in their effects on the rail industry, our focus is on the impact of these measures on ICC's rail abandonment procedures.

The Regional Rail Reorganization (3R) Act of 1973

The 3R Act established a new branch line policy for the District of Columbia and 17 states in the Northeast and Midwest regions that had been adversely affected by railroad bankruptcies in the late 1960's and early 1970's. This policy had two premises: (1) railroads in these regions should no longer be forced to subsidize uneconomical rail service and (2) communities and shippers served by these railroads should not be unduly disadvantaged by loss of rail service previously provided by failing railroads. To implement this policy, the 3R Act authorized \$180 million in federal assistance for rail continuation under a 2-year Local Rail Service Assistance (LRSA) program. LRSA grants were given directly to the states, in the form of an entitlement, to subsidize the operation and rehabilitation of those rail lines the states wanted to retain for communities and shippers.

The 3R Act also provided for a long-term solution to the Northeast-Midwest rail crisis. The act established the United States Railway Association (USRA) as a nonprofit entity to plan the modernization, reorganization, and transition to public ownership of railroads in the Northeast and Midwest. USRA was to determine which lines of the existing Northeast rail system were suitable for transfer to a new Northeastern railroad system and which lines should be abandoned. USRA's reorganization plan called for the creation of the Consolidated Rail Corporation (Conrail) from Penn Central and six other bankrupt or nearly bankrupt railroads. The 3R Act ordered suspension of abandonment petitions by the affected railroads until the reorganization plan was finalized—which occurred in 1976. The seven railroads identified to form Conrail were not eligible to receive subsidies under LRSA. Instead, the 4R Act authorized USRA \$1 billion in federal loan guarantees to operate the Conrail system.

Railroad Revitalization and Regulatory Reform (4R) Act of 1976

The 4R Act enabled all states to receive federal assistance for rail service continuation. The act also required railroads to provide the public early warning of lines subject to abandonment. It also gave ICC the authority to exempt certain railroads from routine abandonment case processing.

Nationwide Rail Assistance

LRSA funds previously available to 17 states were made available to all states, except Hawaii, in the form of loans and grants. A total of \$360 million was appropriated for the nationwide LRSA program. Funds could be used to continue rail service—to purchase, rehabilitate, and/or construct the physical facilities of the railroads. The terms of the funding agreements also were extended from 2 to 5 years. Any state with a Federal Rail Administration-approved state rail plan, which details a state's rail networks and proposed abandonments, was eligible to apply for rail continuation subsidies. All rail lines not part of the Conrail System were eligible to receive LRSA funds. States were required to contribute a percentage share of the requested assistance through cash payments or in-kind benefits, such as forgiveness of railroad property taxes. LRSA money has decreased in recent years from \$360 million in 1976 to \$80 million in fiscal year 1980 to \$15 million in fiscal year 1985.

Advance Notice Requirements

The 4R Act also requires railroads to notify the public in advance of proposed abandonments and to provide information to rail users on how to respond to abandonment applications, i.e., petitions. Specifically, the act requires each rail carrier to submit to ICC a diagram of its entire transportation system. The diagram, which must be filed annually, must contain descriptions of rail lines by categorizing them as follows: (1) lines for which the carrier plans to submit an abandonment petition within 3 years, (2) lines that are operating at a loss but for which abandonment is not planned, (3) lines for which abandonment petitions have already been filed, (4) lines already operating under some form of financial assistance, and (5) all other lines. The act requires that a line be listed in category 1 for at least 4 months prior to a carrier's being allowed to file an abandonment petition with ICC.

In addition to submitting the System Diagram Map, carriers who want to file an abandonment petition with ICC must publish a "Notice of Intent to Abandon" 15 to 30 days prior to the petition filing date. (See app. II.) The notice identifies the specific line for which abandonment will be requested; the reasons for the proposed abandonment; and procedures

for the public to follow if they wish to file a protest, request an investigation by ICC, and/or engage in a financial assistance arrangement with the rail carrier to maintain service. Railroads must make the notice of intent available to appropriate federal and state government officials and parties that might be affected by the proposed abandonment through direct mail, newspaper publication, and rail station posting.

Exemption Authority

The 4R Act also gave ICC the authority to exempt carriers from the routine abandonment process under certain circumstances. ICC adopted procedures to apply this exemption authority to rail lines if, for example, the railroad certifies that (1) no traffic has moved over the line for at least 2 years and (2) ICC has not found any rail user complaints regarding cessation of service to be valid within the 2-year period. ICC must approve the abandonment application of a railroad that meets these exemption criteria.

The Staggers Rail Act of 1980

Between enactment of the 1976 4R Act and 1980, the rail industry's financial state continued to deteriorate. Conrail lost money and the Chicago, Milwaukee, St. Paul and Pacific Railway Company and the Rock Island Railroad declared bankruptcy.

The Staggers Rail Act of 1980 was designed to allow railroads to compete more effectively between themselves and with other modes of transportation throughout the nation. The Staggers Rail Act enabled railroads to, among other things, adjust their rates more quickly for inflationary increases in costs. With this design in mind, the Staggers Rail Act also significantly changed the abandonment process to (1) require more expeditious processing of abandonment petitions, (2) give ICC the authority to decide whether an investigation of an abandonment case was warranted, and (3) empower ICC to set the terms for sale of an abandoning branch line when a bona fide purchase offer was made.³

Abandonment Case Processing Time Limits

Railroads complained that abandonment hearings, rebuttals, and other procedures associated with abandonment filings caused long delays in ICC's resolution of their abandonment requests. Railroads believed that

³If an offer to purchase a line is made to an abandoning carrier and the prospective purchaser and the rail carrier cannot agree on purchase terms, either party may request ICC to set the terms of purchase. The terms are binding, unless the potential purchaser decides not to acquire the line. If purchased, the line becomes an independent railroad, owned and operated by the purchaser or its designee.

these delays unfairly forced them to continue to provide service at a loss. The Staggers Rail Act of 1980 required ICC to render a final decision within 255 calendar days of the petition filing date on an investigated abandonment case, when the initial decision has been appealed. Prior to this act, the 4R Act had placed time limits on certain actions within the abandonment process. The 4R Act did not place any time limit on the entire abandonment process. According to data available from ICC, the average time to resolve investigated cases was about 743 calendar days in fiscal year 1976. By fiscal year 1979 the average time had dropped to about 360 days. By fiscal year 1980, the year the Staggers Rail Act was passed, proceedings averaged about 300 days. According to ICC's data base, in fiscal year 1985 the average time had dropped to 104 calendar days.

Discretionary Authority to Investigate

Prior to 1980 ICC had been required to investigate all protested abandonment cases. The Staggers Rail Act gave ICC the authority to decide which protested abandonment cases it would investigate. The act also required ICC to approve all unopposed abandonment petitions within 45 days of the petition filing date.

A railroad's abandonment petition must include information on costs and revenues of the line, the financial condition of the railroad, the service provided on the line, and rural and community impact. Protesters have 30 days from the filing of that petition to file comments with ICC. Protests must contain reasons for opposition, including a description of the protester's reliance on the subject service, any rebuttal of information submitted by the applicant railroad, and a request for an oral hearing, if desired.

For protested abandonment cases in which ICC decides that data initially presented by all parties are adequate, ICC grants or denies the abandonment within 75 days of the petition filing date without initiating a formal investigation. When ICC believes additional data are necessary to clarify issues or facts involved in a protested abandonment case, ICC requests the parties to submit the additional information to the Secretary of ICC.

A formal investigation is initiated with ICC's request for additional information. When ICC decides to investigate, it will call for either an oral hearing or a "modified procedure," in which case all testimony or evidence is submitted in writing. Regardless of the type, an investigation

means that both the railroad and the protesters are given the opportunity to submit additional information in the form of notarized written statements, refute the additional information presented by either party, and, in the case of oral hearings, cross-examine each other's witnesses.

As of September 1986 ICC had not published any written criteria describing the factors it considers in deciding whether to initiate an investigation. However, according to an ICC official in the Office of Proceedings, clear detailed evidence initially submitted by either party is critical to ICC's determination of whether to investigate. Additionally, if the issues presented by the applicant railroad and protesters appear equally well supported but are in dispute, an investigation is likely.

ICC's Office of Special Counsel (OSC), which advised protesters on the abandonment process, issued an informational booklet in December 1984 on public participation in the ICC abandonment process. (In 1986 ICC established the Office of Public Assistance to assume the functions of OSC). Unlike the Office of Proceedings, OSC did not participate in decision making on abandonment requests. OSC identified in the 1984 booklet three factors that the Office of Proceedings uses in determining whether to institute an investigation.

According to the OSC publication, ICC will initiate an investigation of the evidence presented by the railroads and protesters when it believes (1) a substantial amount of protest exists against the abandonment, (2) the protesters' arguments regarding their use of the subject line and the impact of service loss are strong, and (3) local, state, and national level elected officials oppose the abandonment and support an investigation. For example, according to the Director of the Office of Public Assistance if a member of the Congress requests an investigation of a specific abandonment case, more than likely that investigation will be granted.

When ICC renders a decision on an investigated case, and that decision is appealed, ICC must issue a final decision on the abandonment within 255 calendar days of the petition filing date.

Feeder Line Development Program

The Staggers Rail Act also established the Feeder Line Development Program to provide shippers, communities, and other interested parties the legal means to purchase rail lines before an abandonment application has been filed. The program enables any financially responsible party to compel ICC to require a railroad to sell a rail line that appears on a carrier's System Diagram Map as subject to abandonment. The acquisition

price is determined by ICC at the net liquidation value or the market value, whichever is greater. The primary advantages to communities and shippers of purchasing a line prior to a railroad's filing an abandonment petition are the savings associated with the additional rehabilitation costs that otherwise would have been incurred because of further deterioration of the line during the abandonment process. The railroad also saves the expense associated with the continued operation. In addition, both the railroad and protesters save on expenses associated with the abandonment process, such as legal fees.

The Northeast Rail Service Act (NERSA) Of 1981

USRA developed a plan for the reorganization and consolidation of seven Northeast and Midwest railroads into a new rail system, Conrail. The plan identified specific rail lines to be included in the final system, as well as lines to be abandoned in much the same manner as the System Diagram Map does for other railroads. NERSA amended the abandonment provisions of the 3R Act to allow Conrail greater latitude to abandon rail lines compared to other railroads in an effort to achieve the objectives of the USRA plan. Specifically, ICC was required to grant all Conrail abandonment applications filed before November 1, 1985, unless a reasonable offer of financial assistance to purchase or subsidize the line was filed within 90 days of the application filing date. The purchase price is negotiated between the offerer and Conrail. If the two parties cannot agree, either party may request ICC to set the terms. ICC has 60 days to do so, and the offerer then has 10 days to accept or reject ICC's terms. Conrail must accept an offer at the terms ICC establishes.

Conrail is not required under NERSA to identify lines subject to abandonment in an annual Systems Diagram Map, which other railroads are required to submit to ICC, to provide communities and shippers an early warning of potential abandonments. However, Conrail must file with ICC a notice of "insufficient revenues" 90 days before filing an application, in accordance with NERSA. This notice identifies lines Conrail considers to be earning insufficient revenues and serves the same purpose for Conrail as a notice of intent serves all other railroads (see "Advance Notice Requirements" earlier in this chapter).

