

STATEMENT OF JAMES M. BEGGS, UNDER SECRETARY, DEPARTMENT OF TRANSPORTATION
BEFORE THE SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS OF THE SENATE COMMITTEE
ON BANKING AND CURRENCY REGARDING THE URBAN MASS TRANSPORTATION PROGRAM LEVEL
FOR FISCAL YEAR 1971, MARCH 4, 1971.

Mr. Chairman and Members of the Committee:

I appreciate this opportunity to appear before you to explain the circumstances leading to the decision to conduct the Urban Mass Transportation program at a \$400 million level in fiscal year 1971. You have indicated that many of our Nation's governors, mayors, and the general public have expressed their concerns to Congress about the funding levels for Urban Transportation programs for fiscal year 1971. It would appear that there are two causes behind this concern: one is the authorization level of \$3.1 billion set in the Urban Mass Transportation Assistance Act of 1970 passed on October 15, 1970; a second is the difference between the \$600 million program level approved by the 91st Congress shortly before adjournment and the \$400 million level for fiscal year 1971 set in the President's 1972 budget.

With regard to the \$3.1 billion obligation authority, it is important to recognize that Congress made it very clear that this amount would be applied over a five-year period commencing in fiscal year 1971 and extending through fiscal year 1975, and that these moneys would be programmed in an orderly fashion consistent with good management.

At this time I would like to discuss the three primary factors which influenced our decision to conduct this program at the level indicated in the President's 1972 budget.

Firstly, it must be recognized that until January 2, 1971 the Urban Mass Transportation program level for fiscal year 1971 was \$214 million.

This \$214 million figure was the limitation imposed by the continuing resolution then in effect, which was based on the action of the Congress in providing the Department's appropriations for fiscal year 1970 which included an advance appropriation to UMTA for fiscal year 1971. By law the UMTA program could not exceed this limitation until further action of Congress authorized a higher program level. This action was not finally taken until January 2, 1971, with the enactment of the current Joint Resolution (P.L. 91-645, H.J. Res. 1421), which provided continuing appropriations for the Department of Transportation. It had the effect of raising the UMTA program limitation for 1971 to \$600 million. In brief, the Urban Mass Transportation program was operated for the first six months of fiscal year 1971 at the required level of \$214 million for the fiscal year.

Secondly, the Urban Mass Transportation Assistance Act of 1970 also required the Department to initiate several new major procedural steps in the approval of projects. These included, most significantly, a requirement that public hearings be held and the establishment of additional safeguards relating to environmental quality. Pending the passage of this Act, it was impossible to forecast the outcome of these various amendments and consequently there was some delay in the filing of final applications with the Administration by the state and local authorities and in the subsequent processing of these applications. The review of these applications has since been further delayed, in many instances, due to the insufficiency of the environmental data submitted. In these cases, the applicant has had to gather more information, such as comments by the State governments, and in many cases has been instructed to hold public hearings. In addition, the Administration must coordinate the

final application with other Federal agencies pursuant to the provision of the Urban Mass Transportation Assistance Act of 1970. It also should be noted that Federal and Departmental guidelines on the National Environmental Policy Act of 1969 were not finalized until shortly before the Urban Mass Transportation Assistance Act of 1970 became law.

In summary, the need to educate applicants, and to familiarize ourselves, on the procedural requirements of the National Environmental Policy Act and the new public hearing requirement in the amended Urban Mass Transportation Act, have slowed down the submission of applications and increased the time necessary to process them.

Finally, we must point out that personnel resources available to the Urban Mass Transportation Administration have been too few in number. The testimony of the Department before the Appropriations Committees, in connection with the 1971 budget, clearly indicated that a significant increase in staff was needed not only for the 1971 program then authorized, but also for the expanded program proposed under the Urban Mass Transportation Legislation which was under consideration by the Congress at that time. Since we have been operating under the usual form of continuing resolutions it has not been possible to obtain the staff resources requested in the 1971 budget. On January 2, 1971, enactment of P.L. 91-645 permitted the addition of staff resources needed for the \$214 million program level. The staffing problem should be alleviated through the proposed 1971 supplemental appropriation for UMTA set forth in the President's budget for 1972. Thus, the timing of the passage of the Urban Mass Transportation Assistance Act of 1970 and the lack of authority to hire a sufficient number of employees hampered our ability to properly process, review

and approve applications for a program level of more than \$400 million in fiscal year 1971.

