INVESTIGATION AND SUSPENSION DOCKET NO. 8720[1]

ICING SERVICES, U. S. RAILROADS

Decided March 13, 1973

Upon investigation, rail carrier proposals to discontinue icing, re-icing, salting, and resalting services found just and reasonable, and proceedings discontinued, subject to terms and conditions set out in this report and order.

A. Alvis Layne, Leo C. Franey, Charles B. Evans, Harry L. DeLung, Jr., John MacDonald Smith, Theus J. Sheil, Donald A. Brinkworth, J. R. Davis, Robert S. Davis, Robert B. Batchelder, James L. Howe III, Peter J. Hunter, Jr., Donal L. Turkal, and *Albert W. Laisy* for respondents.

Donald C. Meaney, M. W. Wells, Jr., Frank C. Brooks, Jacob P. Billig, Charles H. Wickman, Frederic L. Wood, Fred H. Tolan, Thomas C. Dorsey, Ernest Falk, Durward Seals, Dickson R. Loos, Richard L. Price, Carl L. Haderer, Kenneth H. Vail, James A. Shearer, T. D. Jones, Olay Ekrom, John S. Fick, Tobias Naftalin, Harold M. Carter, Barry Roberts, Oscar D. Montgomery, Ronald K. Kolins, John P. Mathis, J. Calvin Simpson, and *Harold M. Carter* for protestants.

REPORT AND ORDER OF THE COMMISSION

BROWN, *Commissioner:*

Due and timely execution of our functions under section 15(7) of the Interstate Commerce Act imperatively requires the omission of the Administrative Law Judge's report and recommended order. Requested findings not discussed in this report nor reflected in our findings have been considered and found not justified.

[1]This report also embraces I. & S. Docket No. 8707, Refrigeration Provisions, Florida East Coast Railway; and was consolidated with docket No. 20769, *Charges For Protective Service To Perishable Freight,* which was reopened by order of Appellate Division 1, served June 30, 1972, "to the extent it involves matters raised in Investigation and Suspension Docket No. 8720, *Icing Services, U. S. Railroads.*"

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In the title proceeding, by schedules filed to become effective April 1, 1972, the Nation's railroads, the respondents herein (except the Burlington Northern, Inc., the Chicago, Milwaukee, St. Paul and Pacific Railroad, and the Florida East Coast Railway Company), proposed to cancel icing, re-icing, salting, and resalting services (except when such services are performed by the shipper), as detailed in rail schedules published in supplements 128 and 129 to I.C.C. 37 of H. R. Brandl,[2] agent, Chicago, Ill. Upon protests by numerous shippers, the Commission, Board of Suspension, by order dated March 29, 1972, suspended the operation of these schedules to and including October 31, 1972, and instituted this investigation. Subsequently, the effective date of the schedules was voluntarily postponed to and including March 17, 1973.

In the embraced proceeding, by schedules filed to become effective on January 22, 1972, the Florida East Coast Railway Company (FEC) proposed to cancel the application of certain rules, regulations, and charges covering refrigeration service (as detailed in schedules published in supplements 121 and 124 to I.C.C. 37 of H. R. Brandl, agent, Chicago, Ill.), and to discontinue icing, re-icing, salting, and resalting services, except when such services are performed by the shipper. Upon protests by several shippers, the Commission, Board of Suspension, by order dated January 19, 1972, suspended the operation of these schedules to and including August 21, 1972, and instituted this investigation. Petitions filed February 4, 1972, requesting that the order of suspension be vacated, and for oral argument before division 2, were denied by order of March 23, 1972. Subsequently, the effective date of these schedules was voluntarily postponed to and including October 31, 1972. They became effective on November 1, 1972.

By orders dated March 23 and April 19, 1972, these proceedings were referred to an Administrative Law Judge for hearings, which were held in June and November at Washington, D.C., and Los Angeles, Calif. Prior thereto respondents were required to file with the Commission three copies of their cost studies and any other studies that they expected to submit into evidence at the hearings, and at the same time, serve copies of said studies upon all protestants,[3] or persons in support of the protestants, indicating where the underlying workpapers would be available for inspection.

[2]The publishing agent, through the National Perishable Freight Committee (NPFC), represents the following carlines: American Refrigerator Transit Co. (ART), The Atchison, Topeka and Santa Fe Railway (Santa Fe), Fruit Growers Express (FGE), Merchants Despatch Transportation Corporation (MDT), and Pacific Fruit Express (PFE).

[3]Protestants include, among others, George A. Hormel Company, Oscar Mayer & Company, John Morrell & Company, The Rath Packing Company, Wilson & Company, Inc., Wilson

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All of the respondents contend that ice refrigeration cars (hereinafter sometimes referred to as "bunker cars," or "RS cars") have been made obsolete by the mechanical cars; that the existing ice cars and icing facilities have deteriorated to the point that they must be retired soon; that this service is provided at less than cost; and that they have sufficient mechanical cars available to meet all reasonable shipper needs. On the other hand, the protestants allege that it is too soon to abandon these needed bunker cars now; that the carrier action is premature; that some perishable commodities cannot move economically in the larger mechanical cars; and that the respondents have not demonstrated that they will be able to serve shipper demands without the ice cars.

I. & S. No. 8707

In this proceeding FEC proposes[4] to cancel all refrigeration provisions in the Perishable Protective Tariff No. 18, I.C.C. No. 37 relating to icing services on shipments moving in RS type cars on its line. The services include the charges for blocks of ice, supervision, bunker repairs, repairs to countertops, cleaning of cars, loss and damage expense, and switching to and from icing facilities. Under the proposed tariff provisions, this rail carrier will not supply icing or wet ice to cars nor will it re-ice cars for either outbound or inbound shipments of perishable commodities on its line. Hereinafter, the RS type refrigerated car will be used only in ventilation service[5] or in the event the shipper provides the initial icing itself. While such icing was being furnished on outbound shipments by FGE, shippers served by FEC do not oppose termination of this service. This respondent presently provides no icing on inbound shipments. Such icing is performed by inbound railroads and at the interchange point of Jacksonville, Fla.

(footnote 3 continued)
Certified Foods, Inc., Wilson-Sinclair Company, Wilson Beef and Lamb Company, Western Growers Association, Idaho Grower Shippers Association, Inc., Growers and Shippers League of Florida, State of Florida Department of Citrus, Florida Citrus Mutual, Florida Fresh Citrus Shippers Association, Florida Fruit and Vegetable Association, People of the State of California, The California Public Utilities Commission, The National Industrial Traffic League, Washington Potato Association, Idaho Potato Processors Association, Northwest Food Processors Association, Ore-Ida Foods, Inc., National Association of Food Chains, Northwest Horticultural Council, United Fresh Fruit and Vegetable Association, Sunkist Growers, Inc., Land O'Lakes Company, Kraft Foods, The Great Atlantic & Pacific Tea Company, U.S. Department of Agriculture, and the Kroger Company.

[4]As previously stated, these schedules became effective on November 1, 1972; however, for convenience they will be referred to as the proposed schedules.

[5]Ventilation service involves the manipulation of hatch covers and plugs of r ·ator cars and doors and windows of ventilator type boxcars to permit or prevent the pass· ·ough such openings.

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All equipment, both RS and MPS (mechanical protective service), as well as TOFC (piggyback service) is furnished to the FEC by Fruit Growers Express. FEC has a contract with Fruit Growers Express to supply all the required ice and icing service for RS car movements. Fruit Growers Express either furnishes the ice and icing services itself or contracts with private ice contractors to furnish the ice and services. The FEC is then billed by this carline for the actual cost or contractual charge plus a 6-percent return on investment. The FEC owns 4.84 percent of Fruit Growers Express. FEC's seasonal operation in the movement of perishable traffic starts around the first of October and continues through May, "sometimes up into the first or second week of June."

The principal commodities originating on the line of the FEC and moving in RS type car refrigeration include cabbage, celery, corn, cucumbers, escarole, lettuce, peppers, potatotes, tomatoes, fresh citrus, beans, other vegetables, and mixed shipments.

Protestants include Northwest Food Processors Association, The Washington Potato Assn., Idaho Potato Processors Assn., Ore-Ida Foods, Inc., and Idaho Growers Shippers Assn., Inc., all primarily concerned with the movement of potatoes. However, they submitted no evidence, although they did participate in the cross-examination of respondent's witnesses. This record, unrebutted, indicates that most potatoes do not move in RS type cars, but move by unregulated motor carriers, and that railroads are used only when no motor carrier service is available.

In its brief, certain protestants renewed a prior motion to strike respondent's cost study as improper and irrelevant. The objections go to the weight to be accorded the study, rather than to its admissibility. The motion is denied.

FEC advances the argument that mechanical refrigeration cars have rendered the RS car service obsolete. It also emphasizes that the cost of providing this icing service imposes an unreasonable cost burden that is already so high that any rate adjustment would be prohibitive. The bulk of the issue traffic presently is moving by unregulated truck.

The FEC has at its disposal sufficient mechanically refrigerated cars and trailers to move the perishable products now moving over its line in RS car service. Respondent has had an expression from FGE, from whom respondent rents its equipment, that presently there are about 1,500 mechanical refrigerator cars not being utilized in protective service. These 1,500 cars could be made available for the perishable movements which would round out to about 200 cars

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per week in addition to the cars that it now has. Thus, with this additional number of mechanical refrigerator cars available, FEC would be able to reasonably handle all the perishable traffic now moving over its line in RS type cars.

I. & S. No. 8720

As previously stated, in I. & S. No. 8720 virtually all railroads propose to discontinue icing services. Their presentation consists, among other matters, of (1) a showing that mechanical cars are better than ice cars and are preferred by shippers; (2) evidence that the ice cars have deteriorated to the point that they must be replaced; (3) a description of the extent of motor carrier competition; (4) a description of the state of existing icing facilities; and (5) experiences of various railroads who handle significant amounts of this traffic. A more detailed discussion of the evidence and contentions of the respondents is contained in appendix A.

Protesting shippers, for the most part, take the position that the tariffs under investigation should not be approved until respondents have affirmatively shown that they have available sufficient mechanical car equipment to handle the perishable traffic required to move by rail; that respondents' proposal must be rejected because it was published in violation of the Commission's outstanding order in *Charges for Protective Service to Perishable Freight,* 215 I.C.C. 684, entered June 2, 1936; respondents will be unable to meet their responsibility for transporting fresh perishables in customary weightloads upon elimination of their ice car fleet; and that while they recognize that eventually the RS cars will be completely phased out, they believe the rail carriers are endeavoring to accomplish too much too fast and that the carriers' timetable needs to be slowed down. A more detailed discussion of protestants' presentation is contained in appendix A.

Cost data.—A brief summary of costs for ice refrigeration has been made in appendix B, attached hereto, for movements from California, Arizona, and Florida. Only the respondents submitted such data, and protestants' participation extended only to cross-examination of the cost evidence as presented by the railroads. While the Commission has placed little or no reliance on costs in its findings and conclusions, nevertheless, some discussion thereof is warranted.

In spite of the numerous deficiencies pointed out by the protestants, as well as an inability to verify all of the cost evidence

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because of a lack of underlying working papers, there are sufficient reasons to believe that the current-day cost of providing icing service exceeds the charge being made by respondents in providing this service.

The reasonableness and accuracy of respondents' cost-revenue comparison of the icing services appearing in appendix B is, of course, dependent upon the development of the various cost elements of ice refrigeration, which were applied to the movements of the three carlines, judged to be representative of all the issue traffic. While the protestants are critical of the representativeness of the 1969 traffic study, we believe, based on this record, that an adequate sample of the flow of traffic was obtained from these carlines and railroads.

The principal infirmity in respondents' cost presentation lies not in the traffic study but in the unit costs developed by the carlines and participating railroads. These unit costs were applied to the traffic study to arrive at the revenue-cost comparisons shown in appendix B. These costs, because of certain deficiencies, are of limited value in determining the present day cost to respondents for performing this service. For example, respondents' method of factoring up a switching cost from 1956 to 1969 reflects an overall inflationary trend and is not necessarily related entirely to an increase in such costs; also the base switching cost factor used is at least 16 years old. Moreover, respondents' cost of supervision and inspection cannot be verified. On the other hand, in instances where ice is being purchased under contract, the record indicates that the cost of the ice alone generally exceeds the current tariff charge being paid by the shipper.

Discussion and conclusions.—The record herein supports the conclusion that the respondents in the title and embraced[6] proceedings have sustained their burden of proving that the proposed schedules are just and reasonable, and that they should be permitted to cancel their ice and ice refrigeration service. Clearly ice refrigeration in railcars is obsolete and should be replaced by mechanical protective service. The shippers themselves recognize that the ice car is obsolete and it is only a question of time when it is phased out. In fact the entire Commission recognized "the obsolescent, old style ice refrigerator car" in its order of September 5, 1972, Ex Parte No. 288, *Protective Service Charges—1972.*

[6]As stated earlier, in the embraced proceeding, the respondent's (Florida East Coast Railway) proposed schedules became effective on November 1, 1972.

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Arguments of protestants that the proposal should be rejected as being in violation of outstanding orders made in *Charges for Protective Service to Perishable Freight, supra,* are not persuasive. Our decisions reveal no intent to require that ice be the prescribed means of providing refrigeration service. The above-cited proceeding (dated June 2, 1936) was followed by *Charges for Protective Service to Perishable Freight,* 274 I.C.C. 751, 762 (1949), wherein the entire Commission observed that it was its duty to require that adequate protective service against cold be afforded, but that the carriers may use any facility or instrumentality that will accomplish that end.

Although protestants are concerned about "top icing," on this record it is clear that ice bunker cars will continue to be available for use by shippers for several years to come and the shippers will be free to initially top ice their shipments of certain vegetables, just as they do today. PFE will have 2,352 ice cars in service December 1, 1973, and respondents also plan to use these for heater and ventilation service. Moreover, most carlines permit shippers to apply top ice to commodities loaded in mechanical refrigerator cars. In any event, the record indicates (as can be seen in appendix C attached hereto) that re-top icing is declining as shippers are turning to mechanical cars—a superior means of protecting the product in transportation.

As noted, the mechanical cars are larger than the RS cars and can carry a greater amount of lading. However, protestants, in some instances, while expressing a preference for the mechanical cars, are unable to use the larger car and thus for that reason alone prefer the RS car. For example, the evidence shows there is no single receiver who can use more than 800 or 900 crates of broccoli at a time, and "nobody wants to buy 1,600 cartons of brussel sprouts." Respondents, on brief, explain that should inequities in line-haul rates appear, they will be promptly reviewed and corrected. They also state that the present demand for the ice bunker car may be the result of apparent distortions in certain line-haul rate structures which "have a reverse incentive." That is, there is an incentive to ship in the small cars because rates for the smaller shipments, translated to a per package or per carton basis, actually produce lower charges than if the shipper selects a larger car and ships a larger quantity at one time. In fact, shippers agreed that something appeared to be wrong in a rate structure which encourages small, rather than large, carload shipments. Western Growers estimated that 35 to 40 percent of the ice bunker car demand could be

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attributed to such situations, that the "reverse incentive" in the present rate structure encourages it to ship two small cars instead of one large mechanical car, but that "until such time as we have enough mechanicals, this situation exists and we have to live with it."

It is well known that charges to shippers for refrigeration service have not changed appreciably since 1956. The respondents stress (with some justification we believe), that the plea that smaller cars be kept in service is in reality a plea that the railroads continue to provide noncompensatory service where they are at an inherent cost disadvantage against their primary competition.

This plea for the smaller RS car, possibly needed in some instances, is not persuasive enough to justify cancellation of the schedules herein concerned. Moreover, the Commission is aware of the problem cited by certain shippers in marketing smaller quantities than the maximum load capacity of the mechanical refrigerator cars. In *Vegetables & Melons Bet. W. & Southwest, Midwest & S.*, 341 I.C.C. 597, 616 (1972), the entire Commission found that the failure of the carriers to make rule 66(a)[7] applicable to light-loading vegetables, as well as heavy loading vegetables, was unlawful. Failure to provide the rule for shippers of light-loading vegetables is unjustly discriminatory in violation of section 2 of the act in that different rates and charges would be assessed on like shipments moving in different size cars depending upon the car furnished by the carrier and not the car required and requested to transport the shipment. Respondents insist that when a revised proposal for these rates is filed, this concern of the shippers and of the Commission that adequate provision be made for shippers of small quantities will be fully taken into account, and that the action of the Commission in the above-cited proceeding "underscores the fact that these shippers will be appropriately protected in the forthcoming rate adjustments."