The Conrail abandonment provisions of NERSA expired on November 1, 1985. Conrail submitted the last notices of insufficient revenues under the NERSA provisions by October 31, 1985. According to an ICC official in the Office of Proceedings, Conrail filed slightly more than 100 notices of insufficient revenues by the October 31, 1985, deadline. ICC officials told us that at the end of fiscal year 1986, no applications had yet been filed

for 68 of the 100 notices. (For railroads other than Conrail, an abandonment petition must be filed within 30 days of filing a Notice of Intent to Abandon.)

Objectives, Scope, and Methodology

As requested by Representatives Byron L. Dorgan, Martin O. Sabo, and Tony Coelho, we examined ICC procedures used to decide railroad requests to abandon branch lines. It was agreed in July 1985 that our review would focus on (1) mileage filed for abandonment by railroads and ICC actions taken to resolve abandonment requests, (2) community and shipper perspectives on the ICC abandonment process, and (3) shippers' perceptions of the effects of rail abandonments on their shipping operations.

During our review we considered information obtained from ICC and experts in the rail industry without extensive verification of the information provided by each source. We independently collected opinions of state and community officials and rail users affected by abandonments, using questionnaires administered to a nationwide sample of these individuals. We conducted extensive interviews in Jud and Ellendale, North Dakota, and Hayfield and Dawson, Minnesota, to examine how these communities have coped with an abandonment. State transportation officials selected these four communities for us as communities that they believed had been adversely affected by rail abandonments. We also interviewed state transportation officials in both states to obtain their views on ICC's handling of abandonments and the impact of service losses.

This review was conducted between August 1985 and April 1987 in Washington, D.C., with field work performed by our Denver Regional Office in North Dakota and by our Chicago Regional Office in Minnesota.

Branch Line Abandonment Activity

The first objective of this assignment was to examine mileage filed for abandonment by railroads and actions taken by ICC on abandonment requests. We first examined mileage filed for abandonment by railroads from fiscal years 1970 through 1985 and then examined mileage granted abandonment by ICC for the same years. We also derived an abandonment denial rate for each fiscal year from 1970 through 1985 by dividing mileage denied by the total of mileage granted and denied each year.

The Staggers Rail Act of 1980 required that ICC finalize investigated abandonment proceedings within 255 days when an initial decision was

appealed. We reviewed ICC data for trends in average time to resolve cases to determine if ICC complied with this Staggers Rail Act provision.

To examine abandonment activity we relied exclusively on rail abandonment data bases maintained by ICC's Office of Proceedings and the Department of Transportation's Office of the Secretary. (See app. I for abandonment data.) Data obtained from the two sources differed for certain years. Therefore, we used the best data for each year as suggested by the Office of Proceedings. We did not independently verify the accuracy of the data.

We compiled data on mileage filed, granted, and denied for abandonment requests that ICC acted on from fiscal years 1970 through 1985. Mileage filed for abandonment in any one fiscal year may not have been acted on in that same year. Therefore, a mile-for-mile correlation of miles filed and miles granted in any one fiscal year may not exist.

Table I.1 of appendix I presents abandonment activity for railroads other than Conrail and railroads that file for abandonment under ICC exemption criteria. A railroad is exempt from the routine abandonment process if the railroad certifies that no local traffic has used the line for at least 2 years and any operating traffic can be rerouted over other lines. Exemption criteria also require that no rail user has filed a complaint with ICC regarding cessation of service within the 2-year period and that no complaint has been decided in favor of the complainant within the 2-year period. (Tables I.2 and I.3 of app. I illustrate abandonment activity for Conrail for fiscal years 1982 through 1985 and exemptions for fiscal years 1984 through 1985.)

According to ICC officials' statements, although they acted on Conrail abandonment requests, they did not begin cumulating Conrail abandonment data until fiscal year 1982, the first year of significant Conrail abandonment activity. Similarly, ICC did not cumulate and report exempted railroad abandonment activity until fiscal year 1984. Since ICC could not deny Conrail abandonment requests filed before November 1, 1985, such requests were granted unless rail line purchase or subsidy agreements were entered into by the railroad and rail users. All Conrail abandonment applications filed on or after November 1, 1985, are subject to abandonment procedures applicable to all other carriers.

Unless otherwise noted, our subsequent discussions of railroad abandonment activity refer to abandonments by railroads other than Conrail and exemptions. We group Conrail and exemption abandonments together

because ICC granted approval for these requests outside of routine abandonment procedures. Branch line abandonment activity is discussed in chapter 2.

Community and Shipper Perspectives on Abandonment Procedures

The second objective of this review was to obtain information about how communities and shippers formerly involved in the rail abandonment process perceived the process. We were specifically interested in obtaining information about aspects of the abandonment process itself, such as whether protesters felt ICC had allowed sufficient time to file a protest or whether ICC had assisted them in preparing for abandonment proceedings. We conducted a mail survey of individuals designated on ICC records as having filed formal protests with ICC against proposed abandonments (i.e., protesters). The survey questionnaire was pretested with business people, an agricultural producer, and public officials who had filed protests on proposed abandonments with ICC.

To develop our mailing lists for the questionnaire, we obtained an automated file from ICC of individuals affected by abandonments that had occurred between 1979 and 1985. We screened ICC's automated case file to remove railroad companies, rail employees' unions, agencies of the U.S. government, and elected federal officials. These parties were eliminated primarily because we were interested in obtaining information from individuals who had been directly affected by the abandonment and who had lived in the local community where the abandonment occurred. Once initial screening had been completed, this file represented 526 rail abandonment cases. There were 1,278 protesters associated with these cases.

We then took a random sample of 228 cases from the 526 abandonment cases in our universe to place realistic constraints on the number of surveys that could be sent out. Four hundred forty-four protesters were associated with the 228 cases. We then deleted any individuals we could identify that were connected with railroads or rail employee unions. We mailed questionnaires to the 310 protesters in our sample of 228 cases.

To further ensure that only protesters responded to our questionnaire, we included a screening question in the questionnaire. Responses to this question were used to adjust the original sample and universe. Individuals who indicated that they had not protested were not used in our analyses of the questionnaire results. Table 1.1 shows the original universe, the original sample size, the number of individuals deleted for being rail companies, unions, etc., and the adjusted universe.

**Table 1.1: Sampling Strategy for
Protester Survey**

Individuals	Number
Original universe	1,278
Sample of universe	444
Deletions from sample (i.e., representing unions, rail companies, etc.)	134
Sample minus deletions	310
Adjusted universe (estimate) ^a	892

^aThe adjusted universe estimate is calculated by multiplying the ratio of the sample minus deletions to the original sample by the universe: $(310/444) (1,278) = 892$.

Thirty-eight of the 310 questionnaires that we mailed were returned as undeliverable, but it was beyond the scope of our review to determine why we were unable to reach those protesters by mail.

Of the 272 individuals who received questionnaires, we received responses from 196 for a response rate of 72 percent. Seventy-eight percent of the responses (153) were from actual protesters.

All sample surveys are subject to sampling error, that is, the extent to which the sample results can differ from results that would have been obtained if the entire population had responded to the questionnaire. Our sample was originally designed to have sampling errors of no more than 5 percentage points at the 95-percent level of confidence (sampling errors for subsets of the sample could be higher). However, because we deleted a portion of sampled cases on the basis of criteria outlined above, sampling errors for our survey results were somewhat higher. Sampling errors for selected variables in our protester survey appear in appendix III.

Based on the protesters' response rates, had we surveyed the universe of 1,278 protesters, we estimate we would have deleted approximately 386 individuals because the questionnaire was not appropriate for them. Of the remaining 892 individuals in our universe, we estimate that we would have received responses from 564. Of these 564 individuals, we project that 440 would have replied that they were protesters. Therefore, the reader can project responses received from the 153 respondents to about 440 protesters in the universe, as shown in table 1.2.

Table 1.2: Usable Protester Sample and Projections to Universe

	Protester sample	Estimated protester universe
Questionnaires mailed	310	892
Undeliverables	38	109
Questionnaire responses	196	564
Individuals responding as protesters	153	440

To develop a more in-depth data base on state perspectives of ICC's rail abandonment process and the impact of rail service losses, we interviewed state transportation officials in North Dakota and Minnesota. Abandonment activity in these two states was of particular interest to our congressional requesters. We asked these officials to identify two communities in their respective states that had been adversely affected by rail abandonments in terms of transportation costs, employment, potential community development, business closings, and lack of transportation alternatives. They selected Jud and Ellendale, North Dakota, and Dawson and Hayfield, Minnesota.

The results of our examination of community and shipper perspectives on the abandonment process are discussed in chapter 3.

Shippers' Perceptions of the Effects of Abandonments on Their Communities and Businesses

We primarily relied on information collected in our questionnaires, interviews conducted in North Dakota and Minnesota, and a literature search to examine state and community officials' and shippers' perspectives on the effects of rail service losses on their communities and shipping operations. The previously discussed questionnaire provided a nationwide data base on the perceived effects of rail service losses particularly in regard to effects of abandonment on shipping firms' gross sales, their market shares, employee profiles, and decisions to relocate. We also examined the results of studies on the impact of rail abandonments on communities and shippers conducted by independent researchers. We did not, however, evaluate the methodologies used by the researchers.

Community leaders and industry representatives in Jud and Ellendale, North Dakota, and Dawson and Hayfield, Minnesota, were asked similar questions regarding impact of rail service losses. Their responses provided a more detailed examination of adjustments made to rail abandonments.

The results of this part of our review are discussed in chapter 4.

Branch Line Abandonment Activity

According to ICC records, total annual mileage filed by the railroads from fiscal years 1970 through 1985 ranged from a low of about 1,600 miles in 1976 to a high of about 4,800 in 1980, excluding fiscal year 1982 when ICC did not record cumulative mileage filed. ICC records showed that from 1970 through 1985 total annual mileage granted by ICC ranged from a low of about 500 miles in 1974 to a high of about 3,500 in 1972.

Of the approximately 36,900 miles that ICC decided to either grant or deny between fiscal years 1970 and 1985, 6.9 percent was denied. With the exception of 3 years, during the 16-year period denial rates were less than 6 percent of the total mileage ICC considered each year.

Rail industry analysts have identified various factors that affect rail abandonments, including increased competition from trucks, barges, mergers, and bankruptcies. Because of incomplete abandonment data and inconsistent record keeping, we were not able to determine which of these factors had the most significant influence on abandonment activity.

Various Industry Problems Provided the Impetus for Railroads to Abandon Lines

Trucks and barges, as discussed in chapter 1, posed considerable competition to the rail freight traffic market in the mid-1900's. Federal funding for highway development and inland waterways enhanced the competitiveness of trucks and barges, while negatively affecting the earnings of railroads that operated with limited government subsidies.

New highways and waterways reduced the operating costs for trucks and barges further enabling them to capture more of the market by reducing their shipping rates. As rail customers sought alternative methods of transport, the railroads experienced poor earnings on their branch lines, especially on short-haul routes that were easily served by trucks. When light density, short-haul lines lost their market to trucks, they were unable to generate the revenues to cover maintenance or rehabilitation costs. As routine maintenance was deferred, services further deteriorated on those routes.

These changes have helped create what industry analysts refer to as "excess capacity." This excess includes not only financially nonviable branch lines but also duplicative main lines and excessive terminal facilities. In an effort to provide more efficient freight service delivery and recapture shippers lost to trucks, railroads have looked to operate more coordinated and integrated rail systems. Industry officials believe that a single larger railroad should be able to provide faster and more efficient

origin-to-destination service than several smaller individual railroads. In reducing the fragmented and duplicative route structures, however, mergers of rail companies left unused trackage to be abandoned.