In conclusion, Mr. Chairman, it was our considered judgment that in view of the foregoing a program level of \$400 million was our best estimate of program level that could be orderly achieved during fiscal year 1971.

That concludes my prepared statement and at this time I shall be pleased to answer any questions which the Committee may have.

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U. S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20590

STATEMENT OF JAMES M. BEGGS, UNDER SECRETARY OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS, HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, REGARDING THE PENN CENTRAL RAILROAD, WEDNESDAY, MARCH 10, 1971.

Mr. Chairman and members of the Committee:

I am pleased to appear before you today to discuss the Department's activities under the Emergency Rail Services Act of 1970, particularly with respect to the Penn Central Railroad.

Before examining Penn Central's situation, I would like to review briefly the general earnings picture in the rail industry. The preliminary figures for railroad earnings in 1970 vary little from what we had expected. While gross operating revenues reached a record high of \$12 billion, the increase in expenses outpaced revenues. We believe the final figures will show net railway operating income of about \$500 million, as compared to \$655 million in 1969.

Net ordinary income is expected to be about half the \$514 million of 1969 and return on investment will decline to 1.76, the lowest since 1938.

We are hopeful that both traffic and earnings will improve in 1971. However, there is no discernible trend in either from the figures available for January and February. Any optimism is contingent on many imponderables.

Revenue will increase in 1971 as a result of freight rate increases and hopefully major gains in carloadings and revenue ton miles, but

operating expenses will continue to climb. The recent wage settlements and those yet to come, plus increased material costs, are major factors influencing any projection of recovery or further decline in 1971.

At this point, I am not optimistic that any really significant improvement in the industry's revenue-costs ratio will occur in 1971. Therefore, for those roads in reorganization or on the brink of bankruptcy, the picture continues to look very bleak.

The Penn Central witnesses have given you their latest estimates of cash needs and cash resources. I think it is clear to all that the railroad is running today because this Committee and the Congress acted to provide the emergency loan guaranty assistance.

On January 7, 1971, the trustees filed an application with the Department under the provisions of the Emergency Rail Services Act of 1970 for the guaranty of trustee certificates in the principal amount of \$110 million. The purpose of the guaranty was to meet payroll and other expenses necessary to prevent cessation of essential transportation services. The trustees advised that without the guaranty of certificates they would have a cash deficit of \$5.3 million by the end of January which would necessitate the termination of service. On January 11, 1971, we advised the trustees that, in addition to information contained in the loan guaranty application, we would need to examine alternative means of generating cash, including the factoring of accounts receivable,

equipment refinancing, the prospects of divestment of affiliated companies, and the possible sale of real estate. In other words, all sources of funding had to be fully explored. This material was furnished in a supplemental submission received in the Department on January 12, 1971. We had analyzed Penn Central's actual cash flows between July 1 and December 31, 1970, and its forecasted cash flows through March 31, 1971, and determined that a minimum operating cash balance of between \$20.1 and \$22.3 million should be maintained to assure operational liquidity.

After examination of all relevant data, and after consulting with the Interstate Commerce Commission and other executive departments, we concluded that the guaranty of trustee certificates in the principal amount of \$100 million was justified. Accordingly, the Secretary approved the guaranty of trustee certificates, subject to the terms and conditions set forth in Exhibit A to the Agreement on Terms and Conditions. A copy is attached to my testimony, and I request that it be made a part of the record.

The agreements for the guaranty and sale of the certificates were executed on January 26, 1971. The proceeds from the sale were placed in short-term Government securities and bank certificates of deposit and made immediately available to the trustees to be drawn out as needed. The trustees are required to give the Secretary advance notice

of their intention to make a draw down and to consult with him regarding the need for the draw down.

The trustees drew down \$15 million on January 28, 1971, which was applied to cover payroll and associated payroll costs due on January 28, 29, and February 2, 1971. On February 16, 1971, the trustees were authorized to draw down \$50 million to meet the 1970 retroactive wage increase and associated payroll costs. These funds were disbursed to employees beginning on February 16, 1971.