Protestants, in their plea for retention of ice cars, refer to shortages, but only in the most general terms. Respondents admit that there have been instances of close supply, and Santa Fe, in reviewing its records, found that such shortages did occur during a 7-day period. However, this involved only a small number of cars which were available in the immediate vicinity, but they had not been "pretripped" in time for placement on the day requested. A

[7]The provisions of rule 66(a) of Tariff Circular No. 20 requires that if the carrier furnishes a larger car than the one ordered by a shipper, the charge is based upon the size of the car ordered.

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close day-to-day car supply situation for ice bunker cars for the movement of citrus did occur in 1972, but the record establishes that there were no shortages of mechanical cars for such loading. As a practical matter, it is not possible for carriers to furnish all shippers with just such cars as they would like and in such numbers and at such days and hours as would best serve the interests of all shippers. Admittedly, there were shortages at Ventura, a result of a labor stoppage which caused PFE facilities to be picketed, and an unanticipated ripening of cantaloupes over the Memorial Day weekend. Respondents explain that these factors, of course, would have caused an equipment shortage regardless of whether RS cars and ice service were available. Although protestants stress that approval of the instant schedules will remove vast numbers of RS cars from available use in refrigeration service, resulting in future shortages, we must agree with respondents that it is "age" that is removing these cars from service and "that will happen regardless of the outcome" of these proceedings.

As observed previously, the vast majority of perishables moving by rail originate in the West and move transcontinentally, and virtually all of such traffic moved by respondents is originated on lines served by PFE and the Santa Fe. Consequently, these two respondents submitted studies and an analysis to show how the entire perishable traffic could be handled by the existing fleet of mechanical refrigerator cars. This can be found at the end of respondents' evidence in appendix A.

Protestants question certain portions of the studies and label many of the projections as little more than assumptions and estimates "that should be accorded little value," and insist that the carriers do not have enough mechanicals to move this traffic.

On brief, respondents make it clear that experience has taught them that the shippers have no intention of paying for idle cars, so that the investment in excess facilities will be at their expense "without recompense from those who wanted the excess capacity in the first place." They stress it is their judgment, confirmed by the carline officers responsible for refrigerator car service, that the mechanical car supply is indeed adequate to meet the requirements of shippers on their lines. We agree.

Respondents admit there were understatements and overstatements in their studies. The hard fact remains, however, there have been diversions of traffic to the motor carriers, and admittedly so to exempt motor carriers. For example, Kroger admits that it works with and maintains a list of exempt motor carriers, week-in and

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week-out, from California and Florida. In the 1971-72 season through March 12, 1972, trucks handled 87.2 percent of the vegetable traffic originating in Florida, as compared to 84 percent during a similar 1970-71 season. In view of this declining demand for rail service in Florida, it is evident that there is no significant need for the railroads to continue providing icing services. Also, in the Texas perishable origin territories of the Rio Grande Valley and the Winter Garden area, 80 percent of the former rail traffic has been diverted to truck service. In some instances this shift to motor carriers indicates that the rail carriers are being utilized for only standby service. These studies of projections show that June and July, for the most part, are the critical months, and, if the future should determine a shift from motor carriers back to the rail, the railroads will be expected to purchase additional mechanical equipment for the movement of this perishable traffic. In the meantime, there is an indication that the shippers will and can load their commodities heavier. Thus, based on this record, we cannot conclude, nor are we convinced, that mechanical cars are or will be unavailable.

While we are convinced that the respondents have justified their proposals, the timing of our decision is cause for some concern. In I. & S. No. 8707, the FEC has already discontinued providing icing services. However, in I. & S. No. 8720, the schedules implementing the discontinuance of such services are to become effective on March 17, 1973. This is barely a few months before the summer season when these ice cars are used more than at any other time during the year. It is also likely that some shippers will be required to make certain adjustments in their methods of transportation after our decision becomes effective. It appears to us to be easier for shippers to make such adjustments at some other time than this summer when their utilization of protective service vehicles is greatest. For these reasons, our order entered herein will not permit the respondents in I. & S. No. 8720 to cancel these schedules before September 1, 1973. While this should prove helpful to shippers, it should also give the respondents time to work out any problems they may have.

There was testimony to the effect that today there is one packer-owned fleet of ice bunker meat railcars. While there is an indication that piggyback trailers equipped with meat rails generally will be available for hanging meat, there is no question but that the meat-packer protestant will suffer some inconvenience because of our approval of these schedules. On the other hand, it would be unrea-

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sonable to require the rail carriers to maintain origin and in-transit icing stations in all parts of the country for the purpose of enabling this shipper to obtain the last few miles of service from its privately owned ice car fleet. Moreover, it is apparent that this shipper could extend the useful life of its ice bunker fleet by an additional investment of from $6,500 to $7,000 per car. The September 1 date discussed previously should also help this shipper make whatever adjustments it deem necessary.

Protestants charge that the railroads have forgotten that they must cancel promised icing services from their rate tariffs *before* they can do what is proposed here, and that the line-haul rate tariffs have a host of tariff commitments to do certain icing services. We are not impressed by this argument, inasmuch as the respondents cannot cancel rate icing tariffs until such a time as they have been granted permission by the Commission to cancel icing services.

Protestants express concern as to respondents' failure to file an environmental impact statement, since a major Federal action is allegedly involved. They take the position that a destruction of 28,000 bunker ice refrigerator cars would divert such traffic to "already congested highways," and during peak months needed foodstuffs could rot in the fields affecting the environment in many ways, such as employment and land use.

The present ice bunker cars will not be destroyed. They will be used for as long as practicable. Shippers will still be permitted to provide their own icing; furthermore, commodities which require only ventilation can continue to move in this equipment. Concerning diversion, the evidence is clear that this traffic, over the years, has been diverted to motor carriers before the railroads made any attempt to discontinue icing and related services. There is no credible evidence that additional diversion will accompany discontinuance of icing services. In fact, a number of shippers testified that they preferred the mechanical car if it was available. The choice of mode nearly always rests with the shipper. If protestants are concerned that motor carrier service is less attractive because of environmental considerations, they may then avail themselves of respondents' mechanical refrigeration service.

The Commission's regulations require that in all proceedings alleged to have a significant effect on the quality of the environment, the party alleging such effect shall submit information pertaining to *each* of the relevant factors set forth in 49 CFR

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1100.250(b)(1)-(5).[8] See 49 CFR 1100.250(d)(1). Here protestants have failed to comply with this essential requirement. They discuss only the possible environmental impact of the proposed schedules and totally fail to discuss or consider the other essential ingredients. We are not convinced, based on our evaluation of this record, that this is a major Federal action which will have a significant effect on the quality of the human environment.

One further matter warrants discussion. Certain protestants point out that the Commission was forced to issue service orders to direct prompt return of respondents' cars for loading at western origin points. Such service orders were specifically requested by the western lines, with the assistance of their shippers, in order to insure that the cars would be returned promptly to the loading territory during the short early summer peak season. On brief, respondents insist that with the new car relocation program of the Association of American Railroads, whereby they issue mandatory orders, it has no longer become necessary to invoke I.C.C. assistance to insure prompt return of mechanical cars during the peak loading season.

Contentions of the parties as to fact or law which are not specifically discussed hereinabove have been given due consideration and are found to be either not materially significant or not justified.

Ultimate findings.—We find, upon consideration of the whole record, that except as limited in the order, the proposed schedules whereby the respondent railroads seek cancellation of tariffs, under which ice and ice refrigeration service are provided, are just and reasonable.

And we further find, That this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

COMMISSIONER HARDIN concurs in the result.

COMMISSIONER MURPHY, dissenting:

I am unable to agree with the majority's decision for a number of reasons.

[8]The following factors must be considered: (1) the environmental impact of the requested action; (2) any adverse environmental effects which cannot be avoided should the requested action be granted; (3) alternatives to the requested action; (4) the relationship, if any, between local short-term uses of man's environment and maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources which would be involved in the requested action should it be granted.

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It is clear that the RS or bunker type of cars are still in considerable supply, that service in those types of cars is in the public interest, and that there is a serious but unresolved question as to whether respondents have an adequate supply of mechanical refrigerator cars to meet all reasonable demands for protective service.

While respondents have increased their ownership of mechanical refrigerator cars in recent years, they still own several thousand RS cars which can be used to provide protective service. In fact, respondents assert that they do not intend to retire those cars immediately but will utilize the cars in those instances in which the shipper chooses to ice the shipment at origin or will use the cars where ventilation service (not icing) is desired by the shipper. But without a provision for icing by respondents, the utility of the RS cars will be markedly decreased if not, in fact, entirely eliminated. The cars should be utilized in the immediate future for the primary purpose for which they were constructed, namely, the carriage of commodities requiring protective service by means of icing.

The record amply supports the continued use of RS cars for protective service in the public interest. Testimony by several protestants indicates that those cars are particularly suitable for small shipments of perishable commodities. As noted previously, respondents, apparently will continue to use those cars on perishable commodities where the shipper provides the icing service at origin. But there appears to be no provision for re-icing in those instances in which the shipment, tendered to the carrier, is unavoidably delayed at origin or en route because of operating conditions. Moreover, without a provision for re-icing en route, the utility of the joint rates on shipments in RS cars would be largely negated. A joint rate is one which extends over the lines of two or more carriers, is made by arrangement or agreement between such carriers and is evidenced by a concurrence of power of attorney. The joint rate is usually lower than a combination of rates and allows the shipper to tender the traffic to the origin carrier with the assurance that it will be safely delivered to the destination with the carrier or carriers performing the several services available under the tariff. Here, the failure to provide for the essential icing services en route will deter shippers from using the RS cars on perishable commodities. The situation would then be somewhat analogous to that in *National Furniture Traffic Conf.* v. *Assoc. Truck,* 332 I.C.C. 802 (1968), in that it will have the effect of restricting the movement of perishable commodities by rail.

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The majority curtly dismisses the objections of one protestant which owns RS cars equipped with meat rails by blandly informing the shipper that it can (1) use TOFC trailers equipped with meat rails; (2) extend the useful life of its present RS cars by investments of between $6,500 and $7,000 per car which presumably would be equal to one-third to one-half of the cost of a new car; or (3) make other arrangements after September 1, 1973. The proposals of respondents coupled with the proffered solutions of the majority herein may actually encourage the shipper to use an alternative mode of transportation. What is desperately needed, but clearly absent in the circumstances under consideration, is a willingness to cooperate.

Of particular importance, however, is the conclusion of the majority that respondents' supply of mechanical refrigerator cars will be adequate to meet all reasonable demands for protective service in the future. It has been aptly stated that the life of the law is experience, not logic. And this is equally applicable to the situation at hand. Respondents by means of a numbers game, the mathematical addition and subtraction of cars, have convinced the majority that the carriers can indeed meet all demands for protective service by the use of the existing mechanical refrigerator cars. The Commission has, however, in other instances, chosen to rely on factors other than mathematical summations where its particular expertise so dictated. Cf. *Reparation as Relating to Increase of Rates,* 68 I.C.C. 5, 6 (1922). Projections of respondents as to the adequacy of their car supply have been too well documented to require a detailed discussion. It is sufficient to point out, however, that those predictions have largely fallen by the wayside. See *Investigation of Adequacy of Freight Car Ownership,* 323 I.C.C. 48 (1964), 335 I.C.C. 264 (1969), 335 I.C.C. 874 (1970), 341 I.C.C. 64 (1972). In too many recent instances, the Commission has been forced to take extraordinary actions to rescue respondents from their own predictions. In the face of the present and continuing car shortages being experienced by many shippers and in light of the Commission's past experience with regard to the adequacy of the overall car supply, a finding that respondents will be able to meet all reasonable demands for protective service by use of their present mechanical refrigerator fleets appears to be rather tenuous. In these circumstances, respondents should retain their icing provisions to insure that shippers will be provided with protective service until the RS cars are actually retired from service.

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There are a number of other matters which the majority brusquely or inadequately disposes of. For example, environmental issues should be given greater consideration; the possibility of unjust discrimination or undue preference and prejudice however inarticulately raised by protestants would appear to require some discussion (the orders instituting these proceedings provide for inquiry into all aspects concerning the lawfulness of the proposed schedules); the issues relative to respondents' duties to provide icing service require greater explication ("transportation" includes icing!, section 1(3)(a) of the Interstate Commerce Act); and, finally, it must not be forgotten that respondents have the burden of proof, a burden which, in my opinion, they have failed to meet on this record.

I wish to make it clear that I am not opposed to the substitution of mechanical refrigerator cars for RS cars or the replacement of those cars. Respondents have the managerial prerogative to furnish suitable equipment upon reasonable request. But until this Commission can be assured that respondents are capable of meeting all reasonable demands for protective service solely by the use of their mechanical refrigerator cars, I believe it would not be in the public interest to approve the proposals herein.

In these circumstances, I must, respectfully, dissent from the majority's decision today.

COMMISSIONER MONTEJANO did not participate.

It is ordered, That the respondents in Investigation and Suspension Docket No. 8720, be, and they are hereby, required to maintain in full force and effect the schedules referred to in the suspension order dated March 29, 1972, until September 1, 1973, when such schedules may be canceled on 1 day's notice.

And it is further ordered, That Investigation and Suspension Docket No. 8707, be, and it is hereby, discontinued.

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APPENDIX A

A summary of the evidence introduced by the parties in Investigation and Suspension Docket No. 8720

Respondents.—Respondents stress that experience with the mechanical cars revealed a number of clear advantages over water ice as a refrigerating device. The most important was the close temperature control available by which the exact storage requirements of the commodity could be obtained, and this was made possible by the fact that mechanical refrigerating devices operated continuously, whereas the ice bunker cars were dependent upon fans actuated by car movement to provide full air circulation through the load.

It was evident to Pacific Fruit Express (PFE), one of the major carlines herein concerned (jointly owned by the Southern Pacific and Union Pacific Railroads), that the mechanical car was not only a versatile car, able to handle both fresh and frozen loads, but it was a car which provided much closer temperature control than the Ice Refrigeration Car (RS) or water ice car. For example, the mechanical car was not subject to delays in transit for re-icing. Its refrigeration system operated continuously, even when the car was motionless in the yard, whereas the ice car depended on car movement to maintain circulation. If weather conditions changed unexpectedly en route, resulting in the car encountering a cold snap or heat wave which the shipper had not anticipated, the mechanical car automatically adjusted itself to conditions as it found them, and provided cooling or heating to maintain the interior temperature to which its thermostat was set. On the other hand, the ice car could not similarly adjust to unanticipated weather conditions and heating or freezing of the load could result.

Most protesting shippers prefer mechanical cars, and have shifted from water ice to mechanical cars as PFE's supply of mechanical cars expanded. The following table shows the proportion of ice and mechanical cars in the PFE fleet from 1946 to 1972.

Date	Express cars	Ice bunker cars	Total ice cars	Mechanical cars	Total cars
January 1, 1946	290	36,521	36,811	0	36,811
January 1, 1947	289	36,272	36,561	0	36,561
January 1, 1948	287	39,240	39,527	0	39,527
January 1, 1949	287	37,580	37,867	0	37,867
January 1, 1950	287	38,589	38,876	0	38,876
January 1, 1951	286	37,442	37,728	0	37,728
January 1, 1952	236	38,085	38,321	0	38,321
January 1, 1953	147	38,484	38,631	0	38,631
January 1, 1954	188	38,900	39,088	25	39,113
January 1, 1955	188	38,292	38,480	137	38,617
January 1, 1956	187	37,221	37,408	337	37,745
January 1, 1957	185	35,294	35,479	513	35,992
January 1, 1958	184	33,954	34,138	712	34,850
January 1, 1959	161	31,094	31,255	1,212	32,467
January 1, 1960	142	28,353	28,495	1,211	29,706
January 1, 1961	125	28,843	25,975	2,158	28,133
January 1, 1962	48	22,391	22,439	2,226	24,665

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Date	Express cars	Ice bunker cars	Total ice cars	Mechanical cars	Total cars
January 1, 1963	18	20,580	20,598	2,221	22,819
January 1, 1964	1	18,724	18,725	3,216	21,941
January 1, 1965	0	16,632	16,632	4,206	20,838
January 1, 1966	0	14,464	14,464	6,388	20,852
January 1, 1967	0	12,371	12,371	8,137	20,508
January 1, 1968	0	10,575	10,575	9,114	19,689
January 1, 1969	0	8,520	8,520	9,478	17,998
January 1, 1970	0	7,075	7,075	10,633	17,708
January 1, 1971	0	5,819	5,819	12,004	17,823
January 1, 1972	0	4,230	4,230	13,170	17,400

In 1968, during a peak lettuce shipping period, PFE made an effort to interest lettuce shippers in using ice bunker cars. A series of test trips were arranged with lettuce shipped in ice bunker cars, loaded in the same containers and in the same manner as the shipper had been accustomed to loading mechanical cars, and it was found that the lettuce did not arrive in as good condition for a number of reasons:

(1) The change in the ensuing period to cardboard cartons from the previous open crates now required continuous forced air circulation to obtain cooling of the interior portion of the load.