Industry analysts have concluded that elimination of excess and unprofitable branch lines is critical to revitalization of the rail industry. Excess capacity is a major factor in determining a railroad's profitability. The rail industry as a whole is eliminating its duplicative and unprofitable lines and equipment in an effort to make the rest of the system more efficient.

Railroad Abandonments: 1970- 1985

Our review of railroad abandonment activity focused on activity between 1970 and 1985. Any attempts to draw conclusions on the relative significance of the various factors affecting mileage filed for abandonment by railroads and mileage granted and denied abandonment by ICC were limited by problems in the ICC abandonment data base and interruptions in abandonment filings and proceedings during the 16-year period examined.

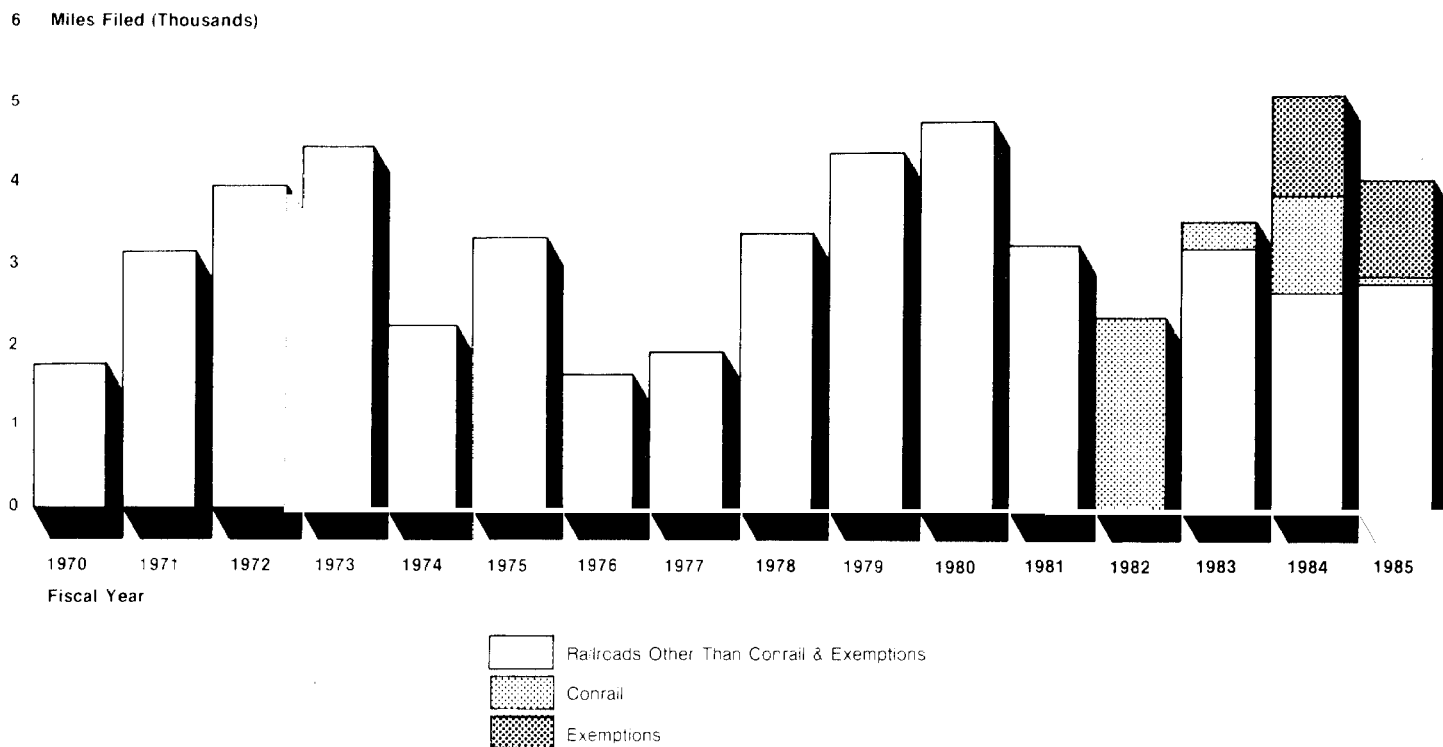
We have excluded Conrail and exempted railroads, unless otherwise noted, from discussion of abandonment activity because they do not represent typical actions on abandonment case processing. All railroads, except Conrail or railroads filing for abandonment under a special exemption status, are subject to the routine abandonment process. That process requires ICC to apply its standard for balancing the railroad's losses and shippers' needs before deciding to grant or deny the abandonment request. (See ch. 1.)

Mileage Filed for Abandonment

According to ICC, railroads petitioned ICC to abandon over 46,800 miles between fiscal years 1970 and 1985. Figure 2.1 depicts the total annual mileage filed for abandonment by the railroads each year. Total annual mileage filed ranged from a low of 1,635 miles in fiscal year 1976 to a high of 4,784 in fiscal year 1980. ICC did not record cumulative mileage filed for abandonment by railroads in fiscal year 1982.

Conrail was legally precluded from petitioning ICC to abandon its lines until 1978. ICC did not begin reporting cumulative data on Conrail abandonments until 1982. However, as stated by ICC officials in the Office of Proceedings, Conrail abandonments through 1981 were minimal. According to ICC records, Conrail filed a total of 4,035 miles for abandonment between fiscal years 1982 and 1985. Total annual mileage filed

Figure 2.1: Miles Filed for Abandonment by Railroads, Fiscal Years 1970 - 1985

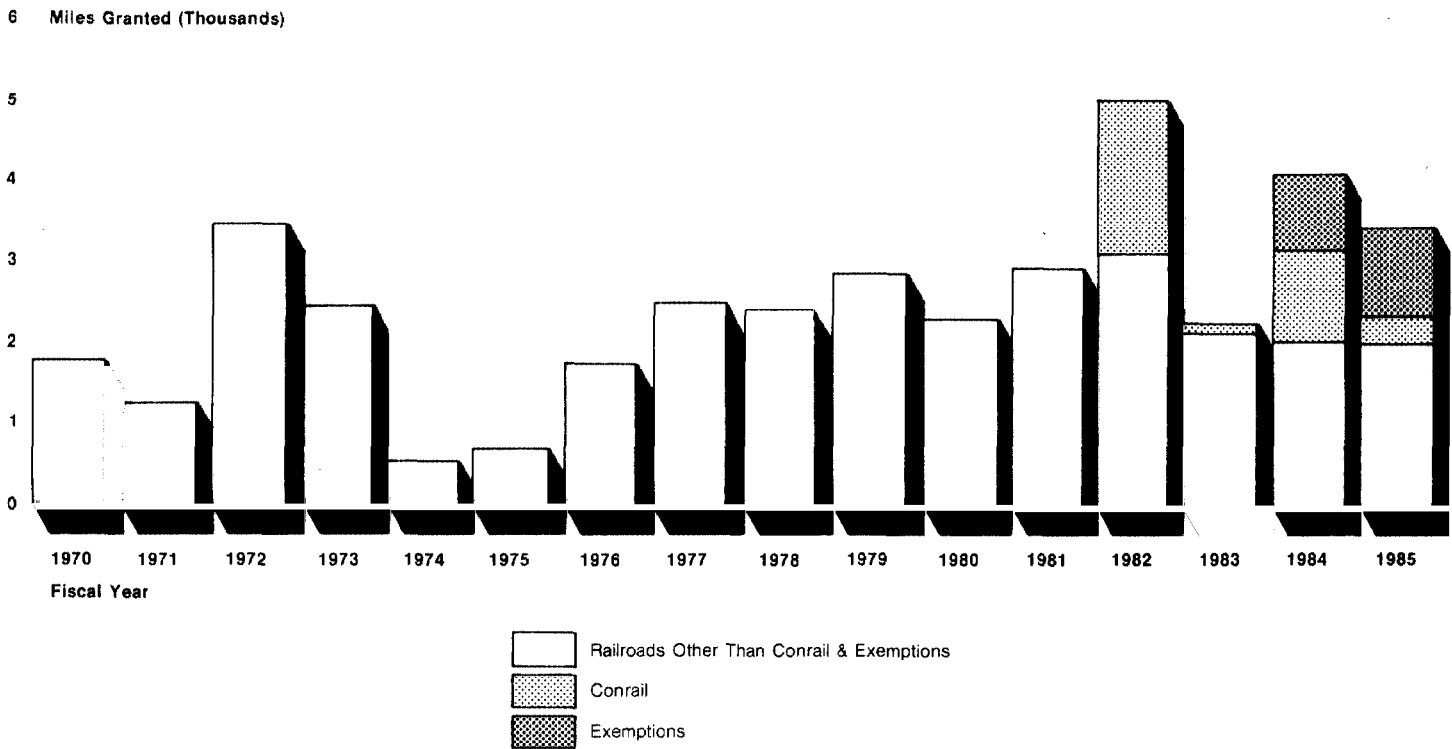


Source: ICC annual reports, fiscal years 1970 through 1984, and the Rail Section, Office of Proceedings, ICC.

by Conrail ranged from 2,360 in fiscal year 1982 to 100 in fiscal year 1985.

ICC did not accumulate data on abandonments filed under a special exemption until fiscal year 1984 although mileage was recorded in individual case documents. ICC officials told us that the mileage associated with abandonments filed for under the special exemption was not available for fiscal years 1982 and 1983. ICC records indicate that exemptions accounted for 1,197 miles in fiscal year 1984 and 1,153 miles in fiscal year 1985.

Figure 2.2: Miles Granted Abandonment by ICC, Fiscal Years 1970-1985



Source: ICC annual reports, fiscal years 1970 through 1984, and the Rail Section, Office of Proceedings, ICC.

Mileage Granted Abandonment

According to its records, ICC granted abandonment for a total of 34,314 miles from fiscal years 1970 through 1985.¹ Total annual mileage granted over the 16-year period ranged from a low of 529 in fiscal year 1974 to a high of 3,458 in fiscal year 1972, as shown in figure 2.2.

In 1974 and 1975 ICC granted an uncharacteristically low level of mileage. Two factors explain the low abandonment activity in those years. First, ICC imposed a moratorium on its abandonment proceedings in fiscal year 1974, causing a substantial reduction in the number of ICC proceedings during that fiscal year. ICC suspended proceedings after a 1973 court order requiring ICC to assess the environmental impact on each proposed abandonment. ICC reconvened proceedings shortly after losing an appeal to overturn the court order in June 1974.

¹Mileage granted in any one year is not necessarily for the mileage filed in that same year because of lag time in processing abandonment cases and appeal actions taken by participants.

Second, a provision of the 3R Act of 1973 suspended submission of abandonment applications by several bankrupt and near-bankrupt railroads, such as Penn Central, that were targeted for consolidation into Conrail. In December 1974 the U.S. Supreme Court, overturning a lower court decision, upheld the provision. In 1975 ICC dismissed over 100 Penn Central abandonment petitions that it had held, pending the U.S. Supreme Court decision.

Other railroads that were targeted for Conrail consolidation may have also filed for abandonment around 1973 and have had applications similarly dismissed in 1975 following the U.S. Supreme Court decision. Available data did not allow us to determine the number of abandonment cases in this situation or the mileage associated with their filings.