Under the terms and conditions, the trustees were required to submit, within 30 days from the execution of the guaranty agreement, a plan for the sale of nontransportation assets of the company and its corporate subsidiaries. This would include security holdings. That plan was due on February 25, 1971. On February 23, 1971, we received a telegram from the trustees requesting a postponement of the filing date. An extension of 18 days, from February 25, 1971, to March 15, 1971, was granted.

A plan for abandonment of uneconomical lines of railroad was also requested by February 25, 1971. The trustees submitted Phases I and II of a three-phase plan outlining proposed abandonments. Phase I consists of 16 lines or segments of line in four states and one province in Canada, consisting of 114 route miles varying in length from one or two miles up

to 60 miles. Applications for abandonment of these lines have already been filed with the Interstate Commerce Commission and the Transport Commission of Canada.

Phase II of the program consists of 67 lines or segments of line comprising a total of 705 route miles. The trustees have petitioned the Reorganization Court for authority to abandon 63 segments comprised both of Penn Central and leased line ownership, and in the interim to file applications with the Interstate Commission for certificates permitting such abandonments. Appropriate abandonment applications for these 63 segments, as well as four additional segments of affiliated companies, are being prepared and are expected to be filed with the Commission this month.

The trustees have advised that a study is underway to determine the lines which will be included in Phase III of the immediate abandonment program. This determination involves analysis of approximately 2,662 route miles. It is expected that the specific content of Phase III will be decided by April 30, 1971, and a request for authority filed with the Reorganization Court. Subsequent phases will be developed and processed promptly. The trustees estimate that the total program will ultimately result in a reduction of about 5,000 route miles, or 40 percent of the present total.

As to Penn Central's future cash requirements, it is anticipated that the \$100 million will carry Penn Central through the third quarter of 1971. We are carefully watching Penn Central's operations and its cash flow and will keep the Committee fully advised.

The Central Railroad of New Jersey and the Boston and Maine also have filed applications for guaranties of trustee certificates in the principal amounts of \$10 million and \$12 million, respectively. These applications are now under consideration and it is expected that decisions will be reached within the next two weeks.

Mr. Chairman, this completes my prepared statement. I shall be pleased to answer any questions the Committee may have.

AGREEMENT ON TERMS AND CONDITIONS

This Agreement is made this 26th day of January 1971, by and between the Secretary of Transportation of the Department of Transportation of the United States (the Secretary) and George P. Baker, Richard C. Bond, Jervis Langdon, Jr., Willard Wirtz, as trustees of the property of Penn Central Transportation Company, as trustees and not individually (the trustees).

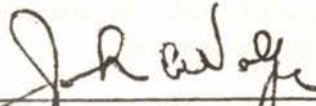
The trustees have applied to the Secretary, pursuant to Section 3(a) of the Emergency Rail Services Act of 1970 (P. L. 91-663) (the "Act"), for a guaranty of their Certificates in a principal amount not to exceed \$100 million. The Secretary has made the findings required by Section 3(a) of the Act and, on this date, is entering into a Guaranty Agreement with the trustees.

The Secretary has established certain terms and conditions to be observed by the trustees as a condition to the making of the guaranty, said terms and conditions being attached hereto and made a part hereof as Exhibit A. Pursuant to the authority granted them by Order No. 124, dated January 13, 1971, in proceedings for the reorganization of Penn Central Transportation Company under Section 77 of the Bankruptcy Act in the United States District Court for the Eastern District of Pennsylvania (the reorganization court), the trustees are authorized to comply with said terms and conditions.

In consideration of the foregoing and of the agreements made herein, the parties agree as follows:

1. The trustees shall observe the terms and conditions set forth in Exhibit A hereto, subject to the jurisdiction of the reorganization court over specific actions of the trustees under the provisions of the Bankruptcy Act.
2. The guaranty fee required by Section 3(b) of the Act shall be $\frac{3}{8}$ of one percent of the principal amount of the Certificates guaranteed. The fee shall be payable, pro rata, on the maturity dates, or cancellation following redemption, of the Certificates guaranteed. In the event that such sum shall not be paid, the Secretary may treat such amount not paid in the same manner as he may treat amounts paid by him on account of outstanding Certificates pursuant to Section 3(b)(4) of the Act.