(2) The intermittent operation of the wheel driven fans in ice cars caused large temperature variations throughout the load.

(3) Some cars arrived with bunkers very low, causing negative reactions on the part of the consignees.

(4) Cars could not be held at destination under adequate refrigeration unless arrangements were made by consignees to re-ice the bunkers and apply electric motors to operate the fans while the cars were at rest.

(5) The lettuce had to be more thoroughly precooled prior to loading as no effective refrigeration was obtained from the ice car until it was switched into a train and was consistently moving at 20 miles per hour or more.

(6) Ice cars could not be loaded as high as mechanical cars because the cartons blocked the air circulating fans in the bunker wall.

(7) Lettuce out-turn reports indicated higher average temperatures, more pronounced discoloration of the butts, higher decay conditions, water damage due to melting ice from bunkers, older appearances of lettuce, and large variations from car to car.

Respondents, while admitting that many loads did arrive in good condition in ice cars, explained that the inconsistency of results compared with the level of performance of the mechanical cars with their continuous air circulation and thermostatically controlled temperature showed the advantages of specifying mechanical cars only. Ice bunker refrigeration was a common method with trucks in years past, but since the early 1960's almost all trucks engaged in perishable traffic are now equipped with diesel driven mechanical units. Respondents take the position that the exempt status of such truckers enabled a free selection of refrigeration systems, and the superiority of the controlled temperature mechanical unit drove out the ice bunker method because of its many advantages. This is said to be one more factor which enables the trucker to provide superior service when competing with the costly and less efficient ice bunker car.

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As of December 1971, the PFE ice bunker cars numbered 4,230, built in the years 1936 to and including 1957, and almost two-thirds of these were built in 1949 and 1957. Projections by the respondents indicate that all ice cars built prior to 1949 will go out of service by the end of 1972, and about 3,000 cars will remain in usable condition in the PFE fleet on January 1, 1973. Causes for removal from service include defects affecting ability of the car to run safely on the railroad such as broken body bolsters, broken end sills, and other major underframe defects where deterioration has advanced to the point where there is no way to make suitable lasting repairs without a costly replacement of underframe structure. Other causes include deterioration of insulation, floor structure, side walls and interior linings, floor racks, doors, and door frames.

Respondents expect to operate these cars as long as they are safe and serviceable, with expected attrition such that the cars built in 1951-52 will go out of service in 1974, and cars built in 1957 will be retired by 1978. One of the main problems in the remaining ice car fleet is the mechanical condition of the air-circulating fans, since some makes are no longer manufactured and repair parts are a serious problem. The "average age" of the PFE fleet as of January 1, 1972, was 19.3 years which is considered the maximum useful life of an ice bunker car with normal maintenance.

Southern Pacific Transportation Company serves, almost without exception, all of the major fruit, vegetable, and melon growing areas of California and Arizona, and the Rio Grande Valley of Texas. By far the predominant movement of fresh perishables is from Californina, and the California production takes place for the most part in three major perishable growing areas: The coastal valleys extending south of San Jose almost to Los Angeles; the San Joaquin Valley, extending from Stockton to Bakersfield; and the Imperial Valley, in the far southeastern part of the State.

Rail transportation of perishables from California is largely confined to long-haul movements, primarily into official territory, servicing the major population centers, Chicago and East. With the expansion of the interstate highway network and the corresponding growth of exempt trucking, the shorter haul markets, that is, "from California to destinations short of Chicago, has gone over almost entirely to trucking, and rail transportation is no longer a significant factor."

Respondents point up the fact that both rail and motor transport have certain inherent advantages for the transportation of perishable commodities, and these advantages are largely determined by the differences in transport technology which each mode represents. There is no disagreement that motor carriers have a flexibility which the rails cannot match, since they can pick up and deliver at off-rail locations. It is a relatively simple matter to accomplish a split pick up or split delivery by truck whereas the same function performed by rail will mean substantial delay. The carrying capacity of the truck is limited by the most restrictive of the size and weight laws which the vehicle will encounter between origin and destination. On the other hand, the railcar, operating on private right-of-way and a track structure designed for far heavier loads, may handle two and three times as much as a single truck shipment.

U.S. Department of Agriculture statistics show that in 1971 there were 1,753 shipments of fresh fruits and vegetables received at Los Angeles from eastern seaboard States. The major commodities were grapefruit and green corn from Florida, and there were lesser quantities of avocados, beans, cucumbers, oranges, peppers, potatoes, radishes, squash, tomatoes, among others. During the same year, there were 803 truckloads of fresh fruits and vegetables from eastern seaboard States unloaded at San Francisco, with the commodity mix again being similar to that described at Los Angeles.

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The record reflects a truck transportation pattern for fresh perishables from California as a part of a balanced two-way movement with loads in both directions. It is obvious, at least in some instances, that prices are not regulated, and the perishable commodity haulers are under no obligation to provide service, or to transport, unless they choose to. Except in periods of unusual demand in a given area, resulting in abnormally high prices for transportation, the exempt truckers will not undertake a substantial empty haul on speculation, in the hope of obtaining traffic.

The railroads advance the argument that there is no room in this sort of price structure for a split level system of charges, one based on the efficient operator which has a balanced two-way haul and the other based on the higher costs of an operator who has only a one-way haul. The heavy westbound volume of truck traffic insures that a dominant part of the market, that is, those selling transportation of perishables by truck in the reverse direction, consists of those which have enjoyed revenue movements westbound.

In order to successfully compete on a continuing basis for the eastbound perishable traffic, rail carriers submit that they must meet the charges and, therefore, must keep their costs in line with the balanced two-way haulers. The market characteristic which they find is that the perishable haulers which engage on a continuing basis in the movement of California perishables to the east have balanced two-way hauls. Their deadhead mileage is confined to movements in the zero to 200-mile range, from point of unload in the major metropolitan area (San Diego, Los Angeles, Bakersfield, Fresno, San Jose, or San Francisco-Oakland) to point of pickup in the perishable growing area (El Centro, Fresno, Salinas). Respondents maintain that in terms of the transcontinental movement which follows, this deadhead mileage at origin constitutes about 5 percent of the loaded miles which follow.

All the carlines in these proceedings agree as to the condition of present physical icing facilities. For example, FGE emphasizes that because of economic factors and improved technology represented by the mechanical refrigerator car, there has been a heavy and definite decline in ice plants and icing facilities all over the Nation. This carline takes the position that today car icing facilities for the most part are in the later stages of their useful service lives as a result of programs inaugurated and established 20 to 25 years ago.

Further physical improvements, FGE contends, are not deemed to be practical since the bulk of the facilities will require extensive refurbishing at today's high costs which costs will be impossible to recover within the remaining useful life of the existing ice car fleet. Today FGE is rendering protective service at 22 (at the hearing this number was reduced to 16) icing facilities which generally are in a rundown and dilapidated condition. Minimum amounts of maintenance are applied because of the economic factors and the archaic service it represents. To restore these facilities to a physical condition permitting 1 additional year of service would rquire an expenditure of "roughly $110,000, while restoration to a first-class condition would require approximately $320,000."

The Missouri Pacific system, including the Missouri Pacific Railroad Company, The Texas and Pacific Railway Company, Chicago & Eastern Illinois Railroad Company, and their majority owned subsidiaries, constitute an 11,840-mile system of railroad lines extending west from the Mississippi River to Colorado Rockies and south from Chicago, Omaha, Kansas City, and St. Louis to the Gulf of Mexico and the Rio Grande. Missouri Pacific serves south Texas which includes the Rio Grande Valley and Winter Garden areas, which areas produce fresh fruits and vegetables and require refrigerated cars to protect the commodities from heat and cold.

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This rail system stresses that rail refrigeration has undergone extensive changes in the past 12 years. For example, in 1960, 30.4 percent of the outbound perishable shipments used standard refrigeration (block ice) in RS type cars, 53.3 percent were in RS type cars using body (top) ice and 16.3 percent required ventilation for a total of 17,489 cars. No mechanical refrigerator cars were utilized. In 1971, the standard ice shipments were 14.3 percent while body ice and ventilated cars were 73.8 percent of the outbound shipments in RS and insulated type cars, with 11.9 percent of perishable shipments in mechanical refrigeration cars.

The use of block ice cars declined from 5,319 loads in 1960 to 826 loads in 1971, and this decline coincided with the increased costs of providing ice services. The few cars utilizing re-icing services has required the Missouri Pacific to continue operation of one major facility only, at San Antonio, for the use of both producing areas. Other icing needs are supplied by independent contractors with contract charges for ice per ton, placed into bunkers of cars, ranging from $6 to $30, depending upon locations and conditions. In view of the decline in use of ice bunker cars and the increased demand for body ice, ventilator and mechanical cars (85.7 percent in 1971), the Missouri Pacific system concludes that it cannot support these "uneconomic services any longer."

Fruits and vegetables are dependent upon weather conditions as well as market demands, and peak loading conditions prevail during most of the 2- to 6-month period shipping seasons. For example, Texas melons are normally shipped in May and June, requiring standard or mechanical refrigeration. In 1970, there were 1,155 carloads of cantaloupes from Texas, with 1,013 in May and June, 129 in July, only 13 in August, and none for the remainder of the year. Thus, cars must be provided to handle this peak shipment period with minute perishable loadings in cantaloupes on the Missouri Pacific system for the remaining 10 months.

Texas perishable shippers use motor carrier transportation more than rail. The following comparisons through May 17, 1972, are shown for the Lower Rio Grande Valley of Texas for the last two seasons:

	This season 1971-72[1]			Last season 1970-71[1]		
	Rail	Truck	Total	Rail	Truck	Total
Citrus	169	14,390	14,559	408	15,390	15,798
Vegetables	7,233	14,886	22,119	9,263	12,730	21,993
Total	7,402	29,276	36,678	9,671	28,120	37,791
Percents	20	80	100	26	74	100

[1]Rail carlot equivalents. Source: Texas Fruit and Vegetable News, Texas Dept. Agriculture & U.S. Department of Agriculture (through May 17, 1972).

The Seaboard Coast Line Railroad Company (SCL), with its main offices at Jacksonville, Fla., limited its testimony to Florida origins, and stresses the inconsequential effect that the discontinuance of icing service by the rail carriers will have on the movement of fresh citrus fruit and vegetables from Florida. The use of railcars by the Florida shippers of fresh perishables has been steadily declining over the years. For example, the number of refrigerator cars used for the transportation of

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citrus fruit from Florida has, in accordance with the United States Department of Agriculture (USDA) figures, declined from 30,794 cars, or 39.1 percent of the total movement, during the 1955-56 season to a mere 821 cars, or 1.5 percent of the total movement, during the 1970-71 season. As 234 of the 821 cars used for citrus fruit during the 1970-71 season were mechanically refrigerated cars, only 587 cars or 1.0 percent of the total citrus fruit movement were RS or ice bunker type cars—a mere token of the total citrus fruit movement by way of rail and truck from Florida which, during the 1970-71 season, amounted to 56,778 carlots or carlot equivalents.

For the period beginning September 1, 1971, through April 24, 1972, the Florida railroads (USDA figures) originated only 416 refrigerator cars of citrus fruit or 0.8 percent of the total rail and truck movement as compared with 777 refrigerator cars or 1.5 percent during the same period of the 1970-71 season. SCL concludes that the use of ice bunker cars by the Florida citrus shippers is fast disappearing from the picture, not because of a scarcity of this type of equipment, but merely "because there is no demand on the part of the Florida citrus fruit shippers for ice bunker type cars."

Also, there is a downward trend in the use of trailer-on-flatcars (TOFC) for the transportation of Florida citrus fruit. For example, the use of refrigerated trailers in TOFC service commenced during the 1960-61 season when the railroads handled 1,930 trailer shipments out of Florida or 3.6 percent of the movement in accordance with figures published by the USDA. The TOFC movement of citrus fruit peaked at 15,957 shipments during the 1966-67 season, representing 24.1 percent of the total movement from Florida, but by the end of the 1970-71 season was down to 9,737 shipments, representing only 17.1 percent of the total citrus fruit movement. The movement of citrus fruit in TOFC trailers through April 24, 1972, amounted to 6,473 shipments or 13.2 percent of the movement as compared with 7,470 shipments or 14.2 percent during the similar period of the 1970-71 season.

It is obvious that as the TOFC trailer movement decreases there will be more trailers available to take care of the "negligible amount of citrus fruit traffic that is now moving in ice bunker cars." To most of the important destinations throughout the United States, the freight rates from Florida which apply on citrus fruit in ice bunker type cars also apply on citrus fruit in mechanical cars. Moreover, the great bulk of the citrus fruit traffic from Florida by way of rail, either in cars or TOFC trailers, moves to destinations in territories to which the same rates apply regardless of the type of car used.

The USDA at the end of each season publishes the number of carlots of citrus fruit received at 41 United States and 5 Canadian cities, the principal markets in each country. To these destinations during the 1970-71 season, 8,840 rail carlots or carlot equivalents or 83.7 percent of the total rail movement went to destinations to which the citrus fruit rates are the same in ice bunker or mechanical cars. Only 1,110 rail carlots or carlot equivalents or 10.5 percent of the total rail movement went to destinations to which there are lower rail rates in ice bunker type cars. However, the bulk of all of their citrus fruit moves in TOFC service, as the USDA figures show for the 1970-71 season only 821 carlots in ice bunker and mechanical cars, whereas the TOFC movement consisted of 9,737 carlot equivalents.

For the calendar year 1971, USDA data show that of a total of 679 refrigerator car shipments of citrus fruit from Florida, 577 cars or 85 percent went to destinations in the United States and Canada to which the freight rates are the same in either ice bunker or mechanical cars. Only 102 refrigerator car shipments during this year went to destinations to which per-car rates on traffic in ice bunker cars are lower than the normal rates in cents per 100 pounds. Generally the TOFC rates on Florida citrus

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fruit are lower than the rates on such fruit in refrigerator cars. Thus, SCL reasons that considering the negligible amount of citrus fruit traffic now moving from Florida in ice bunker type cars, this type of traffic can readily be handled in TOFC service.

The movement of fresh vegetables from Florida in refrigerator cars also has decreased over the years. Such movements during the 1955-56 season amounted to 37,695 carlots, representing 38.5 percent of the total movements, whereas the movement during the 1970-71 season was only 7,457 carlots, or 9.1 percent of the total movement out of Florida. These figures include 119 mechanical cars in the 1970-71 season.

For what the record describes as the current season "to date," September 1, 1971, through April 24, 1972, the rail movement in cars amounted to 3,243 carlots or 5.5 percent of the total vegetable traffic as compared with 4,247 carlots or 8.2 percent of the total Florida vegetable movement in the same period of 1970-71 season. On cross-examination, SCL agreed that the transfer of traffic from rail to truck had been accomplished in many instances even though the truck rate was higher. The increase in truck traffic was attributed to service; the fact that the motor carrier can go to one origin and load one type of citrus fruit or vegetable and then maybe to four or five origins. Also, on cross-examination, SCL, in reference to a substantial truck traffic in Florida, agreed that from time to time there was a shortage of trucks available to handle the traffic on both citrus and vegetables. However, it stressed that this occurred primarily in the months of peak shipment and "that is about the only time we get any decent look into the movement." It was admitted that the utilization of railroad cars in Florida leaves something to be desired.

As with citrus fruit, the movement of vegetables in TOFC service also shows a downward trend. The movement commenced during the 1961-62 season numbering 499 shipments—peaked at 8,041 shipments during the 1967-68 season—and ended the 1970-71 season with a total of 6,985 shipments. It is explained that the trailers released by any decrease in the TOFC movement of vegetables from Florida can, of course, be used for traffic now moving in railcars.

An additional source of equipment for handling vegetables that may be forced out of ice bunker refrigerator cars is the number of trailers released from handling shipments of chilled citrus products. For example, the TOFC movement of chilled citrus products declined from 2,144 loads in the 1969-70 season to only 357 loads in the 1970-71 season. As shown below, some vegetable traffic, principally tomatoes, already moves in mechanical cars from Florida and the use of mechanical cars for this type of traffic can readily be expanded:

Season	Number of mechanical car originated
1970-71	119
1969-70	247
1968-69	396
1967-68	538
1966-67	437

SCL emphasizes that even if the rail carriers are permitted to discontinue icing service, many ice bunker type cars still could be used for the movement of vegetables

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and citrus fruit. This, of course, involves shipments moving under rule 240 of Perishable Protective Tariff 18 with the initial icing at origin performed by the shipper, or shipments moving under ventilation instructions. During the 1970-71 season, there were 2,359 carloads of vegetables moving out of Florida under rule 240 and 18 carloads of citrus fruit. For the 1969-70 season, there were 2,755 vegetable rule 240 shipments and 51 citrus fruit shipments. Shipments moving under ventilation instructions numbered 1,822 (vegetables) during the 1970-71 season, and 3,149 such shipments moved during the 1969-70 season.