The addition of mileage granted abandonment for Conrail and under the special exemption procedure is also shown in figure 2.2. ICC granted Conrail abandonment for a total of 3,454 miles between fiscal year 1982 and fiscal year 1985. Total annual mileage granted ranged from 1,983 in fiscal year 1982 to 119 in fiscal year 1983. Railroads filing under a special exemption status were granted abandonment for 917 miles in fiscal year 1984 and 1,097 miles in fiscal year 1985, for a total of 2,014 miles.

Mileage Denied by ICC Is Low in Comparison to Mileage Granted

ICC denied limited mileage during the 16-year period in this review. Our examination of denial rates focused on the total miles granted abandonment and the total miles denied abandonment in any given year. We calculated denial rates by determining the mileage denied in any one year as a percentage of the total of mileage granted and denied in that same year.

Conrail abandonments are not considered in this analysis because its abandonment requests are by law either (1) granted or (2) dismissed upon successful negotiation of a purchase or subsidy agreement.² Under provisions of NERSA, ICC does not have authority to deny Conrail abandonment requests.

Abandonment requests filed under an exemption status are also not subject to routine abandonment proceedings if the rail carrier has not moved local traffic over the line for at least 2 years and any operating

²As noted in ch.1, Conrail abandonment applications filed on or before October 31, 1985, were not subject to routine abandonment procedures, whereas Conrail applications filed after that date are subject to procedures applicable to other carriers.

traffic can be rerouted over other lines. The exemption criteria also requires that no rail users have filed a complaint with ICC regarding cessation of service and no complaint has been decided in the users' favor within the 2-year period. We, therefore, excluded Conrail and special exemption abandonments so as not to skew denial rates in a downward direction.

According to data reported in ICC annual reports, ICC granted abandonment for 34,314 miles of rail line between fiscal years 1970 and 1985. For that same period, ICC denied abandonment requests for 2,561 miles. Of the 36,875 miles for which ICC decided to either grant or deny abandonment between fiscal years 1970 and 1985, 6.9 percent of the mileage was denied abandonment.

Figure 2.3 shows that, with the exception of 3 years, the denial rate has been less than 6 percent in each year since fiscal year 1970. Denial rates, however, have ranged from zero to 21.7 percent. We were not able to determine the reasons for the relatively high denial rates in fiscal years 1977, 1979, and 1984.

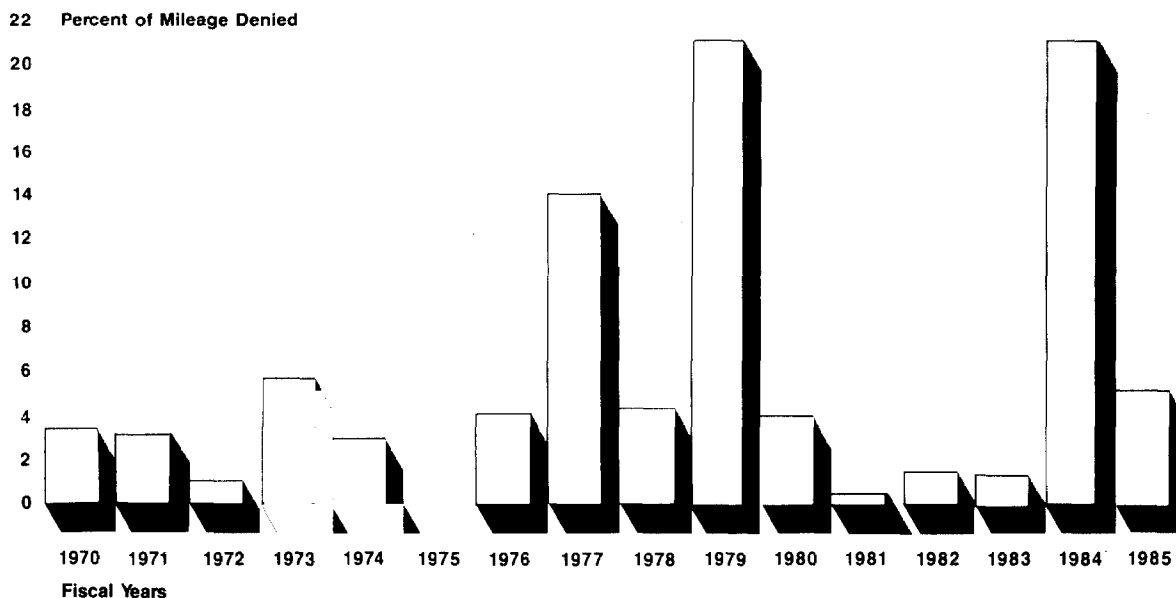
ICC officials told us that recent abandonment requests have been more difficult to decide, since lines have been more profitable, been in better condition, and involved more traffic. We did not examine individual abandonment case decision documents to determine whether this was an accurate characterization of recent abandonment cases. A close evaluation of the facts posed by the railroads and rebuttals provided by the protesters in each case would have been necessary for a discussion of the reasons for fluctuations in denial rates over the 16-year period.

Number of Abandonment Investigations and Length of Abandonment Proceedings Have Decreased Since 1980

Prior to 1980 ICC investigated all protested abandonment cases, according to ICC officials. The Staggers Rail Act of 1980 gave ICC the authority to investigate protested cases at its discretion. An ICC official told us that they have investigated substantially fewer cases since implementation of the act than they did before. However, accurate data are not available from ICC on the cumulative number of cases investigated before 1980. Therefore, a comparison of the number of investigations before and after implementation of the Staggers Rail Act was not possible.

According to ICC officials in the Office of Proceedings, ICC requests more information from both the railroads and protesters in defense of their respective cases than it did before it had the flexibility to investigate

Figure 2.3: Abandonment Denial Rates, Fiscal Years 1970 - 1985 (Excluding Conrail and Exemptions)



Source: GAO derived denial rates using ICC annual reports, fiscal years 1970 through 1984, and the Rail Section, Office of Proceedings, ICC.

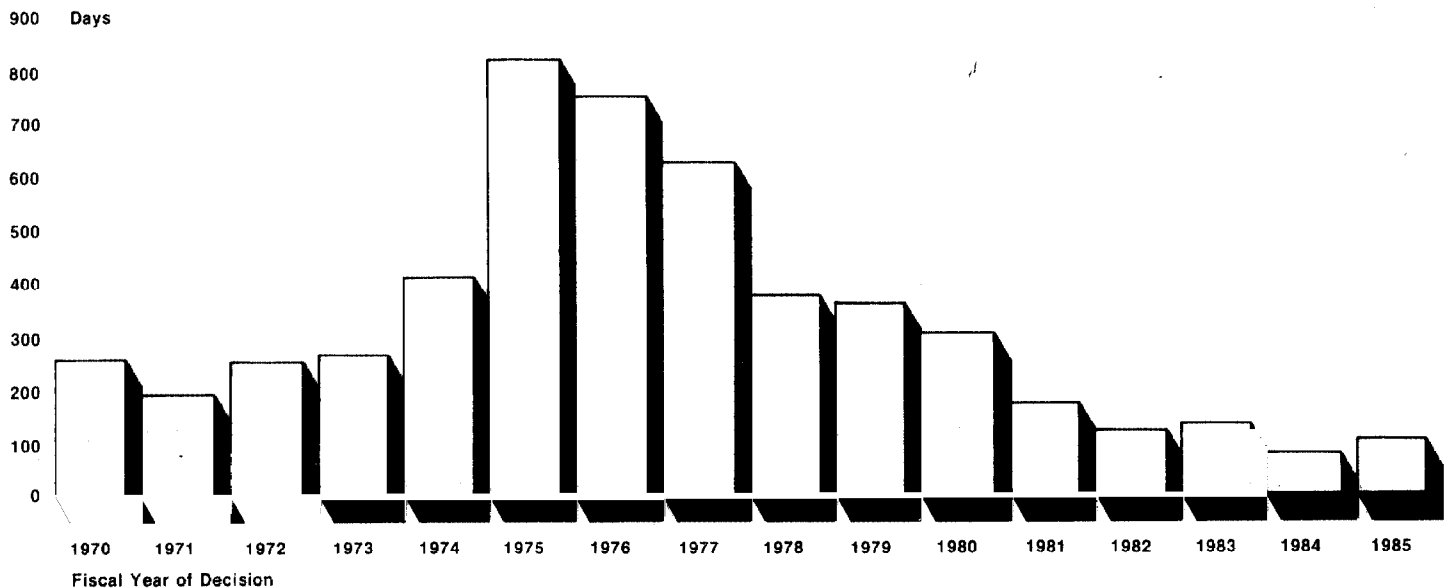
cases. ICC officials indicated that ICC's authority to selectively investigate and the additional information submitted by involved parties has enabled it to select cases that it believes should be investigated.

Length of Proceedings Has Decreased Since 1980

We obtained information on the length of abandonment proceedings exclusively from ICC's data base but did not independently verify the data. According to ICC officials, the data may not be accurate for all years because of poor record keeping and staff turnover. Therefore, great reliance should not be placed on the specific number of days used to plot figure 2.4.

Prior to implementation of the Staggers Rail Act of 1980, ICC data bases indicate that the average length of abandonment proceedings ranged from about 189 days in fiscal year 1971 to about 817 days in fiscal year 1975. The 4R Act of 1976 did not place a time limit on the entire abandonment process. Specifically, the 4R Act did not place time limits on proceedings in cases where protesters or the railroads appealed ICC's decisions.

Figure 2.4: Average Time to Resolve Protested Abandonment Cases, Fiscal Years 1970 - 1985



Source: GAO derived average time on the basis of ICC annual reports, fiscal years 1970 through 1984, and the Rail Section, Office of Proceedings, ICC.

Between fiscal year 1973 and fiscal year 1975, the average length of abandonment proceedings increased sharply. Although an ICC official could not provide a definitive explanation of this pattern in proceedings, the increases could be due to the cases held pending during the moratorium imposed by ICC in fiscal year 1974. When ICC, according to ICC officials, initiated the environmental assessments, as ordered by the courts in 1974, the process was long and cumbersome. Abandonment proceedings took a longer time to resolve because of the lengthy time needed to prepare the assessments. This contributed to the length of proceedings noted in fiscal year 1975. An ICC official indicated that around 1978 they reduced the time involved in preparation of the assessments. By fiscal year 1978, ICC averaged 372 days to resolve protested abandonment cases.

The Staggers Rail Act of 1980 addressed the lack of overall time limits for abandonment case processing. The act mandated that ICC finalize proceedings on investigated abandonment cases, when ICC's initial decision was appealed, by either granting or denying an abandonment

request within 255 days of the application filing date. According to ICC data bases, ICC has generally complied with this mandate as evidenced by the average length of proceedings for each year since 1980. A number of cases have exceeded the 255-day limit since implementation of the Staggers Rail Act, but ICC has exhibited improvement in compliance with the time limit. In fiscal year 1981, 26 cases exceeded the 255-day limit; 19 cases exceeded the limit in fiscal year 1982; and by fiscal year 1985, only 6 cases exceeded the limit.

In commenting on a draft of this report, ICC officials noted that the Commission does occasionally exceed statutory deadlines for submission of evidence in proceedings to allow protesters adequate time to present a complete case record.

GAO Observations

Industry officials and analysts have identified several factors as significant contributors to the rail industry's financial and physical decline and, thus, to railroads' decisions to abandon rail lines. These factors have included increased competition from trucks and barges, mergers, and bankruptcies.