3. Prior to notifying parties in interest of their intention to withdraw proceeds from the sale of their Certificates, the trustees shall advise the Secretary of their intention to apply for said withdrawal and shall consult with the Secretary thereon.
4. Nothing herein shall be deemed to affect the rights of holders of trustee Certificates issued pursuant to Order No. 124 of the reorganization court and to the Guaranty Agreement of January 26, 1971.


Secretary of Transportation

George P. Baker
Richard C. Bond
Jervis Langdon, Jr.
Willard Wirtz
Trustees

By: 

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

EXHIBIT A

Terms and Conditions to be Observed by the Trustees
of the Property of Penn Central Transportation Company

Section 3 of the Emergency Rail Services Act of 1970 ("Act") authorizes the Secretary of Transportation to guarantee the timely payment of principal and interest on certificates issued by the trustees.

Section 3(b) of the Act directs the Secretary to establish certain conditions precedent to a guarantee. Section 3(d) of the Act further authorizes the Secretary to prescribe such other terms and conditions as he deems appropriate.

Accordingly, the following terms and conditions are hereby prescribed:

(1) The proceeds of the sale of certificates guaranteed under this Act will be used solely for meeting payroll and other expenses which, if not met, would preclude continued provision of essential transportation services by the company.

(2) Other revenues of the company will be used to the fullest extent possible for such expenses.

(3) Proceeds from the sale of assets will be devoted to the fullest extent possible, to the provision of essential transportation services by the company.

(4) In the event of actual or threatened cessation of essential transportation services by the company, the Secretary shall have the option to procure by purchase or lease trackage rights over the lines of the railroad and such equipment as may be necessary to provide such services by the Secretary or his assignee, and, in the event of a default in the payment of principal or interest as provided by the certificates, the money paid or expenses incurred by the United States as a result thereof shall be deemed to have been applied to the purchase or lease price. The terms of purchase or lease shall be subject to the approval of the reorganization court and the operation over the lines shall be subject to the approval of the Commission pursuant to the provisions of section 5 of the Interstate

Commerce Act, but in no event shall the rendition of services by the Secretary or his assignee await the outcome of proceedings before the reorganization court or the Commission.

(5) The trustees shall, prior to the last day of the month following the first full month following execution of the Guarantee Agreement, and prior to the last day of the month following each month thereafter, until otherwise directed by the Secretary, furnish the Secretary six copies of a monthly cash flow statement and a monthly income statement.

(6) The trustees shall, on March 31, 1971, and each calendar quarter thereafter, furnish to the Secretary six copies of a balance sheet accurately reflecting the financial condition of the company together with such supporting documents as the Secretary may require.

(7) The trustees shall, within three months from the date of execution of the Guarantee Agreement, submit to the Secretary their plan for assuming and exercising such control of corporate subsidiaries of the company as necessary to insure the greatest financial benefit to the company and facilitate its emergence from reorganization.

(8) The trustees shall, within 30 days from the date of execution of the Guarantee Agreement, submit to the Secretary a plan for the sale of non-transportation assets of the company and its corporate subsidiaries (including, but not limited to, security holdings).

(9) The trustees shall, within 30 days from the date of execution of the Guarantee Agreement, submit to the Secretary a plan for the abandonment of lines of railroad of the company which are uneconomical and, in their judgment, not required by the public interest.

(10) With respect to conditions 7, 8, and 9 above, the trustees shall initiate and diligently pursue such actions as may be required to carry out the plans submitted and any recommendations of the Secretary with respect thereto.

(11) The trustees shall permit the Secretary, as necessary, to inspect and copy all accounts, books, records, memorandums, correspondence, and other documents of the company concerning any matter which may bear upon (1) the ability of the company to repay the certificates guaranteed within the time fixed therefor, (2) the interest of the United States in the property of the company, and (3) to insure that the purpose of the Emergency Rail Services Act of 1970 is being carried out.

Date

January 13, 1971

(John A. Volpe)

Secretary of Transportation
Department of Transportation of the
United States, as Guarantor