The rates which apply on vegetables in mechanically refrigerated cars are published in cents per 100 pounds and are higher than the per-car rates on vegetables, which, because of the car length restriction to 33 feet and 6 inches, are in effect (confined to RS or ice bunker type cars). On the other hand, the TOFC rates on vegetables compare favorably with the present per-car rates and "in many instances produce even lower charges."

Reference is made to a proposal covered by SFA Emergency Proposal 3015 of December 8, 1971, which contemplates the establishment of per-car rates on citrus fruit and vegetables in mechanical cars not over 46 feet in length (inside measurement) from Florida to Washington, D.C., Chicago, Ill., Baltimore, Md., Boston, Mass., Detroit, Mich., St. Louis, Mo., Buffalo and New York, N.Y., Cincinnati and Cleveland, Ohio, and Philadelphia and Pittsburgh, Pa. Subsequent proposals contemplate the establishment of similar rates to Toronto, Ontario, and Montreal, Quebec, Canada, Minneapolis, St. Paul, Minnesota Transfer, and Hopkins, Minn., and Columbus, Port Columbus, and Solon, Ohio. The above destinations took 87.3 percent of the total rail movement of citrus fruit out of Florida during the 1970-71 season, and 62.8 percent of the total rail movement of vegetables during the 1969-70 season. SCL explains that the above rate proposal, when published, will, because of the greater loading capacity, produce lower unit charges than the present refrigerator car rates on citrus fruit and vegetables, as well as lower charges than the citrus fruit and vegetable TOFC rates.

On brief, FEC points out that proposed rate schedules with respect to citrus and vegetables became effective on August 15, 1972, on Florida traffic to Minneapolis, Hopkins, Minnesota Transfer, and St. Paul, Minn., and to Cincinnati, Ohio, St. Louis, Mo., Chicago, Ill., and Washington, D.C.

The evidence indicates that in connection with the above proposed rate adjustments, there are approximately 1,700 of these smaller mechanical cars in the Fruit Growers Express (FGE) and Western Fruit Express (WFE) pool fleet "which can be simply and quickly equipped with drains in order to make them suitable for top icing and, thus, satisfactory for the transportation of all types of vegetables. These cars have been available through the years during the season for loading of Florida frozen citrus concentrate, chilled citrus products, fresh citrus fruit, and the type of vegetables, such as the tomato, which do not require top icing."

The National Perishable Freight Committee at its February 1972 meeting approved an SCL proposal to add Florida to the States from which rule 765 is now available on melons and vegetables and publication had been made in supplement 133 to Perishable Protective Tariff 18.[1] This rule covers body icing service in conjunction with mechanical protective service. As this rule lists specifically the initials and numbers of mechanical cars that can be used, it is explained by SCL that the rule will be further supplemented at the appropriate time to take care of any additional FGE or WFE mechanical cars. On the basis of only one round trip per month for each car,

[1]This rule became effective on June 12, 1972.

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1,706 mechanical cars can handle from Florida a total of 20,472 carload shipments over a period of 12 months.

While there is a movement of perishable traffic from South Carolina and Georgia origins on SCL, the railcar shipments are inconsequential. For example, there were only 7 carload shipments during the 1970-71 season and only 67 carloads during the 1969-70 season.

From a close study of the USDA figures, it is apparent that both the citrus fruit and vegetable deals in Florida are "truck deals" and that, for the most part, rail service, whether in refrigerator cars or in TOFC service, is used only when trucks are not available. The fact remains that motor carriers, primarily unregulated truckers, increased their participation in the citrus fruit movement out of Florida from 60.9 percent of the total movement during the 1955-56 season to 81.4 percent during the 1970-71 season. For the season through March 12, 1972, the motor carriers handled 87.2 percent of the total Florida citrus movement as compared with 85.1 percent during the same period of the 1970-71 season.

Insofar as vegetables are concerned, the motor carriers during the 1955-56 season handled 61.5 percent of the vegetable traffic from Florida as compared with 82.4 percent during the 1970-71 season. For the current season through March 12, 1972, the truck percentage is 87.2 percent, the same as on citrus fruit, as compared with 84 percent during the like period of the 1970-71 season.

May is the peak month for perishables out of Florida and during the 1970-71 season, the railroads originated a total of 8,278 carlots of citrus fruit and vegetables in refrigerator cars. The movement of these shipments ranged from no traffic in September 1970 to a high of 2,098 carlots in refrigerator cars during May 1971, representing 25.3 percent of the rail movement in refrigerator cars during the season. During the same season, the motor carriers originated a total of 114,036 carlot equivalents of citrus fruit and vegetables ranging from a low of 50 carlot equivalents in August 1971, or less than 0.1 percent of the total truck movement, to a high of 16,769 carlots during May 1971, representing only 14.7 percent of the total truck movement.

During the 1970-71 season the motor carrier movement of 114,036 carlot equivalents of citrus fruit and vegetables represented 82 percent of the total Florida movement as compared with 8,278 carlots in refrigerator cars for the railroads representing only 6 percent of the total Florida movement. During the month of May 1971, alone, the rail percentage in refrigerator cars was 9.6 percent of the total movement whereas the truck percentage was 76.8 percent. Thus, the heaviest demand for rail equipment is confined to 1 month of the season, namely May. The rail experience in TOFC service is similar to the experience in refrigerator cars.

Respondents contend that they cannot compete with the trucks always on the basis of their own minimum weights, say 36,000, 37,500, or 40,000 pounds, and that they would be out of business if they tried to meet such competition. They question now whether many of their present rates are compensatory.

The Santa Fe Railway observes that commercial refrigeration by ice has been replaced by mechanical refrigeration in every major industry except transportation by rail, and the reasons for the general acceptance of modern refrigeration are related to efficiency, economy, and above all, superior service. It is submitted that these same reasons have made the mechanically refrigerated railcar the preferred vehicle, and that it is superior to the ice bunker or RS car in all respects and for all commodities. The Mechanical Temperature Control (MTC) car provides optimum protective service to any commodity at any temperature. Its protection is constant; unlike the ice car,

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it is not dependent on the proximity of an ice station to maintain its refrigeration; its air circulation does not cease when the car is not in motion; and even radical and unforeseen changes in weather conditions do not affect the interior temperature at which its thermostat is set. Also, the MTC car is not subject to delays in transit for re-icing, and has many other features which the ice bunker car lacks, including cushion underframes, roller bearing trucks, load dividers, larger capacity, and larger doors which permit a variety of loading practices.

Santa Fe's mechanical refrigerator car fleet began operation in 1953 when 30 cars were placed in service. Since 1963 the MTC car is larger (the earlier cars were 44 feet long with 3,054 cubic feet of capacity), with a minimum capacity of 4,000 cubic feet. These cars have about twice the cubic capacity of RS cars and account for 3,035 of the 4,165 MTC cars that Santa Fe had in operation at the beginning of 1972. Presently, this rail carrier is placing into service 400 additional MTC cars of the most modern design and 100 so-called "Conditionaire" cars which are mechanically refrigerated covered hoppers that cost over $38,000 each. The "Conditionaire" car, a major innovation in the transportation of perishables, was designed specifically for the needs of the fresh perishable industry. This car can handle bulk shipments of oranges, potatoes, onions, citrus, plus many other vegetables and fruits. Santa Fe considers the development of this car as one of the most significant demonstrations of "its continuing dedication to provide perishable shippers with the best possible transportation service consistent with modern technology."

By the end of 1972, it expected its fleet of "all purpose" MTC cars to number 4,565, plus 100 "Conditionaire" cars, for a total mechanical fleet of 4,665 cars, which it considers more than adequate to provide the most modern and efficient service to its perishable shippers.

All perishable loadings in all railcars on the Santa Fe Railway system and its short-line connections, in 1971, totalled 21,176 in RS cars and 25,334 in MTC cars. Such loadings were segregated by month and type of equipment. Its MTC cars make about one eastbound trip each, per month, during the periods when they are in heavy demand for perishable loadings. For 10 of the 12 months, Santa Fe's MTC fleet exceeded the total number of RS and MTC cars loaded. For example, in June 1971 there were 5,311 RS loads and 2,971 MTC loads, or a total of 8,282 loads. In July 1971, there were 3,980 RS loads and 3,685 MTC loads, or a total of 7,665 loads. For the remaining months (total of RS and MTC cars) the loadings ranged from 2,567 to 3,650.

Santa Fe's fleet of 4,665, as of the first of this year, is contrasted with 3,762 as of the first of 1971. Thus, it concludes that even if it is assumed that it would have the same number of perishable loadings in rail cars in 1973, its available MTC fleet will exceed the demand for all railcars for all months except June and July.

Most of Santa Fe's perishable traffic originates in California and Arizona, with its "biggest" movement from California to Boston. It traces yearly originations in RS and MTC cars from 1963 (the earliest year for which such data is available) to 1971. During this period its loadings in RS cars have decreased by 65 percent, and in the most recent year above, the decrease was 23 percent. Similarly, loadings in MTC cars have increased 107 percent overall, and 12 percent in the last year. Also total railcar loadings show a substantial decline. For example, in 1963, total RS carloadings totalled 53,874, as compared with MTC carloadings of 8,604. In 1967, RS carloadings were 34,833 and MTC carloadings numbered 16,351. In 1971, RS carloadings were 18,904, while MTC carloadings were 19,296.

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Santa Fe submits that there are several reasons for the long range and immediate trends which are demonstrated by the above figures. First, shippers of all commodities have developed a preference for mechanical protective service over ice service, and "this is in part due to the superior characteristics of the MTC car ***." It also is due to heavier loading in the mechanical car under incentive and per-car rates on certain fresh perishable commodities established in the last 15 years. The overall decline in railcar perishable traffic is largely accounted for by diversion to exempt motor carriers as a result of service factors such as stops for partial loading and unloading, greater flexibility at origin and destination points, and shorter transit time.

The above loadings include some shipments requiring only insulation and/or ventilation, such as wine or canned goods. The RS traffic decline is even more drastic when compared with 1969 and 1971 shipments moving under various types of ice refrigeration. Such a comparison between the 2 years is summarized below:

Commodity	1969	1971
Citrus	11,226	8,596
Deciduous	118	9
Grapes	1,255	536
Lettuce	6	39
Potatoes	11,318	6,473
Other vegetables	1,954	1,921
Meat and packinghouse products	1,097	75
Melons, except water	351	22
Frozen	0	24
Miscellaneous commodities	13	147
Total	27,338	17,842

The PFE and Santa Fe submitted studies and an analysis showing how the entire perishable traffic could be handled by the existing fleet of mechanical refrigerator cars. The following is a discussion of those studies.

Inasmuch as most of the perishable traffic moving by rail originates in the West and moves transcontinentally by lines served by PFE and the Santa Fe, this is a discussion of their projections and subsequent arguments as to why they are and will be able to handle this traffic in their fleet of mechanical cars. Traffic patterns of the Rock Island and the Penn Central also are included herein.

Considering the trends of declining traffic, Santa Fe observes that 1971 is typical generally of all years in its traffic characteristics. As noted previously, June and July are the only 2 months in 1971 when this carrier would not have had more than enough MTC cars to move every carload of traffic originated on the system and short-line connections. Thus, it takes the position that in 1973, with its fleet of 4,665 MTC cars, it will be able to meet the demand for perishable loadings without the use of carrier-provided ice refrigeration.

Of the 8,282 perishable loadings in railcars in June 1971, a total of 820 were "other vegetables" and "miscellaneous commodities"[2] moving in ventilation service which requires no ice. Santa Fe will continue to have RS cars available to move this traffic,

[2]Other vegetables and miscellaneous commodities exclude all fruit, lettuce, potatoes, and frozen products.

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so it subtracts 820 shipments from the 8,282 which the "MTC fleet must protect," for a balance of 7,462. The 820 figure for June was strictly onions moving under ventilation. The July 1971 factor was 531 and included all onions with the exception of 22 cars of watermelons. The July factor reduced that month's shipments (7,665) for which MTC cars are needed to 7,134.

Almost all potatoes originating on the Santa Fe system in June and July originate in the Kern County District (in the Bakersfield area), and in 1971 accounted for 4,550 carloads in June and 2,575 in July. This potato traffic is expected to diminish for several reasons. The Kern County District potato loadings have substantially declined since 1965 when Santa Fe had 13,889 carloads as compared with 7,768 carloads in 1971, with the decline for the most recent year shown as 10 percent. This rail carrier submits that if this annual decline continues for 1972 and 1973, the June and July traffic (when the vast preponderance of it moves) can be expected to be reduced to 3,685 carloads for June 1973, and 2,085 carloads for July.

This annual decline (1971 versus 1970) of 10 percent occurred despite an increase in potato acreage and a stable situation with regard to truck competition. Santa Fe expects this traffic decline to accelerate beyond the 10-percent annual level due to substantially reduced acreage. It compares a projected 1972 acreage of 30,880 with 38,200 in 1971, reflecting a reduction of 19 percent. The stated object of this reduction is to decrease production in order to improve prices. On cross-examination it was admitted that this is a continuing thing where you have years where prices are low and the next year the prices could be higher. The former potato acreage generally is being used to grow cotton which of course does not move under protective service. Assuming that annual production will be reduced in proportion to the cutback in acreage, Santa Fe foresees a 19-percent reduction in rail carloads on top of the 10-percent annual decline which would occur if acreage and production remained stable for 1972 and 1973, as compared with 1971. Based on the rail carrier's computation of 19 percent of the June and July 1971 carloads of Kern County District potatoes, even if there were no further decreases in 1973 production, this would reduce June carloads by 865 and July carloads by 489. Since "the 10 percent" annual reduction in carloads occurred during a time of increased acreage, Santa Fe considers it reasonable to project this further reduction in 1973 loadings, thus computing 2,820 June and 1,596 July loadings.

In 1971, Santa Fe's Kern County District potato traffic accounted for 5,668 RS and 2,100 MTC carloads. Applying this ratio to the projected 1973 June and July loadings of 2,820 and 1,596 carloads, respectively, Santa Fe assumes that 2,057 June carloads and 1,164 July carloads would be in RS cars. As noted above, 100 Conditionaire cars were placed in service the first of 1973 which load up to 180,000 pounds of potatoes (average loads have been 175,000 pounds), as compared with 50,000 pounds in RS cars. While these cars are suitable for transporting numerous commodities, during the peak months of June and July they will be used for potatoes. The use of this fleet will reduce the number of RS cars needed in June and July 1973, by 350 cars each month. This leaves a projected demand in those months of 1,707 RS cars for June and 814 for July. Since respondents propose to eliminate ice refrigeration, Santa Fe assumes that all 1973 loadings that are not in Conditionaire cars will be in MTC cars. The potato tonnage in an RS car is about 50,000 pounds, whereas the minimum in an MTC car is 60,000 pounds. On this basis, Santa Fe computes the number of MTC cars needed to meet the total railcar demand in June and July 1973 as reduced by an amount equal to 20 percent of the RS cars that would be used if ice service were still available.

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Allowing for this factor reduces the number of projected carloads of potatoes to 2,129 and 1,083, respectively.

Numerous carloads of potatoes moved in RS cars from Glendale, Ariz., last year which will not move again because the acreage was displaced by urban renewal. This accounts for 161 cars in June and 4 in July which should be subtracted from the demand on the fleet in 1973. These projections on potatoes mean that the 1973 demand for MTC cars for all commodities will be 4,880 carloads in June and 5,642 in July. Truck competition can be expected to reduce the demand for MTC cars for potato loadings, although Santa Fe did not attempt to quantify the extent or reduction. It was admitted that motor carriage had made much less progress in potato traffic than almost any other perishable commodity. Trucks in 1970 and 1971 moved 35 percent of the production of the Kern County District.

Per-car rates on citrus moving in mechanical cars have been proposed by the major citrus shippers and concurred in by the proper rate jurisdictions. These rates are expected to be effective before June 1973. Santa Fe analyzed the effect of these rates on the demand for refrigerator cars, assuming the level of citrus traffic that it and its short-line connections originated in June and July 1971 in California and Arizona. This analysis indicated that the demand for refrigerator cars would be reduced by 277 cars in June 1973, and 332 cars in July 1973, which further reduces the demand in those months to 4,603 and 5,306 cars, respectively.