Because of weaknesses in ICC's abandonment data, we were unable to analyze the factors affecting railroad abandonments in order to determine which factors were the most important. Specific data problems that we encountered included

- an ICC-imposed moratorium on abandonment proceedings during 1974 and 1975,
- a legally mandated suspension of abandonment applications in 1973 for railroads targeted for Conrail consolidation, and
- the lack of cumulative mileage filings for 1982.

Our review of ICC's data did find that ICC has generally complied with the Staggers Rail Act requirement that it limit abandonment proceedings for investigated cases to 255 days when ICC's initial decision is appealed.

Shippers' and Communities' Perspectives on ICC's Rail Abandonment Process

Our nationwide survey of protesters to abandonments and our interviews with community officials in North Dakota and Minnesota indicated that a considerable percentage of protesters are dissatisfied with certain aspects of the rail abandonment process. Protesters have had difficulty in obtaining railroad financial data that are necessary to rebut the railroads' abandonment requests. Our survey also indicates that protesters believe that ICC does not allow them adequate time to compile evidence for investigated abandonment cases. In addition, protesters told us they believe that in its abandonment decision making, ICC's consideration of opportunity cost, i.e., the cost to a railroad of foregoing an alternative investment in lieu of abandonment, allows abandonment of rail lines that are profitable.

According to our survey results, most protesters were not aware that ICC would assist them when they filed their protests. During the period of our review, ICC's Office of Special Counsel generally provided limited advice to protesters and their attorneys when ICC decided to investigate an abandonment case through an oral hearing.

In 1986 ICC established the Office of Public Assistance to assume responsibilities previously assigned to the Office of Special Counsel and to, among other things, assist the Commission in ensuring that the public interests in abandonment proceedings are fully developed. The Office of Public Assistance is available to assist protesters in developing evidence for an abandonment case; however, ICC does not officially notify protesters of the availability of help until after ICC decides whether to investigate an abandonment request set for oral hearing. This may be too late in the abandonment process to be of maximum benefit to protesters. If ICC would inform rail user communities of assistance available when railroads file their Notices of Intent to Abandon a rail line, protesters would be in a better position to obtain ICC guidance on the content and structure of their protest documents, thereby presenting more fully developed cases to the Commission.

Some rail shippers and state transportation officials have criticized ICC's use of opportunity cost in abandonment decision making on the basis that the ICC abandonment cost of capital used in opportunity-cost determinations is higher than the return actually earned by railroads. We disagree with their basis for criticism. A railroad's cost of capital may be higher than a railroad's rate of return because the railroad is not earning enough net income from the use of its assets. Railroads are a capital-intensive industry, and they need to earn an adequate rate of return in

order to attract and retain investment capital. In a prior GAO report,¹ however, we examined the impact that other methodologies suggested by rail shipper organizations and the National Association of Regulatory Utility Commissioners could have on the cost of capital and offered observations on their strengths and weaknesses.

Characteristics of Surveyed Protesters

One objective of this review was to obtain the views of shippers and rail-user communities on ICC's procedures for deciding whether to grant railroads' requests to abandon their branch lines. To accomplish this objective we surveyed, through a mailed questionnaire, a nationwide sample of 310 individuals that ICC data bases indicated had formally protested proposed rail abandonments between 1979 and 1985. Of this sample, 153 respondents indicated that they had protested an abandonment. We estimate that the 153 are representative of 440 individuals in the universe of 1,278 who are listed in ICC records as having protested railroad abandonments.

Because individual protesters of rail abandonments represent various occupational groups, we asked protesters to specify in our survey the primary role they played as a protester. Table 3.1 reports the characteristics of the respondents.

**Table 3.1: Characteristics of
Respondents to Survey**

Respondents	Percent of respondents^a
Public official/community leader/State Department of Transportation or Public Service Commission employee	42
Independent business person/shipper or receiver or representative of a single shipper or receiver	35
Representative of a group of farmers or shippers	17
Farmer/agricultural producer or representative of a single farmer	1
Persons not identifying themselves by occupation	5
Total	100

^aSampling errors for selected variables reported are provided in app. III.

We also interviewed officials of the Minnesota and North Dakota Departments of Transportation and local public officials and shippers in four communities affected by recent abandonments in Minnesota and North Dakota. The communities included Dawson and Hayfield, Minnesota, and Jud and Ellendale, North Dakota. State transportation officials

¹Railroad Revenues: Analysis of Alternative Methods to Measure Revenue Adequacy (GAO/RCED-87-15BR, Oct. 2, 1986).

selected these four communities, at our request, because they had been adversely affected by the loss of rail service. Both the questionnaire and the interviews focused on (1) the level of protester satisfaction with various aspects of the abandonment process and (2) ICC assistance available to protesters. Protesters' perceptions of how the abandonments affected their communities and businesses are discussed in chapter 4.

Protesters' Views on the Abandonment Process

In our survey we asked protesters, who had been affected by abandonments between 1979 and 1985, how satisfied they were with specific aspects of the abandonment process. More of the protesters expressed dissatisfaction with the availability of railroad financial data and time allowed to compile evidence in investigated cases than they did with other aspects of the process, such as the notification of a proposed abandonment they were given and time allowed to file a protest. For example, 48 percent of the protesters were dissatisfied with the availability of railroad financial data and 38 percent were dissatisfied with time allowed to compile evidence in investigated cases. On the other hand, about 27 percent of the protesters were dissatisfied with both the notification they had been given in advance of a railroad's filing a petition to abandon a line and the amount of time they had been allowed to file a protest once a railroad filed an abandonment petition with ICC. (See app. II for a time table of the rail abandonment process.)

We also asked community officials in North Dakota and Minnesota about their satisfaction with the abandonment process. Most of the Hayfield, Minnesota, officials told us that having lost their early attempts to purchase an abandoning rail line, they were dissatisfied with all aspects of the abandonment process.² Dawson, Minnesota, community officials were moderately satisfied with time frames established for the abandonment process. However, these officials were dissatisfied with the railroad financial data, having received only annual reports from the railroad.

Similar to the Dawson, Minnesota, officials, most community leaders and businessmen we spoke with in Jud and Ellendale, North Dakota, were satisfied with the notification of the proposed abandonment and time allowed to file a protest and compile evidence in an investigated case. However, like the Minnesota officials, most of the residents of Jud we

²Hayfield, Minnesota, residents eventually won their case to purchase the rail line through appeals to the U.S. Supreme Court.

spoke with were dissatisfied with the availability of railroad financial data.

Protesters' Dissatisfaction With the Availability of Railroad Financial Data

The Director of the Office of Public Assistance (OPA)³ in ICC told us that in the course of abandonment decision making, ICC closely examines the evidence railroads submit on costs incurred and the revenues generated for the subject branch line. A railroad is required to include in its abandonment application submitted to ICC detailed information on its financial status, including specific revenue and cost data. The railroad must furnish a copy of the application package to state government officials of each state in which the rail line is situated and any other interested party.

Nearly one half of the protesters expressed dissatisfaction with the availability of railroads' financial data. Our survey was not designed to determine whether reported difficulties with the availability of data stemmed from lack of protesters' expertise in analyzing available data or from inadequacy of the data made available by the railroads. However, our interviews in four North Dakota and Minnesota communities and with ICC officials suggest that both factors contributed to the protesters' dissatisfaction.

Community officials in Hayfield, Minnesota, indicated that small communities such as theirs typically do not have the experience to challenge the data railroads present in their abandonment requests. Community officials told us that railroads have qualified legal and technical personnel cognizant of ICC procedures for presentation of the data, thereby providing the railroads an advantage that protesters do not have. On the other hand, Dawson, Minnesota, community officials told us that the railroad provided them with annual reports only. Most residents of Hayfield, Minnesota, and Jud, North Dakota, were also dissatisfied with the availability of rail data.

Officials in OPA told us that on the basis of their conversations with protesters, protesters' perceptions of problems with the rail data may stem from both the lack of ready availability of the most relevant financial documents and the protesters' lack of analytical expertise. Since railroads' financial data are a key factor in ICC's abandonment decisions, according to OPA officials, protesters should obtain the workpapers that

³The Office of Public Assistance in ICC was established to provide, among other things, assistance, advice, and information to the public on railroad abandonment proceedings.

the railroads use to support their abandonment requests. Protesters are entitled to examine these documents, according to these officials. However, OPA officials also noted that railroads often maintain their detailed workpapers in the rail carrier's home office, which may be located in a city some distance away from where the protesters reside. This means the protesters could incur significant travel and related costs if they choose to examine the railroads' workpapers.

Also noted by OPA officials, protesters may not know which documents they should ask the railroad for or how to rebut the railroads' cost and revenue evidence. OPA officials said that they generally advise protesters to obtain financial expertise (e.g., a lawyer or accountant) to assist in their efforts.

Protesters Believe Time Allowed to Compile Evidence Is Tight

Once ICC decides to investigate a railroad's abandonment request, protesters are allowed 40 calendar days to submit verified statements to ICC with evidence rebutting the abandonment request.⁴ About 38 percent of the protesters responding to our survey were dissatisfied with the amount of time ICC allowed them to compile such evidence. Railroads have several years, before actually filing an abandonment petition, to prepare supporting evidence for their cases while protesters have 40 calendar days from the date ICC decides to investigate a case to compile evidence, according to public officials and protesters in North Dakota and Minnesota. Some state and community officials also told us that rail user communities should initiate efforts to protest a possible abandonment request as soon as they become aware of a railroad's consideration of lines for abandonment.

Our examination of time frames for various stages of the abandonment process, however, indicates that ICC requires rail carriers to provide affected shippers and communities considerable advance notice of potential abandonments. The System Diagram Map, which each rail carrier must submit to ICC annually, provides notice prior to the 15-to-30 day public notice. The map categorizes rail lines in a carrier's system according to the likelihood that they will be abandoned in the future. A rail line must be identified on the carrier's map at least 4 months prior to the date an abandonment petition is filed with ICC by the carrier. Copies of the map must be published by the carrier in affected county newspapers, posted in affected rail stations, and furnished upon request to

⁴Railroads are allowed 55 days from the date of ICC's decision to investigate to submit a reply to protesters' verified statements.

any interested person. Therefore, even though protesters are officially notified of ICC's decision to investigate an abandonment request some time after a request is filed, ICC requires carriers to provide affected communities at least 4 months' advance notice of the carrier's consideration of specific branch line abandonments.

State transportation and community officials in North Dakota and Minnesota that we spoke with suggested that communities and their shippers might be in a better position to retain rail service by either beginning to compile evidence in preparation for a protest or involving themselves in negotiations with the railroads before the railroad files a formal abandonment request with ICC.

Shippers and State Officials Say ICC's Use of Opportunity Cost Invites Abandonment

To determine whether to grant or deny a railroad's abandonment request, ICC must weigh the railroad's losses against the potential for community hardship in the absence of rail service. In so doing ICC considers several factors including rail and shipper traffic levels, railroad maintenance costs, revenues attributable to the railroad, future profitability of the existing rail line, transportation alternatives for rail users, the economic impact of the proposed abandonment on communities served, and the railroad's opportunity cost. ICC defines opportunity cost as the earnings opportunity (or investment return) that a railroad forgoes by not disposing of unprofitable (or marginally profitable) facilities and investing the proceeds from the sale in investment opportunities (including nonrail investments) that will allow it to earn a return equal to its cost of capital.

According to a 1985 statement prepared by the National Conference of State Railway Officials (NCSRO), a rail committee of the American Association of State Highway and Transportation Officials (AASHTO), opportunity cost is the only factor of those considered by ICC in its abandonment decision making that state transportation officials have formally opposed. AASHTO maintains this position today. Those opposing its use believe that the opportunity cost could result in massive abandonments of rail lines. The Association of American Railroads (AAR) believes that as a profit-seeking industry, railroads should be allowed to operate so as to earn an adequate rate of return in order to attract investment capital, according to an AAR Assistant Vice-President for Economics.

In a December 1979 ICC Statement of Policy Change (Ex Parte No. 274, Sub-No. 3), ICC issued a decision allowing carriers to introduce, in abandonment proceedings, evidence of opportunity costs incurred. In the policy statement ICC asserts that if a rail carrier is required to operate marginally profitable lines, it will be necessary for the carrier to earn more than a reasonable rate of return on its other lines in order for the carrier to achieve an overall rate of return sufficient to attract investor dollars. ICC's policy concludes that a carrier should be allowed to minimize its investment losses by abandoning those lines that have failed to generate an adequate return.

The most recent cost of capital⁵ used for abandonment proceedings is based on ICC's 1985 cost-of-capital determination in Ex Parte 274, Sub-No. 3D. Using 1985 cost-of-capital data, ICC has determined that carriers must earn a 16.5-percent real pre-tax return on their assets to be adequately profitable using the opportunity cost-of-capital criterion. Ex Parte 274, Sub-No. 3D also advises the public that ICC will consider a cost figure other than the ICC-determined figure. ICC requires that any alternative abandonment cost of capital presented be clearly explained and well supported. ICC officials told us, however, that the ICC-determined cost of capital has been used in the majority of abandonment cases.

According to NCSRO, the strict application of what it believes to be an excessive rate of return in opportunity cost would allow many railroads to abandon lines that are profitable. NCSRO believes the result could be massive abandonments of rail lines nationwide with serious adverse impact on states and communities. Although NCSRO does support the adoption of an opportunity cost standard in abandonment decision making, it believes that the cost of capital used should be more consistent with prevailing interest rates.

According to the Assistant Vice-President of Economics for AAR, AAR strongly supports ICC's consideration of opportunity costs incurred by railroads in abandonment decision making. This official cited the Staggers Rail Act of 1980 as the hallmark for congressional action to allow railroads certain regulatory freedoms in recognition of increased competition from other modes of transport and the resulting decrease in railroads' share of the freight traffic market. Such freedoms have led

⁵The cost of capital is commonly defined as the cost that firms must pay to obtain funds to purchase major assets such as machinery or buildings. For a railroad, the cost of capital reflects the interest rate it must pay lenders in order to borrow funds and the rate of return stockholders must receive in order to invest in the railroad's stock.

railroads to reinvest their assets in more profitable lines, thereby enabling them to attract investment capital, according to this official. The AAR official told us that, for the most part, railroads have reinvested in their rail systems. According to the vice-president, railroads have no concerted desire to disinvest from the rail industry.

Some state and local officials we spoke with believe the cost of capital set by ICC is so high that it invites railroads to use opportunity cost to show that liquidation of any particular rail asset, i.e., abandonment of a branch line, is a potentially profitable option. These officials believe that the use of opportunity cost in abandonment proceedings precludes any successful opposition to rail abandonments. Individuals opposing the use of opportunity cost contend that a carrier receiving, for example, a 7-percent return on investment on a branch line could argue that it should be able to abandon that line since the carrier could get a greater return by investing in municipal bonds. Further, some state transportation officials we spoke with also based their criticism of opportunity cost consideration on a comparison of ICC's abandonment cost of capital with the return actually earned by the railroads.

Criticism of the ICC's approach, however, cannot be based solely on a comparison of the railroads' actual returns to the cost of capital used in abandonment proceedings. Railroads are a capital-intensive industry, with capital expenditures averaging almost \$3 billion annually from 1980 to 1984. In order to attract and retain the capital necessary to operate their businesses, the railroads need to earn an adequate rate of return. The cost of capital is regularly used in industry as a benchmark for measuring the adequacy of a regulated firm's rate of return. Simply because the cost of capital is higher than the railroad's rate of return does not necessarily mean that the cost of capital is too high; rather, it may mean that the railroad is not earning enough net income from the use of its assets.

ICC Methodology Criticized on Several Grounds

The cost of capital used in abandonment proceedings is based on the annual cost-of-capital determinations ICC develops to measure the railroads' revenue adequacy. The methodology used in these determinations has been criticized by rail shipper organizations and the National Association of Regulatory Utility Commissioners for being contrary to the methods employed by other federal and state regulatory agencies. They have suggested methodologies that would change the cost of capital by several percentage points and correct several perceived inconsistencies. These methodologies would use the railroads' historical cost of debt

instead of their current cost of debt in calculating the cost of capital. These methodologies would also make adjustments to reflect the capital railroads obtain from deferred income taxes. Lowering the cost of capital developed from revenue-adequacy purposes could also lower the cost of capital used in abandonment proceedings. We have reviewed the methodologies suggested by these organizations. In our prior report Railroad Revenues: Analysis of Alternative Methods to Measure Revenue Adequacy (GAO/RCED-87-15BR, Oct. 2, 1986), we determined the impact on the cost of capital of using these methodologies and made observations on their strengths and weaknesses.

ICC officials in the Office of Proceedings told us that they have no data indicating that opportunity cost has been a deciding factor in any abandonment cases. However, ICC noted in its fiscal year 1987 budget estimates that more abandonments today than before involve lines that are more profitable. In addition, according to ICC officials in the Bureau of Accounts, which handles the annual cost-of-capital proceedings for use in railroad revenue-adequacy determinations, opportunity cost will become more relevant and thus a more intensely considered factor in balancing shippers' needs with those of marginally profitable rail lines.

Assistance Available to Protesters

Abandonment investigations require preparation of substantial amounts of detailed evidence by both protesters and railroads. Protesters of abandonments told us that railroads have an advantage over protesters in that they have experienced staffs to prepare evidence supporting each abandonment request and 3 to 4 years lead time in which to prepare before submitting their abandonment petitions to ICC. Some protesters, on the other hand, have found it expensive to hire expert counsel for abandonment proceedings and difficult to compile evidence to support their protests.

Results of our survey and interviews in North Dakota and Minnesota suggest that protesters believe that their problems with availability of detailed rail financial data, their lack of expertise to effectively challenge the railroads' abandonment requests, and their lack of prior experience with the ICC abandonment process significantly contribute to their difficulties in challenging the railroads.

We are not in a position to ascertain whether the outcome of any of the abandonment cases in which the surveyed protesters or our interviewees were involved would have been different had the protesters not encountered such problems. Notwithstanding this, we did find that the

assistance that ICC provides protesters (with regard to areas of protester difficulty), once ICC decides to investigate a case, is not offered at a point in the abandonment process to be of maximum benefit to the protesters.

Rail Users Are Generally Unaware of Assistance Available From ICC

During the period of this review, ICC's Office of Special Counsel was responsible for assisting parties to ICC proceedings. According to officials in the Office of Special Counsel, in accordance with ICC policy, the office did not directly contact communities without first receiving a request for assistance. ICC, however, required the Office of Hearings to inform parties of the availability of assistance in notices of abandonment case hearings. The Office of Hearings maintains this responsibility today. These notices are sent out when, on the basis of evidence submitted in protest documents, ICC decides to investigate an abandonment case through an oral hearing. For those cases where ICC renders a decision based only on the written statements it receives from parties to an abandonment case, i.e., modified procedure, the Office of Hearings does not provide notice of available assistance.

ICC redesignated the functions of the Office of Special Counsel to OPA in 1986 to assist the Commission and the public in fully developing the public interest in abandonment proceedings especially for those aspects of the proceedings that otherwise would not be adequately explored. ICC regulations require that OPA ensure that all aspects of abandonment proceedings are developed, including the public interests. According to OPA officials, OPA advises shippers, among other things, on the types of financial documents they should obtain from the railroads, their rights to question railroads on their financial statements, and how to best present their evidence.

Because ICC regulations require the Office of Hearings to inform parties of the availability of OPA assistance through notices of public hearings for abandonment cases set for oral hearing, such notices are distributed to protesters subsequent to ICC's decision to investigate an abandonment request. Notifying protesters of the availability of ICC assistance at that point in the process may be too late because the basis for ICC's decision to investigate is the evidence initially submitted by the railroads in their abandonment petitions and the protesters in their protest statements. The current timing of ICC's offer for assistance does not assure protesters' awareness of available assistance when they are first preparing

evidence for their protest. By offering protesters assistance in the railroads' Notices of Intent to Abandon,⁶ ICC would allow protesters a better opportunity to obtain advice from ICC on structuring their protests around issues that are key to ICC's decision to investigate. According to the Director of OPA, however, resource constraints limit the amount of assistance that can be provided. Accordingly, the additional demands on the OPA staff potentially created by earlier notification of ICC assistance would have to be addressed.

**Protesters' Focus on
Railroad Cost and Revenue
Data Is Important in
Abandonment Rebuttals**

According to an ICC official in the Office of Proceedings, ICC investigates a protested abandonment case when it decides that either the protesters have provided a sufficiently detailed rebuttal of facts submitted by the railroads or the data presented by the railroads do not clearly support an abandonment. Therefore, in order for an investigation to be called, the evidence presented by protesters must be as comprehensive as possible. ICC officials in OPA have indicated that groups opposing abandonments should concentrate their initial efforts on filing a protest to obtain an ICC investigation.

OPA's guidance focuses on issues that protesters should highlight in their rebuttals of abandonment requests. Protesters, according to OPA officials, often inappropriately focus their rebuttals on the adverse community impact potentially posed by loss of rail service. OPA officials advise shippers requesting assistance that their testimony on potential impact alone will not provide a sufficient basis to deny the abandonment. Instead, rebuttals of rail abandonment requests should be structured around challenging the railroads' cost and revenue presentations, according to OPA.

OPA Assistance Is Limited

The amount of assistance provided by OPA, according to its Director, is tempered primarily by resource constraints. OPA has 10 professional staff, including 7 attorneys, who are available to assist protesters of abandonments, according to OPA officials. ICC regulations preclude OPA from formally participating in abandonment proceedings without prior approval from the majority of ICC Commissioners. As of June, 1986, OPA had not represented any protesters in this manner, according to its Director. Rather, OPA will advise the protesters to retain an attorney

⁶A railroad must issue a Notice of Intent to Abandon or Discontinuance of Service at least 15 days but no more than 30 days prior to filing a formal abandonment request with ICC. The notice is described in ch. 1.

and/or a cost expert to represent them during proceedings and to closely examine the railroads' financial data.

In December 1984, ICC issued a manual entitled Public Participation in Rail Abandonment Cases Under the Interstate Commerce Act, which details issues that protesters should address for an effective presentation before the Commission. ICC initially distributed the manual, according to an OPA official, to state agencies, such as state public service commissions, and has since provided copies to individuals requesting them. The manual provides information on protesting proposed abandonments; the abandonment process, including hearings and appeals; alternatives to abandonment; and a sample of photocopied ICC decisions to past abandonment cases. OPA revised the publication and reissued it in December 1986. The revised booklet focuses on the importance of protesters' evidence for rebuttal of the railroads' cost and revenue data, and the importance of an investigation for parties wishing to have a full and complete hearing before the Commission. The booklet also updates information previously included in the 1984 publication.