In the above analysis, Santa Fe took the actual loadings of citrus on its coast lines (the only place it originates citrus) by type of equipment to reach a total for the RS and the MTC cars for June and July, and a combined total. Then for the RS car it used a standard 6-high level load of 1,116 cartons of oranges per RS car. In June there were 749 RS carloads and this factor times 1,116 cartons per car reflects 835,884 cartons. Those cartons were then divided under the per-car rates and using a divisor of 1,770 cartons (which can be handled in an MTC car) results in a factor of 472, which is the number of MTC cars that can handle the same amount of cartons. The 472 MTC cars substracted from 749 RS cars thus leaves "a reduced demand for equipment of 277 cars."

On cross-examination it was determined that the result of the above computation is that there would be a surplusage and availability of mechanical cars to handle the entire shipment of perishable commodities originating on the Santa Fe. This computation did not take into account the demand or the use of RS cars in any other area of the country for the traffic presently being served in RS cars originating at any point other than on the Santa Fe or its short-line connections.

Santa Fe expects its citrus traffic to decline significantly below the 1971 level because of export traffic which moved last year by rail due to the west coast dock strike, but which is expected to move from California by water in 1973. That strike began July 1, and lasted through the summer, and in June none of the rail carrier's citrus traffic was for export. When the strike began, Santa Fe received 89 RS cars and 78 MTC cars of citrus for export in July. Thus, it is reasoned that it can expect 167 fewer July cars in 1973.

During the peak months in 1971 Santa Fe had a sufficient number of cars available for refrigerated loadings so that some of its MTC cars could be used for loading perishable commodities that require an insulated car but do not need refrigeration or ventilation, such as canned goods and wine. Its fleet of insulated boxcars will be more than adequate to handle this traffic. Since its MTC loadings included those commodities which do not require refrigeration, it subtracted them from the projected 1973 demand for refrigerator cars in June and July. Thus, 177 carloads of

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commodities not requiring refrigeration were excluded from the June demand and 21 carloads from the July demand.

During the strike against the Southern Pacific and Union Pacific railroads in 1971, Santa Fe kept records of perishable traffic it received solely because such traffic could not be routed by way of those lines. The records covered the period between July 13 and 30 (the period of the strike), and account for 583 carloads which were substracted from the July 1973 demand. The adjustments required by the conditions described above result in a projected demand for refrigerator cars in June and July 1973 of 4,603 and 4,535, respectively. Since the Santa Fe computes a total of 4,665 MTC cars in service in 1973, this indicates a surplus of Santa Fe cars over demand for every month in 1973.

Santa Fe explains that its projected study of 1973 monthly loadings has been restricted to June and July because: (1) these were the only 2 months during which there might have been any possibility of a car supply problem; and (2) the due date for its study and the availability of data precluded intensive study of the other 10 months to the same extent that it studied the 2 peak months. Nevertheless, it concludes that it has been able to study the other months solely on the basis of better utilization of available car capacity and it is apparent that for the periods of January-May and August-December, its MTC car fleet will average from 50 to 100 percent in excess of perishable traffic demand. It emphasizes that the hard fact of the matter is that it maintains a continuous fleet of very expensive freight cars to serve a shipping industry that uses it on an irregular and highly specialized basis. It argues that it cannot afford to maintain "such extraordinary service" if it is "simultaneously saddled with the hopelessly obsolete and financially disastrous ice refrigeration burden."

As noted previously Santa Fe's original projection assumed a continuation through 1972 and 1973 of the annual 10-percent decline in Santa Fe potato loadings. The actual decline in 1972 from 1971 was 47.3 percent. For example, potato loadings, as shown above, for 1971, was 7,768, and in 1972 this factor was 4,093, or a decline of 47.3 percent. This drastic reduction was not due to any natural disaster or other unintended event, but was the result of a policy by the growers of decreasing production to improve prices. Even if there is no further decline in Santa Fe's Kern District shipments in 1973, that would mean that the above projected number of cars needed in June and July was overstated by 1,287 cars in the former month and 728 in the latter.

Regarding the number of MTC cars needed to move the June and July 1973 potato traffic and the 20 percent factor of the RS cars used in 1971, it was explained that the incentive line-haul rates which became effective June 9, 1972, would reduce the number of cars needed even more because shippers would load the cars more heavily. On rebuttal, Santa Fe shows the following table pertaining to the 1972 potato tonnage loaded in mechanical cars in the Kern District after the June 9 effective date of the incentive rates:

Minimum weight	Cars	Total weight	Percent
60,000	53	3,180,000	3.89
65,000	60	3,900,000	4.77
75,000	441	33,075,000	40.48
85,000	489	41,565,000	50.86

Based on this table the average weight in a mechanical car was 78,350 pounds. Thus instead of reducing the number of cars needed by 20 percent, the reduction should

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have been by 56.7 percent, which is the percentage increase between the potato loading in an RS car of 50,000 pounds and the average MTC loading.

On rebuttal, respondents admit that the only basis upon which the projections may be overstated relate to the heavier loading of citrus that was expected to result from new incentive rates. These rates were disapproved by the entire Commission in *Citrus Fruits, Ariz. and Calif. to Eastern States,* 341 I.C.C. 622 (1972), because of failure to include a rule 66 provision. However, the rail carriers expect to promptly place in effect a rate adjustment that will overcome the Commission's objection and accomplish the objective of heavier loading. Respondents consider this factor of relatively minor consequence in their projections. They had expected that the incentive rates would have the effect of reducing the number of cars needed in June and July 1973, by 277 and 332, respectively. They emphasize that the effect of this on the total cars needed in those months is more than offset by the substantially reduced number of cars that will be needed for potatoes, as restated above.

While certain protestants made general allegations about difficulty in obtaining all of the Santa Fe mechanical cars requested during the 1972 season, it was explained on rebuttal that such shortage is extraordinary, and that there is no reasonable basis to anticipate any shortage in the territory served by Santa Fe. In June and July 1972 Santa Fe admitted that there were a total of 7 days in which there was a shortage of refrigerator cars on its lines. Every instance involved mechanical cars ordered for placement on lines in northern California, and on each of the 7 days Santa Fe had more than enough mechanical cars in the vicinity. The problem was never one of not having enough cars. Instead, it was a matter of not getting the cars "pretripped" in time to place them on the date for which they were ordered. "Pretripping" is explained as a comprehensive mechanical maintenance procedure which is performed before each loading of an MTC car to assure proper operation of the temperature control system.

In rebuttal and on brief it was pointed out that the existence of a car shortage or tight car supply has very little to do with the number of cars in service, as far as Santa Fe's experience is concerned. In previous years when there have been several times as many refrigerator cars as are now in the fleet, there were instances in which Santa Fe could not get the cars to the points of loading at the time for which they were ordered. The reasons for this have been: (1) inability to move cars to loading territory due to weather conditions, labor stoppages, or operating conditions such as a derailment; (2) inability to prepare cars for loading; or (3) crop harvest at unexpected times with resulting inadequate time to move and prepare cars. In order to eliminate "pretripping" as a cause for withholding cars the Santa Fe has instituted an expanded program of mechanical refrigeration maintenance which will cost in 1973 an estimated $2,755,744. Respondents feel that this should be more than adequate to eliminate the "pretripping" delays and would also assure that the MTC equipment would be in good operating condition and available to provide whatever service is requested.

The Rock Island provides icing services on its line by means of independent contractors and it is not a proprietary line of any of the major carline companies which provide protective service (see footnote 2). Finding ice suppliers the last several years has become increasingly difficult and economically impractical for the carrier, and it expects these conditions to worsen.

It is served by some 33 icing stations, and the per ton current contract price of ice ranges from a low of $9 (Mason City, Iowa) to $30 (Waterloo, Iowa). Fifteen of these stations charge $20 or more. The prices per ton are the companies' lowest rates, and practically all have a minimum charge per car iced, waiting time, penalty for icing

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nights, Saturdays, Sundays, and holidays, sliding scales with less ice purchased the more it costs, guaranteed minimum charges per month or year, and some ice only during the day time. When ice companies go out of business for any reason, such as insufficient sales, condemned, destroyed for public housing or highways, and fires, they are not being rebuilt, which necessitates in most cases arranging for another ice supplier by one means or another, and at a much higher rate. The Rock Island submits that the continuing rapid decline in the use of icing services, difficulty in obtaining ice supply and facilities, the alarming increasing prices for icing services and its present financial condition indicate that this service should be discontinued.

There is no statistical breakdown for the Penn Central Transportation Company (Penn Central) showing the division of perishable traffic loadings between ice refrigeration cars and mechanical refrigerator cars, but evidence that ice refrigeration is rapidly falling into disuse may be seen in the records of ice tonnages placed in cars on Penn Central in recent years. This carrier terminated in 1970 one-fourth of all cars and tons of perishable traffic terminated in rail service in the United States, and it believes that its experience with this traffic may be regarded as representative of rail carriers as a whole.

Carloads of perishable freight terminated in 1970 on all United States class I railroads totalled 625,662, and tons thereof were shown as 17,124,045. Penn Central carloads totalled 180,738, and tons totalled 4,300,548, reflecting 25.1 percent of U.S. tons.

Penn Central, as with other respondents herein, stresses that the RS type ice car, and the ice refrigeration service provided with it, are obsolete. Neither the railroads nor their carline subsidiaries have built any ice refrigerator cars since 1958. In the 10-year period from January 1, 1961 to January 1, 1971, the number of ice refrigerator cars in service on American railroads declined from 77,120 to 31,083.[3]

Penn Central resulted from the 1968-1969 merger of three former railroads, the New York Central System, The Pennsylvania Railroad Company, and the New York, New Haven & Hartford Railroad. A chronological portrayal of the ice tonnages for Penn Central over a period of time must embrace the records for the three underlying systems. On the former New York Central rails, icing services were performed by a wholly owned subsidiary, Merchants Despatch Transportation Corporation. On the rails of the former Pennsylvania Railroad and of the former New York, New Haven & Hartford Railroad, icing service was performed by Fruit Growers Express Company, a partially owned subsidiary. Adding together the ice furnished on the various components of the Penn Central System, results in the following:

Year	Tons of bunker ice	Tons of body ice	Total
1965	203,247	15,931	219,178
1971	39,684	3,368	43,052
1971 of 1965—percent	19.53	21.14	19.64

During the 7-year period covered by the above statistics, the overall ice tonnage dropped to less than one-fifth of that used at the beginning of the period, and the trend of these tonnages, particularly for the years after 1968, leaves little doubt but that icing service is rapidly falling into disuse.

[3]Refrigerator Car Section, Car Service Division, Association of American Railroads.

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It is submitted that one reason why the obsolete icing service has not disappeared more rapidly is that the service is offered to patrons at charges substantially below cost. The charges are subject to a continuing order of the Interstate Commerce Commission in docket No. 20769, and under that order, the maximum charge for bunker ice in the territory served by Penn Central is $7.50 per ton. By contrast Penn Central paid to Merchants Despatch Transportation Corporation and to Fruit Growers Express Company, under contracts filed with and approved by the Interstate Commerce Commission, a weighted average cost of $22 per ton for bunker ice in 1971. On this basis, the Penn Central lost not less than $14.50 per ton for every ton of bunker ice placed in cars on its rails during 1971.

During the same year Penn Central installed 39,684 tons of bunker ice with an indicated loss of not less than $575,418. This carrier doubts that the public interest requires a railroad in reorganization to provide such a direct subsidy to the shippers of perishable traffic. "The continuing rapid decline which has occurred in the use of icing service, and the even more rapid decline which would have occurred in the absence of artificially low tariff charges, indicate that this service has outlived its usefulness and should be abandoned."

As of April 1, 1972, the fleet of refrigerator cars operated by the Pacific Fruit Express Company (PFE) consisted of 13,158 mechanical and 4,049 ice bunker cars, reflecting a total of 17, 207. Mechanical cars number 10,534 with inside length of 50 feet and 9 inches, with cubic capacity of 4,220 cubic feet or more. Acquisition of ice bunker cars was 1,800 in 1957, over 15 years ago. Except for these cars, the last acquisition of standard size ice bunker cars for fresh perishable loading was in 1952, over 20 years ago; the 100 ice bunker cars acquired in 1953 and 1954 were large capacity cars primarily for frozen food loading and later converted to mechanical cars.

Projection of retirements of ice bunker cars in PFE service follows:

	In service January 1	Retirements	In service December 31
1972	4,230	1,226	3,004
1973	3,004	652	2,352
1974	2,352	291	2,061
1975	2,061	40	2,021
1976	2,021	611	1,410
1977	1,410	1,020	390
1978	390	390	

After termination of icing service on the Southern Pacific Transportation Company (SPT) and the Union Pacific Railroad Company (UP), the remaining fleet of ice bunker cars will continue to be available for perishable shipments moving under heater and ventilation services; shipments initially iced at origin on loading tracks to be arranged by shippers and shipments top or body-iced at origin by shippers when both of the latter do not require in-transit icing services formerly performed at railroad facilities.

Carloads shipments in 1957 originating in refrigerator cars on PFE contract lines show a gradual decline; in 1957 shipments totalled 345,845, in 1960 they were 300,609, in 1964-248,717, in 1968-208,615, and in 1971 such shipments were 195,254.

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Also, since the start of the transition from ice bunker to mechanical cars on PFE served lines in 1953, volume of shipments declined in ice bunker cars and ice tonnage issued has similarly decreased. Mechanical car shipments, including SPT and UP orginations, for the years 1968, 1969, 1970, and 1971, totalled 102,347, 115,275, 126,545, and 122,838, respectively. For the same periods, ice bunker cars, with the same originations, numbered 106,268, 95,076, 83,030, and 69,906.

Total carloadings, according to PFE, show a long-term decline as a result of several factors: (1) heavier loading per car under incentive and per-car rates on certain fresh perishable commodities established since 1958; (2) diversion of fresh perishable production to processing; and (3) increased movement of perishable commodities by highway transportation and to a small extent by air. A recent sharp increased diversion to highways occurred during 1971-72 (October through April) lettuce loading season from central Arizona, the Yuma area, and the Imperial Valley of California. For example, in 1971-72 truck shipments totalled 20,928 as compared with rail shipments of 14,865. During the 1970-71 season rail shipments were 18,546 while truck shipments were 16,250. Also potato acreage in Kern County (California) was announced for 1972 at 17 percent below 1971 acreage. This commodity moves during the peak loading months of May, June, and July.

As noted above, the last ice bunker cars were acquired by PFE in 1957 and since that time its building program has concentrated on expansion of the mechanical car fleet to meet the growing demand. This carline projected its 1971 traffic pattern into 1973 to confirm its conclusion that it now is in a position to convert to 100 percent mechanical service for traffic now moving in ice cars under bunker ice refrigeration.

PFE took its actual 1971 shipments moving in mechanical and ice cars under bunker ice refrigeration, adjusted for loads lost during the strike period, adjusted for mechanical cars loaded with dead freight and assumed that shipments in ice bunker cars would move in mechanical cars at average lading weight experienced in 1971 for mechanical cars, and found that it would have an excess capacity, cars over shipments, of 10,365 for the entire year. On this basis it was found that there would be surpluses ranging from 83 to 3,423 cars during 10 of the 12 months, while it appeared that there would be deficiencies during the months of June and July.

Upon closer examination of its June and July traffic patterns it determined that there may not be a "possible deficiency." For example, one of its heaviest commodities during June and July is potatoes. As previously indicated potato acreage in Kern County, the major SPT producing area, has been reduced. In fact potato acreage in this area has been shrinking over the years, and giving effect to projected acreage reductions for 1973, and to the anticipated heavier loadings which will result under the new incentive potato rates, it found that its requirements would be reduced by 1,601 cars in June and 683 cars in July.

PFE, as other respondents, takes the position that the exempt truck operator is a lower cost mode of transportation for loads in the under 41,000-pound category. The carriers have been progressing a series of rate proposals designed to increase rates on various perishable commodities to a "compensatory level" and consider it inevitable that shipments of vegetables which the rails now handle in the under 41,000-pound range will either be diverted to truck or, if shipped by way of rail, will be loaded much more heavily. The rails in reviewing its traffic statistics for certain vegetables shipped during June and July found that 1,120 cars in June and 632 cars in July consisted of lightly loaded shipments under 41,000 pounds. Thus it is not "realistic to expect that demand pattern to be repeated in 1973 and so have reduced the projected demand by those amounts."

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On cross-examination, PFE explained what the railroads had done to encourage shippers to continue to handle light-loading vegetables. It feels that the shippers do not want to load heavy in the mechanical cars and that the per package rate would be excessive for the light loads under a per-car rate based upon the capacity of the car.

The record shows that for 1971 the average loading of citrus in mechanical cars was 62,100 pounds in the 400,000 series car, the large mechanical car; 55,300 pounds in the medium size car; 44,100 pounds in the 100,000 series car, the small car; and 43,000 pounds in the RS car. Heavier loadings are expected because of new citrus incentive rates which have been cooperatively worked out between the carriers and the shippers. Respondents explain that, based on the assumption that cars will be loaded to the average projected by the industry, results in a reduction of 124 cars in June and 170 cars in July. Respondents calculate the projected loading of mechanical cars in 1973 at 66,989 pounds.

Lettuce and cantaloupes traditionally are considered heavy loading commodities, and the record indicates that in many instances the shippers are not making use of the carrying capacity of the cars. On the other hand, cantaloupes (in the entire United States), for the most part, are loaded in mechanical cars. Respondents' projection for these commodities is based on the transportation capability of the equipment in relation to what the shipper had placed in the car previously and can still place in the car if he wants to. Such a projection yields a reduction in car requirements of 369 and 127 for lettuce and cantaloupes, respectively, in June, and 199 and 69 in July.

Deciduous fruits and grapes now moving by rail is low and the average lading weights for 1971 in the large size mechanical car (on deciduous tree fruits, depending on the variety) varied from 39,700 to 49,600 pounds. On grapes the average lading was 40,800 pounds. Deciduous fruits (except apples and pears) and grapes are now the subject of an incentive rate program which PFE expects will eliminate the lighter loads, either by diversion or by consolidation of shipments into heavier loads. A heavier loading of 50 percent is considered reasonable to assume for these commodities which would reduce requirements by 292 cars in June and 271 cars in July.

On cross-examination, PFE emphasized that the percentage of traffic moving via highways this year (1972), compared to last, increased on most commodities. The most serious diversion involved shipments of lettuce from the central Arizona-Yuma area and the Imperial Valley of California during the fall of 1971 and early 1972 season, which reflected an increase from the prior season of 46.7 percent by truck to 58.4 percent. This represented a considerable volume in movements since the truck increased 4,678 loads as compared with a decrease of 3,681 by rail. On cross, also it was determined that while PFE predicted that it would have 13,134 mechanical cars available for loading as of January 1973, it would have 34 less cars in December. It was determined that the 30 cars would be destroyed involuntarily in accidents on the railroad and 4 retired because of condition.

PFE points out that the above calculations do not take into account the determined efforts it intends to make during periods of tight car supply to elimintate detention of cars, principally at destination. In June it lost the equivalent of 374 cars because of detention beyond the free-time period. It expresses the hope that, during times of tight car supply, shippers and receivers will work cooperatively to eliminate unnecessary detention. The exempt truck carriers hauling fresh perishables do not grant detention to receivers and only the railroads presently accord this privilege. It expects to bring detention of rail shipments within reasonable bounds, and if necessary will call upon the Commission for assistance in bringing this about. It is

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always faced with the prospect of continuing diversion of long-haul traffic caused by certain service disabilities on the part of the rails and faster transit time by truck. It stresses that its projection of equipment demand in 1973 may be optimistic since no adjustment was made for this factor.

Western railroad respondents, in pointing out that this perishable traffic is important, explain that a majority of the railcars of perishables shipped in this country originate on their systems and short-line connections; that they have made significant investments in large fleets of the most modern and efficient mechanical protective service cars; and that the magnitude of their traffic and investment suggests that their service should be important to shippers of western perishables.

Prior to World War II the railroads were the only means of moving perishables in volume from the growing areas of the West to the major consuming centers of the Midwest and East. Shipments of lettuce, vegetables, melons, grapes, citrus, and other commodities, grown in the fertile soils in the West, were shipped by rail to consuming areas all over the country.

The situation has changed in the last few years and rail carriers no longer are the exclusive inland transporters of fresh perishables. In fact, in terms of total intercity movement, they are in second place behind the motor carriers. They advance the argument that the sporadic rail shipping pattern to many of the smaller markets suggests that they are only a standby carrier, except to a limited number of major market points which continue to support year-round rail receipts. Moreover, they stress that the RS car is both economically as well as technologically obsolete, and affords no opportunity to successfully compete on the basis of inherent costs against the exempt motor carriers.

The railroads believe that they can best serve the public by channeling their efforts into those areas of transportation where they have an inherent advantage over competitive modes and where they can provide a public service at a reasonable price and thereby share the benefits of their inherent advantage with the shippers who employ it. It appears that the traffic which is most subject to diversion consists of the smaller, truck size shipments, "where present rail revenues are inadequate and where the motor carriers have an inherent variable cost advantage under rail transport." While some shippers prefer the convenience of small shipment sizes, the rail carriers contend they can no longer afford to subsidize such shipments, which service appears to be available by exempt motor carriage.

Protestants.—The Great Atlantic & Pacific Tea Company, Inc. (A&P), submitted testimony for itself as well as for the National Association of Food Chains (NAFC), and opposes the proposal herein because they believe they are entitled to receive the protective service necessary to further the interstate commerce of the United States at reasonable cost, and that it is the respondents' duty and obligation to supply such service. On cross-examination, they admit that buyers of this service have an obligation and duty to pay a reasonable cost for such service.

A&P, a retail food chain with over 4,000 stores located throughout the United States and Canada, receives its merchandise from more than 30 A&P distribution facilities. These facilities receive carload shipments of fresh fruits, vegetables, dairy products, and other perishable items which move under refrigeration service provided through both mechanical means and ice. NAFC represents more than 200 member chains conducting operations throughout the United States, and serves the public through more than 23,000 individual retail stores and supermarkets offering for sale groceries, meat, produce, dairy products, and other merchandise.

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During 1971, A&P received approximately 8,000 rail carload shipments of fresh fruits and vegetables from all sources on which it paid and absorbed the freight and refrigeration charges. Of these, about 2,000 or 25 percent moved in ice bunker cars. Most of these shipments originated from Washington, California, Arizona, and Texas. During the period July 1970 through June 1971, 8,185 shipments moving in RS cars would have had to be accommodated in mechanical cars if icing had not been available. As the mechanical cars also are used for frozen foods, dairy products, plus other shipments, protestants stress that they cannot afford to assume that the mechanical fleet will be sufficient to handle the additional burden that will be imposed. While the respondents in the past have maintained consistently that the mechanical fleet can do the job required if each car is loaded to capacity, the food chains have maintained just as consistently that they cannot load large 50-foot cars to capacity with fresh fruits and vegetables merely to increase railroad carrying efficiency.

Protestants charge that a food chain cannot increase the size of its shipments of fresh fruits and vegetables merely to take advantage of the per-car rates and full loading capacity of the 50-foot car, and these items cannot be stockpiled and "A&P can order only what the consumer will buy," what can be turned over promptly, and sold and eaten while the produce is still fresh, edible, and nutritious before decay sets in. If stores in a destination area can sell only 40,000 pounds of a product during its period of shelf life, a chain cannot order 60,000, 75,000, or 85,000 pounds just to fill the car to capacity and provide greater revenue to the carrier.

A&P shipped a carload of broccoli, weighing 21,600 pounds (April 28, 1972) from Salinas, Calif., to Newark, N.J., in an ice bunker car at a total cost of $866.19, with $763.64 representing the per-car charge covering the line-haul movement. The tariff rates named apply only in RS type refrigerator cars. The line-haul charge on a similar shipment moving in a 40-foot mechanical car is $1,447.72. A comparison of charges between the same shipment in the ice car and the 40-foot mechanical car shows a total charge of $866.19 (RS car), and $1,639.02 (mechanical car), or an increase for one shipment by $772.83 or 89 percent. On this basis, the increased cost for 2,000 shipments would be enormous. Approximately 47 percent of the consumer food sales are made through retail chains and A&P and NAFC are gravely concerned with the ultimate effect that the elimination of the smaller refrigerated cars will have upon the Nation's food bill.

Rail shipments from the west coast take longer in transit. For example, a truck takes 5 days as compared with 6 to 10 for rail. On cross-examination, this shipper admits that if the cost or price of the RS car is the same as that of the mechanical car, it would prefer using the latter car.

The U.S. Department of Agriculture ships a substantial volume of agriculture commodities each year and thus has a financial interest in obtaining equitable and reasonable practices relating to the transportation of such commodities. During the past 18 years, it bemoans the fact that the RS type cars have declined by 91,295 cars, leaving a total of only 28,085, while the mechanical cars have increased by only 25,618.

The Agriculture Department in its various programs furnished food to needy families and school lunches and is a substantial user of refrigerator cars by rail. In the 7-month period, June through December 1971, it made 1,271 shipments in refrigerator cars. Of those shipments, 304 of them were in ice bunker cars, and 85 percent of such shipments consisted of butter and cheese and originated in the Midwest. It was explained that a portion of the ice bunker cars utilized were the result of the carriers' inability to furnish mechanical cars when requested.

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The Pacific Gamble Robinson Co. (Pacific Gamble) of Seattle, Wash., is concerned with shipments from all of the major producing points in California, Arizona, Florida, Texas, and in the Pacific Northwest, to virtually all parts of the country. Its operations are heavily centered in the West, Oregon, Washington, British Columbia, Montana, Idaho, Utah, and on east, including Wisconsin, Minnesota, and the Dakotas. It has 80 distributing branches for fresh fruit and vegetables with all of them served by rail as well as by truck. Also, it has shipping branches and offices for potatoes at Bruce and Wapato, Wash., and Prineville and Ontario, Oreg., in addition to other shipping points on onions. Extensive shipping operations are maintained relating to fresh fruits and vegetables in the Yakima/Wentachee area, in addition to buying offices in Florida and California.

During the first 9 months of 1972 on rail traffic alone, this protestant used a total of 674 RS bunker type and 315 mechanical cars. RS icing services are used on citrus fruit from California from March through October, on potatoes from California from May through July, on new potatoes from Florida during February and March, on corn from Florida during February and March, on corn from California during the period of April and May, on potatoes from Washington during June, July, August, September, and a part of October, and on potatoes from Oregon during the period of September and the early part of October depending on weather conditions.

Pacific Gamble states two reasons for using the RS bunker type cars: One, for a modified service;[1] and two, the cost factor, since this car is considered "cheaper" than mechanical as the RS car accommodates a smaller load. At Coos Bay, Oreg., on potatoes, its plant serves a sparsely populated area of less than 50,000 people and it is difficult to justify any load above 50,000 pounds of potatoes into that market. The same situation is said to exist at Salina, Kans., or Holdrege and McCook, Nebr. The company has at least 40 branches that would have difficulty using anything greater than 50,000 pounds of potatoes at one time. Protestants experience difficulty in securing the "correct size" mechanical cars to service smaller markets.

On cross-examination, Pacific Gamble admitted use of motor carriers. For example, in shipping the first navel oranges out of California to the Pacific Northwest, when the price is high and the commodity is scarce, it uses motor common carriage. This is due to superiority of motor service and time in transit is a factor. It admits that when the price becomes stable and it is not fluctuating rail movement is used. On the other hand, this protestant is of the opinion that there are not enough trucks to offset what is now moving by RS type cars. It was unable to state the amount of trucks that can be used, "but from past experiences, when the commodity is in season, trucks are very, very scarce."

Western Growers Association (WGA) is a trade organization representing the vegetable, melon, potato, and strawberry industries in California and Arizona, and they have represented vegetable and melon shippers for approximately 45 years.

WGA, as regards some of the light-loading commodities, maintains that it has three problems, marketing, car shortages, and rates. It stresses that the ice cars are being used by the shippers extensively, including potatoes, and until such time as there are no car shortages, and mechanical cars are available, it wants to continue the use of the RS cars for marketing and "also for the rate purposes." Light-loading commodities include, for the most part, broccoli, cauliflower, artichokes, green onions, sweet corn, mixed vegetables, and green peas. About 10,000 cars of these items move each year. These light-loading commodities cannot load as heavy as carrots, for example. So far

[1]Modified service does not require full-stage refrigeration. In other words, it could involve initial ice only, re-iced once in transit, re-iced twice in transit, and replenished bunkers.

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as the RS car is concerned, broccoli would load about 24,000 pounds, while a carload of lettuce would run 30,000 pounds.

The marketing problem involves the number of units that a given area can buy and dispose of in a reasonable length of time, and the RS car meets this demand by having a lighter or lesser amount of packages in it than you would have in the larger 50-foot car. Also, on broccoli, as an example, the advantage of using an RS over a mechanical car would be that the ice in the car arrives in a better condition than when you have the air flowing over the top of it. The ice also keeps the load in place, and prevents it from moving from one side to the other. Even when broccoli and onions are shipped in the mechanical cars, top ice is added.

This protestant contends that there will be a shortage of cars during the coming year in the event that it does not have the RS cars available, and that the PFE, its largest originating line, does not intend to build any more cars. Almost 100 percent of its broccoli moved in RS cars. Particularly in the summer months, WGA uses modified services. It does admit that there are times of the year when re-icing stations are not needed in transit, but when shipments, from the West, move beyond Chicago or St. Louis, such re-top icing facilities at these points would require the use of RS cars on a year-round basis. This protestant takes the position that complete icing services should be continued until at least December 1973, but beyond that time its "another question." It explains the phrase "beyond that time" to mean that if it had two icing stations at Chicago and St. Louis, it could continue to use the ice in the RS cars.

The evidence indicates that on light-loading commodities, such as broccoli, it takes one rate if it moves in an RS car, and a higher rate even though it moves in the smaller mechanical cars that may be available. For example, the light-loading commodities moving to official territory have a special rate on RS cars only; if you use mechanical cars, you have two problems, you must have a heavier load and you have a higher per unit cost.

On cross-examination, WGA defined a car shortage as that period of time when a shipper cannot get the cars it wants. One example given, was a "shortage" at Bakersfield, when the potatoes started to run heavy in that area. This shortage was said to have run about 2 or 3 weeks. While WGA admits that the mechanical car does a better job, in most, it stresses that it still has to have ice.

In discussing the potato crop, as harvested in the Kern County District, WGA explains that such harvest normally takes place between April 20 and July 20 of each year. The largest outlet, of course, is the Los Angeles area, but a large proportion goes east of Chicago. It disagrees with respondents that there has been a steady decline of acreage, 1967 to 1971. Its (WGA) analysis reveals that the acreage has leveled off, and not continued a steady decline. For example, in 1971 marketing conditions for potatoes were depressed, and prices were below the cost of production. As a result of the 38,280 acres for harvest that year, about 4,000 acres (about 2,500 carlot equivalents) were not shipped commercially. That part of the harvest was dug and brought to the various air-strips for cattle feed.

WGA expects the potato production to increase from the Kern County District during the year 1973. An experimental rate was established last summner based on a minimum of 85,000 pounds, and the WGA admitted on cross-examination that hundreds of cars of potatoes did move under such a rate, and that the industry does prefer the mechanical cars, only if there are enough cars to go around. About one-third of all potatoes which this protestant ships moves into official territory to repackers, and there is some indication that Santa Fe's 100 Conditionaire cars could accommdate such movements. On redirect examination, WGA stated that in 1971 and

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1972 there were instances where the availability of equipment was extremely tight, and that in most instances such shortages were of mechanical cars.

The Phelan and Taylor Produce Company, at Oceana, Calif., has annual shipping operations consisting of about 700,000 packages, and about 150,000 crates or cartons of cauliflower. The H. H. Maulhardt Company, located at Guadalupe, Calif., produces and ships about 5,000 crates of broccoli each year, which equates to about 1,500 carlots. Broccoli and cauliflower are the light-loading commodities, while celery (its principal commodity), of course, is heavy.

Trucks move about 16 percent of broccoli, with 84 percent transported in carlots, while in 1970, celery moved 46 percent by trucks, as compared with 54 percent moving by rail. Crates of cauliflower included 78 percent by trucks, and 22 percent by rail. These protestants estimate that 85 percent of their total operation go beyond the Mississippi River east to the New England States, predominantly to the heavier populated areas. Although broccoli loads 12 months out of the year, the months of July, August, and September are the warm delivery months. They try to keep their acreage down to mixed carlot volume as opposed to straight cars because cauliflower and broccoli both are a cold season food. Celery starts the first of June and terminates December 31. Chain stores primarily are the users of broccoli, and they purchase about 65 percent of that sold.

As a general rule, broccoli and cauliflower load 840 crates in the RS cars although some of these cars will load as high as 960 crates. The smaller mechanical cars load 960 crates, as compared with the 300 series loading 1,200 crates, and the 450 series, 1,600 crates. Last year these protestants loaded 540 or 550 cars of broccoli and two cars held 1,600 crates. Most of their markets just cannot use more than 800 or 900 crates of these light-loading commodities at the same time. It is less expensive for the chain stores to purchase two RS cars of 840 crates each at $1.21 per crate (to New York) than it is for one 1,600 crate car (mechanical) at $1.30. Thus, these protestants do not find the incentive rates attractive on mechanical cars, loading 1,600 crates in a 50-foot car. Also, broccoli and celery need moisture, and that is why the ice car is preferred. It is stressed that re-top ice in transit is needed, although these protestants could "live with it" through 9 months of the year, but in June, July, and August, especially on loads moving east beyond Chicago, St. Louis, and Kansas City, top and bunker ice are considered necessary.