In commenting on a draft of this report, ICC officials noted that the quality of protesters' challenges of railroad cost data is not as critical a factor in ICC's decision to investigate a case as some information in our draft report would imply. According to ICC officials, the ability of protesters to include cost data in their protests has not made a significant difference in the number of cases investigated. To address ICC's concern we revised our description of the relevance of protesters' challenges of railroad cost data to indicate that such challenges are important, but not essential, in protesters' efforts to obtain ICC investigations of abandonment cases.

Other Sources of Assistance Used by Protesters

Sixty-nine percent of the 153 protesters responding to our survey indicated that at the time they filed their protests, they were not aware that ICC would provide assistance to those filing protests. Those protesters who indicated that they used a third party to assist in preparing for abandonment proceedings most frequently used state authorities and private attorneys.

Protesters in all four communities in North Dakota and Minnesota sought help in an effort to avert the abandonment. Protesters interviewed indicated that they had difficulty in obtaining railroads' financial data, and some protesters said they were not aware ICC would assist them in preparing for their protest of the abandonment. The majority of

protesters surveyed were also not aware that ICC would assist them. Some protesters in the communities we visited did, however, receive assistance in preparation for abandonment proceedings from their state representatives, local rail user groups, and, in one case, members of the U.S. Congress.

Conclusions

State transportation officials we spoke with have expressed dissatisfaction with ICC's use of opportunity cost because they believe the cost of capital that ICC uses in its derivation of opportunity cost for abandonment decision making is too high. Some base their criticism on a comparison of ICC abandonment cost of capital with the return actually earned by the railroads. We do not believe this comparison is a valid basis for criticism because railroads, as any independently run industry, need to earn a return equal to the cost of capital on their investments. If they do not, they will, in the long run, be unable to attract capital to their industry, and the nation's rail service will likely deteriorate.

The methodology ICC uses to determine the abandonment cost of capital has been criticized on other grounds, including how the railroads' cost of debt is calculated. Methodologies have been suggested to compensate for these criticisms that could lower the abandonment cost of capital by several percentage points. In a prior report (GAO/RCED-87-15BR, Oct. 2, 1986), we reviewed these methodologies, determined their impact on the cost of capital, and made observations on their strengths and weaknesses.

Our survey of those who protested rail abandonments and interviews with North Dakota and Minnesota community officials and protesters indicate that many were dissatisfied with some aspects of the abandonment process. More protesters reported dissatisfaction with the availability of railroads' financial data and time allowed to gather evidence in investigated cases than with other aspects of the process. Some protesters and ICC officials have told us that they believe protesters' difficulties with the rail data stem from lack of both ready availability of rail financial documents and protesters' expertise to analyze the documents once obtained from the railroads. Some protesters believe their lack of experience in case processing contributes to their difficulties in challenging the railroads in an abandonment forum since the railroads have had previous experience in abandonment proceedings and have technical and legal support staffs to assist them in presenting their evidence before ICC.

During our review we found that the Office of Special Counsel in ICC was available to assist protesters in developing evidence for abandonment cases. The Special Counsel told us, however, that ICC precluded the office from directly contacting communities without first receiving a request for assistance. By the time ICC officially informed shippers of available aid, the shippers had already submitted their protest documents and an ICC investigation had been set. Responses to our survey indicated that most protesters were not aware that ICC could assist them when they filed their protests.

ICC redesignated the responsibilities of the Office of Special Counsel to the Office of Public Assistance in 1986. ICC currently provides official notice to protesters of the availability of ICC assistance when it decides to investigate an abandonment case set for an oral hearing as it did prior to 1986. This may be too late in the process to be of maximum benefit to those in need because protesters' receipt of ICC guidance on the content and structure of their protest documents would allow them to more fully develop cases they present to the Commission. ICC uses the protest documents as a basis for its decision to investigate, and it has indicated that an investigation is important to parties wishing to have a fully developed hearing before the Commission. We believe that ICC should notify rail users of available assistance when it receives the railroad's official Notice of Intent to Abandon. This would provide protesters with the opportunity to obtain ICC's advice on which issues in their protest documents would be key to ICC's decision to investigate. Earlier notification of available assistance could also better ensure ICC that the merits of abandonment cases are fully developed for the Commission's consideration. The additional resource commitment on OPA created by earlier notification of ICC assistance would also have to be addressed.

Recommendation to the Interstate Commerce Commission

Given ICC's regulatory requirement that the OPA ensure that all aspects of proceedings are fully developed and that shippers be adequately informed of ICC assistance, we recommend that ICC modify its regulations to require that rail-user communities be informed of assistance available to protesters when railroads first notify ICC of their intent to abandon a branch line. Furthermore, OPA should be charged with this notification responsibility. ICC's Office of Hearings should also refer to available assistance in its Notice of Hearings if ICC decides to investigate a case set for oral hearing.

Agency Comments

In their official oral comments on the draft report, ICC officials stated that ICC is considering our recommendation that it modify its regulations to require its Office of Public Assistance to notify rail-user communities of the availability of ICC assistance when railroads first notify ICC of their intent to abandon a branch line. ICC has not decided to implement the recommendation because it has yet to determine the additional workload that would be created or the extent of public benefit that would be derived by offering assistance earlier in the abandonment process.

ICC officials also noted in their comments that our description of shippers' difficulties in the abandonment process is consistent with ICC's experiences in assisting protesters. Shippers unfamiliar with the abandonment process, according to ICC officials, cannot use the process as effectively as parties who have previously participated in abandonment proceedings.

Shippers' Perceptions of the Effects of Railroad Abandonments on Their Communities and Businesses

Interviews with community rail users and our analysis of shipper and farmer survey responses indicate that most abandonment protesters who once relied heavily on rail freight service have found trucks to be an available substitute. However, many shippers believed the shift to trucks resulted in an increase in their shipping costs. The average of increases reported was about 19 percent. Our survey also indicated some cases of severe hardship suffered by shippers that had lost rail service. The most severe hardships appear to have been incurred by shippers of bulk commodities such as grain and fertilizer, which could not be easily transported by trucks.

Shippers Surveyed Nationwide Postabandonment

We obtained public officials' and shippers' views on the effects of rail abandonments on their communities and shipping operations. It was not within the scope of this review to validate the perceptions of those surveyed, nor did we independently evaluate the effects of rail abandonments on rail-user communities or their businesses. We do, however, present the results of studies conducted by ICC and independent researchers regarding the impact of rail abandonments on communities and rail users. Both the ICC study and the independent research report results similar to results we obtained from our survey.

Our questionnaire survey of shippers' perspectives focused on (1) the use and level of satisfaction with rail service prior to the abandonment and reliance on alternative modes of transportation after the abandonment, (2) the impact of the abandonment on the shippers' shipping or other costs, (3) the need to relocate the shipping firm as a result of the abandonment, and (4) the financial stability of shipping operations after the abandonment.

For our examination of shippers' perspectives, we relied primarily on the responses of persons who identified themselves as shippers and/or independent business persons in our survey of protesters. Fifty-four of the 153 protesters responding to our survey classified themselves as independent shippers or receivers or representatives of a single independent shipper or receiver. The survey found that these protesters shipped a variety of commodities, including grain (11 shippers), chemicals/fertilizers (11 shippers), lumber/wood products (7 shippers), and

coal (4 shippers). The remaining shippers indicated that they shipped a variety of other commodities.¹

Dissatisfaction With Rail Service Prior to the Rail Abandonment

Before the abandonment, 36 of the 54 shippers reported great reliance on rail transportation, according to our survey. By comparison, only 15 shippers indicated great reliance on trucks prior to the abandonments.

Rail users we interviewed in Minnesota told us that railroads often deferred maintenance and reduced services on a rail line long before they initiated the formal abandonment process. Poor maintenance resulted in broken rail ties, which caused trains to move slowly or derail. This has been characterized as a "de facto" abandonment. Industry analysts, however, note that railroads sometimes defer maintenance and capital expenditures on nonprofitable or uneconomical branch lines in an effort to continue service. Thirty-seven percent of the protesters—including state and local officials—reported dissatisfaction with track condition prior to the abandonment and 27 percent were satisfied. Eighteen percent of the protesters said they were neither satisfied nor dissatisfied, and 18 percent did not respond.²

About 41 percent of the protesters were satisfied with the timeliness of rail car service prior to the abandonment, while about 29 percent indicated they were not satisfied, 12 percent said they were neither satisfied nor dissatisfied, and 18 percent did not respond. Nearly 37 percent of the protesters were satisfied with the availability of rail cars prior to filing their protest to the abandonment, about 29 percent were dissatisfied, 16 percent were neither satisfied nor dissatisfied, and 19 percent did not respond.

After an abandonment shippers overwhelmingly shifted from use of railroads to trucks. At the time of our survey, 34 of the 54 shippers reported great reliance on trucks, while only 8 shippers reported great reliance on rail service, presumably provided by another carrier on a neighboring track.

¹Since shippers represent a subgroup of our survey sample, it is not possible to generalize these results with an acceptable level of precision. All survey findings regarding this subgroup of the sample represent only the views and experiences of the respondents.

²This and following discussions of percentages may not equal 100 because of rounding.

Half of Shippers Noted Increase in Shipping Costs

The effect of an abandonment on transportation costs is of great concern to shippers. The relative cost of transportation by rail and truck for individual shippers depends, of course, on the distance of the shipment, commodity characteristics, and location of the nearest point of loading/unloading. Since the scope of this review did not include an economic analysis of the effects of abandonment, we did not control for these specific factors. For example, we did not control for the effects of inflation or changed economic conditions on any reported increase in shipping costs.

According to our survey, 29 of the 54 shippers stated that their shipping or other costs increased as a direct result of the abandonment, while 6 of the 54 shippers stated the abandonment had negligible effect on their shipping costs. Two shippers were uncertain about the effect on their shipping cost, and one shipper reported a decrease. Sixteen shippers did not respond to this question. The average of all increases reported was 19 percent.

Shippers of Bulk Commodities Likely to Relocate Shipping Facilities

Shippers of agricultural products frequently use grain elevators, which serve as collection, storage, and shipping facilities, situated along branch lines. When one of these branch lines is abandoned, shippers located along the branch lines must ship their goods, generally by truck, to another, usually larger, grain elevator located on operating rail lines. Shippers that receive most or all of their grain from larger elevators are able to take advantage of unit-train services geared to large-volume shipments. Unit-train service provides low-rate shipping to multiple-car trains that originate and terminate at the same locations.

Results of our survey generally indicate that as a direct result of the abandonment, some shippers, especially shippers of grain, fertilizer, and other bulk commodities, found it necessary to relocate or modify their shipping and/or receiving facilities in order to adjust for loss of rail service.

We also asked the shippers about specific changes they may have made in their shipping/receiving patterns after the abandonment. Sixteen of the 54 shippers reported that they purchased new equipment, modified equipment or facilities, or bought facilities in a different location to adjust to the loss of rail service. These shippers indicated that they transported bulk commodities such as fertilizer, grain, lumber, and iron/steel. Twenty-four of the shippers found that no additional equipment

or modification of the existing facilities was necessary for continued operation. The remaining 14 shippers did not respond to this question.

In addition to questions about their need to change shipping facilities, we asked shippers if they had to move their businesses because of the loss of rail service. Thirty-one of the 54 shippers did not move their business or any part of their business from the location near the abandonment to some other location. Twelve of the shippers who shipped commodities like grain, fertilizer, lumber, and steel did, however, relocate their businesses. Seven of these shippers cited the abandonment as the major reason for their move, and the remaining five said the abandonment was a small or noncontributing factor in their decision to move. Eleven of the 54 shippers did not indicate whether relocation was necessary.