If the RS cars are no longer available, protestants would go to the smaller (100 series) mechanical cars, they could not load the 300 or 450 series, because the freight is prohibitive, and "you just cannot sell 1,600 crates of broccoli to anybody." These two protestants sell very little to cities outside official territory. They do admit that they have not had any bad experience as to getting good order mechanicals, and can acquire a truck almost any time they want it. However, on occasion the truckers will promptly raise their prices about $300 a car on movements to the east.

Land O'Lakes, Inc., is engaged in the production, sale, and distribution of dairy products by rail in interstate commerce from and to various points throughout the United States. It is agreeable to a reasonable increase in icing charges if the railroads would continue icing services until such a time when they are in a position to furnish mechanical cars in lieu of the ice cars that are presently used.

Protestant presently has dairy products moving from various points in Minnesota and Wisconsin to various eastern destinations in RS cars as well as carloads between various points in the Midwest. Except for a few months of the year, the commodities require initial icing and re-icing in transit. In 1971, it used approximately 436 RS and 532 mechanical cars, and in 1972 (through October), 263 RS cars were used as compared with 573 mechanical cars.

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In most cases protestant uses mechanical cars only when necessary, that being when the commodity shipped is frozen or when the volume is too large to load in RS cars. At present it experiences difficulty in obtaining mechanical equipment to meet its needs, and in some cases, it has found shipment by motor carriers or ice cars impossible.

Even though the Burlington Northern and the Milwaukee do not intend to discontinue their icing services, it does not solve the problem of re-icing in transit. Protestant normally starts re-icing in transit in May and continues through October. During this period "should carrier icing be eliminated on lines east of Chicago, we would be forced to use motor carriers or mechanical cars if we are fortunate enough to obtain the equipment which has always been in short supply for us."

Presently Land O'Lakes is loading about 50,000 pounds of butter in ice cars from Minnesota and Wisconsin to points on the east coast. On this type of movement, it has considerable rate advantage over motor carriers but it finds that the carriers are not anxious to use mechanical cars for this movement since protestant finds that owners of mechanical equipment are not interested in using their cars for midwest shippers with their relatively short hauls.

Land O'Lakes contends that approval of the instant proposal would create an even greater shortage of mechanical cars in the Midwest. Its originating carriers participate in the movement only as far as Chicago, and protestant fears that western carrier respondents would use mechanical cars on traffic producing the greatest revenue and traffic to the east coast. When there is a tight car supply, it has found that the mechanical cars are generally furnished by carline companies to shippers located on their lines. This protestant has plants located on the Soo Lines and the North Western who do not own or lease much equipment themselves. Thus, without ice bunker cars with adequate icing facilities, it is apprehensive of the ability of those carriers to furnish any cars at all.

This protestant's facilities also are located on the Burlington Northern, and the Milwaukee, which railroads will continue to provide ice service. Land O'Lakes admits that the RS car rate advantage is a factor in its preference over motor carriage. While it expresses a fear as to re-icing, the record seems clear that on movements to New York (New York and Boston are the prominent destination areas for this protestant's traffic) re-icing would continue to take place at Chicago.

Balcom & Moe, Inc. (Balcom), of Pasco, Wash., ships an average of 900 cars each year, and used the RS bunker for bag and carton shipments as well as for bulk shipments. It also uses the conditionaire car for between 25 and 40 shipments per season. Such shipments go to the east coast, New York, Philadelphia, and Newark with its normal season starting about the middle part of July and extending through the better part of October.

Balcom is situated on the Burlington and most of its shippers are located on that railroad. Because of a shortage of mechanical cars, it is required to use the RS bunker type cars. Generally speaking, it prefers the mechanical cars, however, there is a problem with the higher minimums that normally are placed on such cars, and several of its receivers are unable to take the size load required.

Balcom originated 6,095 cars of potatoes in 1971, with a negligible amount moving by the Union Pacific, about 15 percent by the Milwaukee, and the balance moving on the Burlington lines. Some 60 to 65 percent of the potatoes would go east of the Mississippi River, and would include such points as Chicago and Kansas City. During the same year, more than 4,000 truck shipments of potatoes moved to Washington, Oregon, California, Arizona, and Texas.

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As to shipments of potatoes moving from Washington into Southern California, including the Los Angeles area, Balcom prefers trucks since it would be getting 36-hour delivery, while it would be the fourth afternoon or fifth morning by rail. In the San Francisco territory, movements by rail require the sixth or seventh morning, as compared with 18- to 24-hour delivery by truck. Trucks are not available, as a rule, during the latter part of August and the first of September, because this shipper is priced out by higher paying commodities such as apples, and at that point, it uses the rail service.

Balcom prefers the mechanical car and terms it a better form of refrigeration. Washington potatoes moving into the New York area primarily are transported in the 45-foot car and load somewhere between 60 and 70,000 pounds, and the usual load in an RS car is around 50,000 pounds. It is concerned about the availability of mechanical cars, as it had not always received them from the Burlington when needed. As noted previously, the Burlington, as well as the Milwaukee, do not propose to cancel their ice services.

The Northwest Horticultural Council (Council), with offices at Yakima, Wash., is a nonprofit corporation organized under the laws of Washington to coordinate industrial activities of the tree fruit industry in Washington and Oregon. Members thereof include numerous organizations of fruit growers and shippers in those States. The Council represents more than 9,000 growers who grow practically 100 percent of all apples and in excess of 90 percent of all other deciduous fruits grown commercially in Washington and Oregon.

The Council, like other protestants, asserts that there presently are not sufficient mechanical refrigerator cars, nor mechanical TOFC equipment to handle the perishable shipments. It insists that cancellation of protective service in ice bunker cars will create a chaotic situation, and its fresh fruits and vegetables will deteriorate and be completely lost because adequate transportation facilities will not be available. Most of its rail shipments of deciduous fruits move to destinations east and south of the area serviced by the Burlington Northern and the Milwaukee, and their "limited services" could be utilized on only a minor portion of its shipments. If and when an adequate supply of mechanical refrigerator cars are available, it would not object to cancellation of the ice bunker cars.

In reference to respondents' 1971 "study," the Council points out that they overlooked the fact that unloads of perishables in 41 major cities, as reported by the United States Department of Agriculture, declined from 1969 to 1971 as follows: 1969, 811,225; 1970, 813,840; and 1971, 772,010. Protestants insist that this data reflect short crops in 1971, and respondents' conclusion fails to take into consideration the increase in population from 1969 to 1973 and the higher standard of living in the United States.

The above unloads are based on a calendar year whereas many of the figures are based on crop years. Carlot shipments of apples from the Wenatchee and Yakima districts (including both rail and truck) for the last few crop years or seasons are as follows:

Season	Rail	Truck lots	Total
1970-71	8,510	19,816	28,326
1971-72	5,457	19,157	24,614
1972-73 (estimate)	------	------	31,070

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This estimate of the 1972-73 season is based on shipments to date plus supplies in cold storage warehouses. Rail shipments for the last two seasons, beginning with the new crop in September, were 1971 (through 11-20) 488 rail shipments, and 1972 (through 11-18) 816 rail shipments. This protestant concludes that this increase (67 percent) cast serious doubt on the carriers' assumption that 1973 shipments will only be equal to 1971.

The estimated shipments of Washington apples from the Wenatchee and Yakima districts (rail and truck) for the 1972-73 season is not considered a bumper crop. In 1966-67, 35,300 carlots were shipped, and many trees have come into bearing since the fall of 1966. The Council maintains that these trees greatly exceed those which have been damaged or removed due to freezing, obsolescence or other causes, and if it comes up with a full crop, Washington alone could provide from 40 to 45,000 cars of apples for shipment.

Although the rail percentage of Yakima and Wenatchee apple shipments declined from 51.2 percent in 1966-67 to 22.17 percent in 1971-72, the Council attributes this to a number of causes, including the unreliability of railroad service. However, it admits that this service has improved during the last year or two, and railroad deliveries are somewhat more reliable than during the period the railroads' share of the business declined sharply.

Most of the Council's rail shipments in recent years have moved in mechanical cars, and generally the supply of mechanicals has been adequate except at peak seasons. If citrus and potatoes which have moved extensively in ice bunker cars are forced to use mechanical cars, the industry, especially the apple shippers, feel that a serious car shortage will develop, to the detriment of the growers, shippers, and the consuming public.

On cross-examination, it was brought out that the Burlington Northern is the dominant carrier for the total amount of fruit in the Northwest, and the Union Pacific and the Southern Pacific would be the dominant carriers for pears. From 55 to 60 percent of the apples that come from Washington is moved by the Burlington Northern from the Wenatchee area. Around 70 to 75 percent of the Washington apples are transported by the Burlington Northern and that does not include, of course, truck shipments. The Milwaukee does not carry any significant percentage of apples.

While these protestants express disappointment in Burlington's service, they state that their general disappointment has been with the service of the eastern carriers. They generally have had an adequate supply of mechanical refrigerator cars from the Union Pacific but the Burlington Northern has not had such cars available to the extent of the Union Pacific.

Sunkist Growers, Inc. (Sunkist), an agricultural marketing cooperative association, is charged with the responsibility of marketing fresh citrus fruits and products made therefrom, for approximately 9,000 citrus growers in California and Arizona. Its concern herein is with the shipment by rail of oranges, lemons, grapefruit, tangerines, and limes to destinations east of the Mississippi River, north of the Ohio River, and to eastern Canada.

For the most part, Sunkist's shipments of perishable citrus fruits to the West have been diverted to trucks. For example, in 1950 its total sales, railcars and trucks in railcar equivalents, were 49,368, with oranges, grapefruit, lemons, and tangerines moving in 3,399 trucks in railcar equivalents, or 6.9 percent. In 1971, total sales, rail and truck were 39,755, while the truck in railcar equivalents totalled 14,984, or 37.7 percent. Since 1960 motor carrier volume has reached substantial proportions and virtually all Sunkist shipments destined west of the Missouri River crossings are now handled by motor carrier.

It is explained that all agricultural commodities are subject to the vagaries of weather with a resultant profound effect upon production. Certain seasons, notably the 1968 season, and the most recent season in 1971, were years in which Sunkist suffered natural disasters such as freezes or floods. These factors sharply reduced the total shipments made during those years. However, over the next 5 years, it expects to move some 250,000 railcar equivalents for domestic shipment in interstate commerce, of which approximately 150,000 will move by rail.

Approximately 80 percent of Sunkist's shipments by rail terminate in eastern United States and eastern Canada, principally in such centers as Philadelphia, New York, Boston, Toronto, and Montreal. In 1950, its shipments moved 100 percent in 45,133

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ice bunker cars, in 1967, 93 percent or 31,095 shipments moved in such cars, and in 1971, 83 percent, or 20,432 shipments moved. During 1971, 13 percent, or 3,203 shipments moved in the mechanical car, with 4 percent, or 890 shipments moving TOFC. The mechanical car is a much larger car with lading weight of about 70,000 pounds when loaded "with six level layers." This is a much larger unit than most of Sunkist's customers prefer to handle, and a smaller car is more practical insofar as its marketing practices are concerned.

At the present time freight rates from California-Arizona to the East are the same whether it uses mechanical or ice bunker cars. The same number of cartons in a mechanical or an ice bunker results in the same freight charge to a given point, and the only difference is the refrigeration charge. The standard load which is the best for Sunkist-receiver marketing practices is now 1,116 cartons per carload. Such a load would average about 44,000 pounds. In mechanical cars, the charge per carton for protective service would run a little over 13 cents per carton.

Sunkist points out that if the shipment were made in an ice bunker car, the shipper has available not only standard refrigeration but also half-stage, and a number of wholly adequate modified services which are much less costly than standard refrigeration or mechanical service. In the winter the shipper is able to purchase a less costly protective service as the need is not as great. During the 1970-71 season over 83 percent of Sunkist's ice bunker cars moved under far less costly services than standard refrigeration or mechanical protective service.

Protestant submits that it is dependent upon the railroads for the distribution of its fresh citrus products to the eastern markets. Railcar shipments have varied from 33,000 to as low as 20,000 cars in the past 5 years depending upon weather conditions during the growing season. It expresses the hope that it will have available for rail transportation to the East between 25,000 and 30,000 cars per year within the near future. "Increased plantings have been made of citrus trees in California and Arizona, and the volume of traffic which must be marketed in the eastern parts of the United States and eastern Canada will increase. Nearly all of this traffic has been handled in the past in ice bunker cars. Sunkist is vitally concerned the carriers will not have sufficient equipment to handle its rail tonnage, and the tonnage of others, in view of their apparent decision to build few mechanical cars and, in fact, eliminate smaller mechanical cars."

On brief, Sunkist is critical of respondents' projections reflected by studies purporting to show how the entire perishable traffic could be handled by the existing fleet of mechanical refrigerator cars, and it emphasizes that such shipments could be handled only if respondents were able to achieve 13.5 round trips per year per car. While admitting that it does not know what is a proper figure for car utilization of mechanical cars, it takes the position that 8.6 trips per year (PFE's study showed such a figure for 1971) is poor utilization. It further points out that there is nothing to suggest that a 13.5 round trip factor has any validity and that neither the Santa Fe nor the PFE has ever achieved that figure in the past.

Reference is made to "other infirmities" in respondents' projections. First, 1971 was taken as a typical year, and Sunkist takes a different view, as the years 1967 through 1970 showed a relatively stable period of shipments for the PFE at approximately 209,000 carloads. Santa Fe purports to show a loss of about 10,000 cars between 1969 and 1971, and Sunkist questions which is typical—1969 or 1971. It submits that 1971 was unusual in that there were short supplies, since it had an unusual amount of fruit which could not be sold because of poor quality or damage, the result of weather. Potato shipments were done because of poor price conditions, and weather has a

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"large part in determining the total crop available for transportation in any given year." It considers a 5-year average as more appropriate "to come up with what might typically be expected for the near future."

On cross-examination, Sunkist was unable to produce any records or documentation that would serve as a basis for its claim of car shortages. It did agree that the preferences of its customers might adapt to the innovation of an all-mechanical refrigerator car fleet. Its preference for the RS cars was based in part because it was less expensive than movements in mechanical cars.

The Public Utilities Commission of California contends that in the event the water-ice cars are taken out of service, the increased demand for mechanical refrigerator cars (of which there were about 24,000 in service in 1971) "will far exceed the supply and thereby create a critical car shortage which, in turn, will preclude the movement of California perishables to eastern markets."

Reference was made to movement of fresh fruits and vegetables from California to 31 cities located in group H and East thereof for the years 1966-70. The source was submitted as "Unloads in 41 cities, U.S.D.A." The 10 cities that were deleted included cities in California and other western States. Based on this data, the California Commission submits that there has been a definite shift among several modes of transport in the movement of deciduous, citrus, melon, and vegetable traffic from 1966 to 1970.

In the deciduous group, rail movement from California to transcontinental destinations dropped 43.62 percent for the 5-year period, and truck and air traffic increased 68.92 percent. During this period, the market share of the rail lines for all four classes decreased 9 percent while the total movement increased 10 percent. Citrus, melon, and vegetable traffic has followed the same general trend as the deciduous. The rail movement of the fresh fruits and vegetables has declined consistently. California emphasizes that the decline in rail movement can be attributed to the increased cost of marketing the foregoing commodities and inadequate service.

The farm value of significant California fresh crops in 1968 and 1969 which required refrigeration service exceeded $1 billion for each of these years. California produces about 88 percent of the Nation's broccoli, 80 percent of the Nation's brussel sprouts, 72 percent cauliflower, 48 percent asparagus, 50 percent of the Nation's winter and summer crops, 100 percent of the early summer and late fall crops, 60 percent of the Nation's celery, and 90 percent of the Nation's deciduous fruits. See *Mechanical Protective Serv. of Perishables—Nationwide*, 340 I.C.C. 470.

PFE, Santa Fe, FGE, WFE, and ART handled (in 1970) 91,192 shipments in ice service and 162,701 shipments in mechanical service. Based on this data, the California Commission concludes that there exists a heavy demand for ice bunker cars, and this heavy demand continues to be the case insofar as California is concerned. It is emphasized that over 85 percent of the shipments which moved under ice service involve commodities which are produced in California on a substantial scale and "represent a substantial segment of California's economy."