Financial Stability of Shipping Operations

Our survey results found that 27 of the 54 shippers had gross sales in excess of \$1 million. Twenty-two shippers reported that their market share remained the same after the abandonment while 16 reported a decrease in market share as a direct result of the abandonment. The remaining 16 shippers did not indicate whether the abandonment affected their market share.

While most shippers indicated that the abandonment did not require a change in the number of employees, a few shippers stated that the abandonment resulted in a loss of jobs at their firms. For example, 27 of the 54 shippers did not believe the abandonment caused any change in the number of employees on their payrolls while 6 shippers stated they did not hire as a result of an abandonment. Eight of the shippers indicated that employees had been laid off as a direct result of the abandonment. These shippers laid off anywhere from 2 to 100 employees. Four of the eight shippers reporting layoffs—one chemical/fertilizer, one coal, one scrap metal, and one lumber shipper—said they laid off all of their employees. Thirteen shippers did not respond to questions concerning their employee profiles.

**ICC Study and
Independent Research
Found No Significantly
Negative Impacts on Rail
Users**

In 1985 ICC studied the impact of selected abandonments that had occurred between 1981 and 1983. ICC's review consisted of interviews with state, county, and community leaders and shippers affected by 16 rail line abandonments across the country. All 16 abandonments had been protested by shippers and/or community leaders and investigated by ICC. ICC found that the impact of the abandonments in terms of business closings, job loss, and industry hardships did not appear to have been significant. We did not independently validate the ICC survey.

We examined the results of several studies of the impact of rail abandonments on communities and shippers conducted by independent researchers. The research indicated similar results: for the most part communities and former rail users have been able to deal with the impacts of railroad abandonments. Researchers note that the affordability and the availability of transportation alternatives mitigate the effects of abandonments. The research does, however, acknowledge that some shippers may not have been able to absorb the costs of adjusting to alternative rail or truck transport.

ICC found in its interviews with 47 shippers that some shippers had diverted their shipments from rail to trucks prior to the abandonment. Inadequate or diminished rail service had necessitated shifts, according to the shippers. Even though these shippers found trucking services more expensive than rail, trucks were able to meet shippers' needs. Slightly more than one half of the interviewed shippers reported that their shipping rates increased after the abandonment.

According to the studies we examined, the cost of alternative modes of transport is a significant determinant of the severity of impacts felt by shippers. Researchers found that shipping costs increased as a result of the abandonment. The research also indicated that such costs were prohibitive for some but not most shippers.

According to independent researchers, feed, fertilizer, and coal shippers, who are bound to railroads because of the bulky nature of their shipments, generally are most vulnerable to adverse impacts. Usually these shippers are affected by increased shipping costs and, where possible, the need to modify shipping facilities to accommodate truck transport. Consistent with our interviews in North Dakota and ICC's survey results, the studies we examined show that shippers of grain, for example, can often reorganize their operations to take advantage of more efficient transportation alternatives, such as consolidated grain shipments.

Farmer-owned cooperatives ship high-volume shipments enabling utilization of larger grain elevators and cheaper unit-train rates. Some grain shippers we interviewed in North Dakota felt that the increased use of unit-train rates by farmers created a more competitive shipping environment.

ICC reported that a number of grain shippers found it necessary after the abandonment to transport their grain from the elevator to a rail-car loading facility by truck. These facilities were located on rail lines other than where the shipper routinely stored and received grain but where rail service was still available. These shippers typically compensated for the associated increases in shipping cost by lowering the price they paid to growers of grain. Our survey also found that shippers of agricultural products, particularly farmers, made significant adjustments by either changing points where they delivered and/or received goods, purchasing new equipment, or modifying existing facilities.

While ICC found that no businesses had closed and no industries had relocated, 33 of 47 interviewed shippers (70 percent) reported some adverse effects on their businesses as a result of the abandonments. Our survey indicated that 8 of 54 shippers (including grain, fertilizer, coal, and lumber shippers) had laid off some or all of their employees, and 16 shippers reported a decrease in their market shares after the abandonment. (Again, our review was not designed to isolate the extent to which the abandonment was the sole cause of any change in the financial stability of shipping operations.)

Civic leaders and elected officials interviewed by ICC reported minimal impacts of abandonments on communities. Of most significance was the perception by these individuals that their communities' abilities to attract new industry in the absence of rail service would be reduced. In one community, ICC found the development of a 140-acre industrial park had actually been halted by an abandonment.

In the course of our review, we were told by community officials in Minnesota that a pole manufacturer terminated its business because the poles could not be shipped by truck. In both Jud and Ellendale, North Dakota, community officials and shippers told us they feared that loss of rail service would negatively affect their formerly rail-dependent communities. However, no officials interviewed indicated that businesses had closed in either community as a direct result of the abandonments.

Chapter 4
Shippers' Perceptions of the Effects of
Railroad Abandonments on Their
Communities and Businesses

ICC found that industries in its study locations generally remained healthy. According to one author, other economic factors are more responsible than branch line service for shaping the future of any local economy.

Railroad Abandonment Activity

Table I.1: Railroad Abandonment Activity by Fiscal Year (For Railroads Other Than Conrail and Exemptions)

Fiscal year	Mileage filed for	Mileage granted	Mileage denied
1970	1,762.0	1,782.0	64.9
1971	3,142.3	1,286.6	39.5
1972	3,978.4	3,457.7	47.9
1973	4,436.3	2,428.3	153.5
1974	2,246.5	528.5	16.7
1975	3,308.8	708.2	0
1976	1,634.8	1,788.8	77.5
1977	1,916.2	2,499.5	422.1
1978	3,378.7	2,416.5	110.5
1979	4,419.2	2,873.4	798.5
1980	4,784.5	2,321.5	96.6
1981	3,232.0	2,914.0	12.2
1982	N/A	3,100.0	47.0
1983	3,160.0	2,162.0	28.0
1984	2,659.0	2,032.0	543.0
1985	2,777.6	2,015.3	102.9

Sources: ICC annual reports, fiscal years 1971 through 1984, and the Rail Section, Office of Proceedings, ICC.

Table I.2: Abandonment Activity for Conrail by Fiscal Year

Fiscal year	Mileage filed	Mileage granted
1982 ^a	2,360	1,983
1983 ^b	367	119
1984 ^c	1,208	1,024
1985 ^d	100	328

^aSource: 1982 ICC Annual Report, p. 38.

^bSource: 1983 ICC Annual Report, p. 39.

^cSource: 1984 ICC Annual Report, p. 39.

^dSource: Rail Section, Office of Proceedings, ICC.

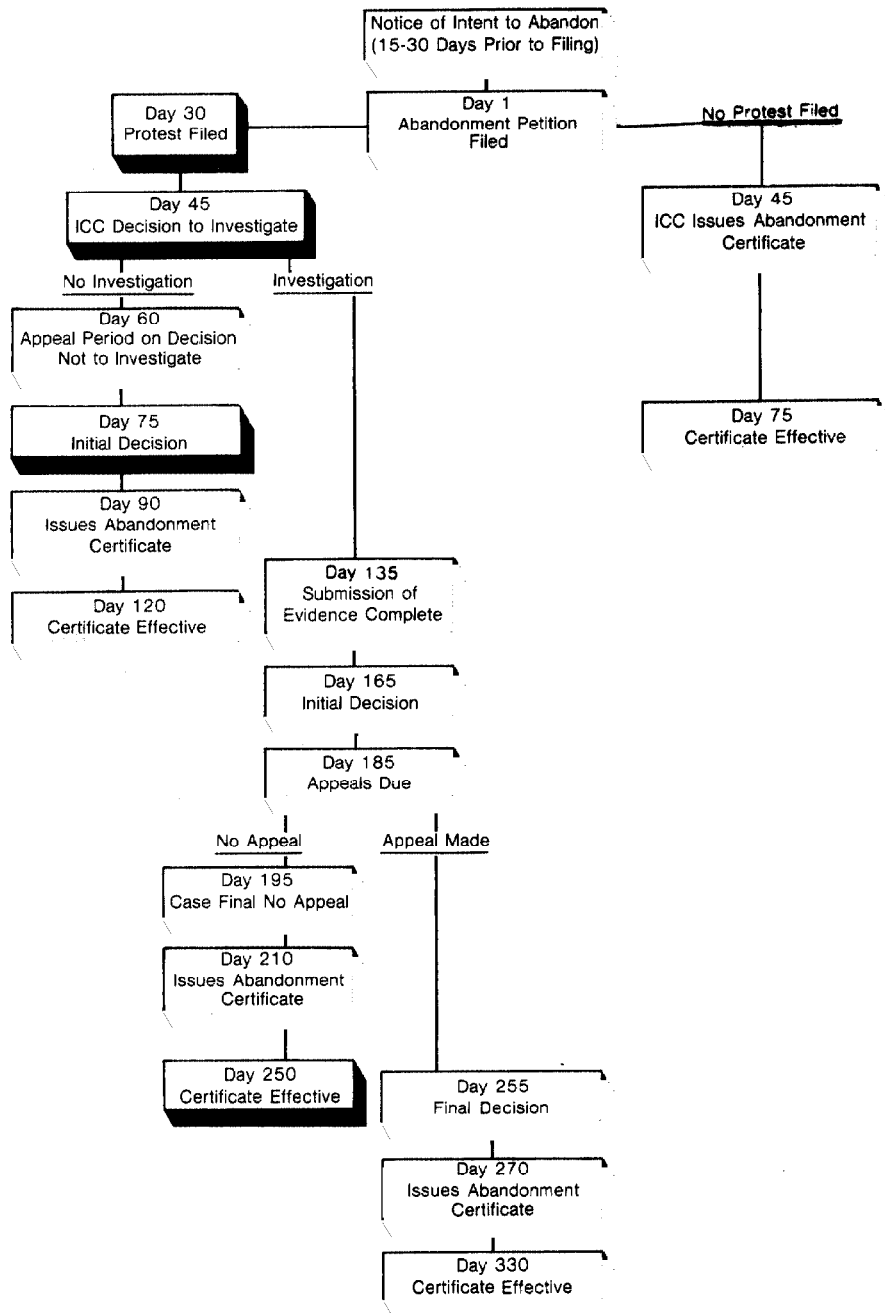
Table I.3: Abandonment Activity for Exemptions by Fiscal Year

Fiscal year	Mileage filed	Mileage granted
1984 ^a	1,197	917
1985 ^b	1,153	1,097

^aSource: 1984 ICC Annual Report, p. 40.

^bSource: Rail Section, Office of Proceedings, ICC.

ICC's Rail Abandonment Process



Note: "Day" indicates the number of calendar days from the day the railroad filed an abandonment petition.

Sampling Errors for Selected Variables in Protester Survey

Numbers in percent

Variable	Frequency of respondents	Sampling error (%) at the 95-percent confidence level
Protester characteristics:		
Shippers	35	5.7
Public officials	42	6.5
Group representatives	17	5.2
Assistance available from ICC:		
Protesters aware	31	7.3
Protesters not aware	69	7.2
Assistance received from:		
State authorities	24	10.4
Local authorities	9	6.0
Private attorneys	24	9.4
Dissatisfaction with aspects of the abandonment process:		
Notification of proposed abandonment	28	6.0
Time allowed to file a protest	26	5.4
Availability of financial data	48	6.9
Time allowed to compile evidence	38	6.6

Note: Variables that have the same frequency of respondents may have different sampling errors because of differences in total number of respondents and nonrespondents to questions posed.

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