Wilson Certified Foods, Inc., Wilson Beef & Lamb Co., Wilson & Co., Inc., and Wilson-Sinclair Co.[5] testified as one company (Wilson) in opposition to the railroads'

[5]At the hearing testimony revealed that effective January 1, 1973, these four companies became one company. On brief, the following meatpackers: The Geo. A. Hormel & Co., Oscar Mayer & Co., John Morrell & Co., and The Rath Packing Company are also referred to as protestants. These protestants distribute perishable meat commodities by railroad from midwestern, western, and southwestern origins to points throughout the Nation and Canada. A preponderance of their

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proposal. Its major concern, as a shipper of fresh meats and packinghouse products, is that the railroads should not be permitted to discontinue icing service unless they are in a position to meet loading requirements with mechanical meat rail refrigerator cars.

The meatpackers contend that historically the railroads have refused to furnish meat rail refrigerator cars, with few exceptions, and in order to move such traffic, it was necessary that they purchase or lease such cars. For example, this protestant has 291 forty-foot meat rail refrigerator cars with ice bunkers, built in 1957-58, reflecting an "investment" of $4,074,000; 57 such cars (50-foot) built in 1958, investment stated as $1,083,000, and these cars were stretched to 50-foot ice bunkers at a cost of about $5,500 each; 108 ice bunker cars built in 1965 at a cost of $1,944,000; and 15 meat rail refrigerator cars equipped with mechanical refrigeration, built in 1965, at a cost of $337,500. Presently, all of the above cars are in use by the Wilson Company. Wilson insists that the above-stated investment was made in reliance on its belief that the railroads would continue to provide icing services at its stations.

During the period November 1, 1971-October 31, 1972, there were 722 loadings at the Wilson plants in 40-foot meat rail refrigerator cars with ice bunkers; 988 loadings in 50-foot ice bunkers; and 146 loadings in meat rail refrigerator cars equipped with mechanical refrigeration; with all of these cars furnished by the shipper. During the same period, the railroads furnished 433 mechanical cars, used generally for loading boxed meat since very few of the rail carriers have cars with meat rails. These plants, located at Albert Lea, Omaha, Cedar Rapids, Kansas City, Omaha City, Denver, Ogden, Cherokee, Monmouth, and Des Moines, are served by various railroads, including the Rock Island, Illinois Central, Chicago and North Western, Union Pacific, Missouri Pacific, Santa Fe, Frisco, Colorado and Southern Railroad, the Denver and Rio Grande, and the Burlington. Of course, not all of these railroads serve each city listed above. During most of the year, this company uses transit icing, and throughout the summer months it must rely on icing every 24 to 30 hours, although it has longer intervals during the spring and fall seasons.

If the instant tariff proposal becomes effective, it emphasizes that its car fleet would be obsolete overnight, and it could not continue to move its commodities in ice bunker service. Over 75 percent of its traffic requires meat rails; for example, shipments of beef or lamb or mixed shipments of pork with beef or lamb require meat rails.

Wilson conducted a survey of respondents to determine if their tariffs were to go into effect, what would be their ability to provide a replacement for the ice bunker equipment now being utilized. Illinois Central, Milwaukee, Santa Fe, Rock Island, Chicago and North Western, Missouri Pacific, Norfolk & Western, and the St. Louis-San Francisco railroads stated that they would not be in a position to furnish Wilson with mechanical meat rail refrigerator cars, and that they had no plans to purchase such equipment. The Union Pacific and Southern Pacific (PFE) have 136 cars for road hauls, while the Burlington Northern has 100 of the 70-, 60-, and 50-foot cars.

On cross-examination, Wilson's witness admitted that he did not know the present book value of shipper-owned cars, but that the 108 cars built in 1965 were under a 15-year conditional sale agreement and initially such cars cost about $18,000 each. He estimated that it would cost between $6,500 and $7,000 each to replace Wilson's RS cars with mechanical cars.

(footnote 5 continued)

perishable traffic which moves by railroad is transported for distances in excess of 1,000 miles, requiring at least two re-icings and resaltings while en route, in addition to an initial icing and salting at the origin point.

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Wilson contends that the reduction of carcass meat shipments nas been very slight, and that the trend to boxed meat is a very slow transition. There were substantial reductions in car movements going back about 4 years when piggyback took over many of the car movements and trucks took over many of them. Also, it has experienced a general diversion of shipments from rail to motor carriers over the past few years. This protestant agrees that private ice contractors are disappearing in this country, and that it is difficult to find such icing contractors. For example, in cities like Council Bluffs and Omaha, there are no icing contractors despite the fact that there is quite an amount of meatpacking products originating there.

The Kroger Company's (Kroger) primary concern is delivery of the product to market, and (like other protestants herein) it does not object to the proposed schedules if suitable mechanical cars of the various sizes in use are made available as the ice bunker cars are retired from service.

It submits that exempt motor carrier equipment is critical during the peak months, and thus the favorable motor carriers costs are useless. It is interested only in the 983 carloads of perishables, which moved in ice bunker cars during 1971, and if such cars are no longer available, an alternative mode must be found. A total of 4,549 cars for this shipper moved during 1971 and 983 of these were in ice bunker. It doubts that 500 mechanical temperature control cars to be placed in service during 1972-73 by the Santa Fe can replace the Santa Fe ice bunker cars effected by the immediate elimination of icing services. Numerous loads of this shipper moved via exempt motor carriage due to "the shortage of rail equipment." Kroger utilizes the RS cars on 21.6 percent of their shipments, and it stresses that elimination of this car would limit its ability to provide the consumer with fresh produce.

Mechanicals are used primarily for highly perishable commodities such as apples, lettuce, pears, tomatoes, and RS for celery, green corn, oranges, and onions. Kroger uses the RS car for the short haul or less perishable commodities to supplement the mechanical fleet. Thus, elimination of this service will "undoubtedly create a severe shortage of equipment for both motor and rail." Also, the larger mechanical car is subject to higher minimums and charges in numerous instances. Green corn originating in Florida will no longer be subject to per-car rates. As an example, total charges for a 34,000-pound carload from Lake Jem, Fla., to Cleveland, Ohio, will be $859.88 as compared with $686.16. Kroger thus feels that shippers will be forced to utilize motor carrier or the mechanical car.

On cross-examination, Kroger stated a perference for the 40-foot car, although it admitted that it could live with a 46-foot. It was unable to state when it had ordered a 46-foot car and could not get one. It admits that when it has a 34,000-pound load of cantoloupes out of Texas going into Cleveland, that this size load normally moves by motor carrier when available. It maintains a fairly limited list of exempt motor carriers that it works with regularly week in and week out from California and Florida, and the trucker in turn gives Kroger a certain preference as to equipment in meeting its regular requirements. Motor carriage from Florida includes the whole range of fruits and vegetables, celery, corn, and mixed vegetables, and it was determined that over 50 percent of potato shipments moved in heater and ventilator service.

On rebuttal, respondent PFE points out that its present meat railcars are not being fully utilized at the present time, and it does not recall any time that it had a shortage of cars with meat rails.

In disagreeing with Kroger as to a short supply in California during the summer months, PFE knew of no shortage of cars existing on the SP or the UP. It considered

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1972 a very comfortable year from a car supply standpoint insofar as meeting its loading requirements. On cross-examination, it did admit it is not a significant meat carrier, and that of its total perishable traffic, it originated in 1971 only about a half of 1 percent of meat and packinghouse products, and the UP served only a small portion of the potato movement out of the Pacific Northwest.

On the other hand, as of January 1, 1972, the record shows that piggyback trailers equipped with meat rails generally will be available for hanging meat. For example, the Burlington Northern has 159 meat rail trailers (plus 267 operated by WFE-BRE), the carline which serves the Burlington territory; the Penn Central has 130 such trailers, and for the FGE, the carline which serves Penn Central, there is 1 RPM car and 327 meat rail trailers; Chicago and North Western has 875; Milwaukee 49; Denver and Rio Grande Western 34; and for the Illinois Central, 649 meat rail trailers. Wilson owns the only packer-owned fleet of ice bunker meat railcars.

On cross-examination PFE, in reference to "mechanical car situation reports," agrees there could be spot shortages. These could be for various reasons such as shippers reporting orders over what their daily loading requirements are, failure on the part of the railroad to move a car from one loading station to another; or late placement of orders by shippers which would not permit spotting a car at exactly the time they wanted it. However, PFE explains that "car situation reports" only reflect shortages on the orders placed by shippers but not shortages of equipment for loading. It was admitted that during the first 6 months of 1971, all of PFE's 1,200 new cars had not been delivered and "there was a tight situation for mechanical cars particularly during the peak loading period in March in the Imperial Valley." On brief, respondents argue that there is always the possibility that, in any busy shipping district, one or two shippers will run out of cars before reinforcements can be rushed to them, even though there are ample cars on hand in the district, and the problem becomes one of switching cars to customers, rather than that of having enough cars in the first place.

Again, on rebuttal, PFE's records show there was a close car supply situation for citrus loading during some days in 1972; however, this applied to filling orders for ice bunker cars and not mechanical cars. Such records reflected adequate supplies of mechanical cars available for loading.

In Ventura County, Calif., there were shortages of TOFC equipment during the months, June through October 1972, amounting to 72 trailers. These shortages occurred on 3 days in June, 5 days in July, 6 days in August, 1 day in September, and 8 days in October, and ranged from 2 to 8 trailers on these days, with an average shortage of 3 trailers. During these 24 days there was a substantial supply of mechanical cars available for citrus loading ranging from a low of 10 mechanical cars on 1 day to a high of 94 on another day, with substantial numbers of mechanical cars en route to the loading area.

As noted previously, the Washington Potato Growers maintained that mechanical cars were generally not available on BN or Milwaukee potato shipping points out of Washington. Of course, this record is clear that neither the Burlington Northern nor the Milwaukee are proposing to cancel their ice protective service. On the other hand, there were no shortages of mechanical cars during 1972 for potato loading in the Kennewick area served by the UP. During the potato shipping season from the Umatilla area in Washington, served by the UP, running from about July 12 to November 15, 1,055 mechanical cars were loaded with potatoes out of a total loading of 1,304 shipments, and adequate mechanical cars were available to protect this loading.

The Northwest Horticultural Council insists that 1971 shipments of apples from the Wenatchee-Yakima districts reflect "short crops" and that 1972 is a boom season, up

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67 percent over 1971; and also that shipping projections are currently 31,070 carload equivalents and Washington is capable of up to 40 to 45,000 carload equivalents of apples in any future given season. Burlington Northern serves the Wenatchee area and UP does not supply cars for loading in that area. The facts remain that apple shipments from the Yakima Valley, served by the UP, totaled only 12,863 carloads during the 1971-72 season of which 10,399, or 81 percent, moved by truck, 9 percent (a little over 1,200 cars) by the Burlington Northern, and only 1,271 shipments, or 10 percent, moved by UP. The record indicates that most of the shipments moved during the period of time when there was a surplus supply of mechanical cars on the Union Pacific.

Sunkist expects to have available for rail transportation to the East between 25,000 and 30,000 cars per year in the future. However, during the last 6 years carload shipments of citrus originating on SPT and UP, primarily in California and Arizona, have ranged from 22,934 carloads in 1966 to 17,787 in 1971. During the first 10 months of 1971, citrus shipments totaled 15,213 as compared with 13,671 for the first 10 months of 1972, a significant decrease. This reflects a loss of export shipments formerly moved by rail now moving by boat.

Of the 17,787 carload shipments moving in 1971, 3,304 or 18.6 percent, moved in mechanical cars. During the first 10 months of 1972 of the 13,671 shipments originating, 2,977, or 21.8 percent moved in mechanical cars indicating an upward trend in use of mechanical cars. Moreover, this trend is accelerating rapidly as during the current citrus (navel) shipping season from the San Joaquin Valley a total of 931 shipments were originated through December 6 of which 495, or 53.2 percent moved in mechanical cars compared to 15.1 percent to date last year. A waybill check of cars loaded during the month of November 1972, shows average lading weight in PFE 400,000 series mechanical cars of 52,400 pounds, as compared with 43,000 pounds average in ice bunker cars.

On rebuttal, relative to claim of Pacific Gamble shipping ice bunker cars for relatively short distances from Klamath Basin to such points as Coos Bay, Oreg., respondents point out that this traffic moves during the winter months when adequate mechanical cars are available to take care of this loading. Through December 6, shipments of potatoes from the Klamath Basin moved 50 percent in mechanical cars as compared with 5.9 percent during the 1971 season. Thus, mechanical cars were more than ample for this loading. Also, mechanical cars were available during the Kern County potato shipping season for loading to Oregon and Washington destinations and could have been used rather than ice bunker cars. Except for perhaps some mixed carloads of fresh corn, there is little, if any, full carload movements of this commodity from the Imperial Valley to Pacific Northwest.

There are some shipments of fresh corn from the Coachella Valley to Pacific Northwest destinations. During 1971, in May and June, there were 19 shipments, all in mechanical cars. In 1972, during the same months, there were 15 shipments of which 12 moved in mechanical cars. In reference to shortages of ice cars, the three ice bunker cars ordered by Pacific Gamble for shipments of fresh corn, one each on May 17, June 2, and June 21, 1972, could have been loaded in mechanical cars and the supply in the area on those days ranged from 27 to 44 cars in excess of loading requirements.

Certain protestant-shippers contend that top icing is required for such commodities as broccoli, carrots, cauliflower, celery, and spinach. It is respondents' position that mechanical refrigeration does not dehydrate perishables, and top icing is not necessary to control quality and appearance. Moreover, mechanical cars, with or with-

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out units operating, are as efficient for handling top ice shipments without re-top icing as the RS cars have been with re-top icing.

APPENDIX B

A study of ice refrigeration costs for 1969, prepared by the National Perishable Freight Committe (NPFC), shows that ice service is provided below cost. That study follows generally the methods employed by the railroads in the last nationwide ice refrigeration proceeding, *Proposed Increased Refrigeration Charges,* 297 I.C.C. 505 (1956).

The bulk of the ice car traffic occurred in three areas of the country, with the largest movement, consisting of certain fruits and vegetables, moving from California to major eastern cities in official territory. A second important segment, consisting of vegetables and melons, moves from Arizona to official territory, and a third movement is from Florida to the same area. Respondents' study shows that 80 percent of all shipments moving under ice service originates in California, Arizona, and Florida, and the study was based on reports from four carlines, ART, FGE, PFE, and WFE, and five railroads, The Santa Fe, Bangor & Aroostook, Rock Island, St. Louis-San Francisco, and Norfolk and Western. The total number of shipments reported was 109,219 of which 85,916 were shown to have originated from the above-named three States.

Respondents reached the conclusion in their study that the range of costs experienced in providing ice protective service could be shown by analyzing such costs for citrus, potatoes, and other vegetables, because these three categories of traffic were judged as representing the predominant movements under ice refrigeration. Five types of full stage refrigeration were studied and included: standard refrigeration; initially iced by carrier, re-iced once in transit; initially iced by carrier, re-iced twice in transit; initially iced by shipper, re-iced once in transit; and initially iced by shipper, re-iced twice in transit. It was determined that PFE and the Santa Fe handled virtually all of the ice car traffic (97 percent) moving by rail from California and Arizona, and thus they would be representative of the transcontinental cost of transporting perishables from these origins. FGE, the major eastern carline, owned by a number of railroads, as noted previously, is considered representative of rail traffic moving from Florida. These two carlines and the Santa Fe studied each of their 1969 shipments of the three commodities moving under the five classes of service from the origin States to the destinations as named. Recorded from company files for each shipment was the type of service, the State of origin, point of destination, commodity, equipment number, waybill date, points at which iced or re-iced, date of icing, and the amounts of ice and salt added.

Of the perishable movements studied by PFE for 1971, 91 percent or 33,671 of the total 36,997 shipments were for the three commodities selected; for 1969 PFE shows a total 56,875 shipments handled of which 46,534 or 82 percent included the three commodities selected; and for FGE the 1969 data reflected that of the 19,373 total shipments studied, 15,352 or 79 percent of the shipments were attributed to the three commodities. Thus, we conclude that the three commodities, citrus, potatoes, and other vegetables are representative of the issue traffic used in the 1969 cost study.

As to the representativeness of the five types of refrigeration studied, we are unable from the evidence of record to determine the relative cost of these five types of refrigeration against the other forms of refrigeration services provided under Perishable Protective Tariff, 18 I.C.C. 37. On the other hand, there is no question but that the five types of refrigeration studied account for a large segment of the traffic herein concerned.

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The revenues and cost for the various types of ice refrigeration service, as computed by respondents, follow:

Destination	Commodity	Revenue	Cost
	California-Arizona origins (standard refrigeration)		
Boston	Citrus	159.69	352.99
Do	Potatoes	129.27	355.84
Do	Vegetables	129.27	248.43
Chicago	Citrus	124.70	240.12
Do	Potatoes	101.90	300.48
Do	Vegetables	101.90	203.92
Cleveland	Citrus	139.16	294.42
Do	Potatoes	106.47	285.21
Do	Vegetables	106.47	240.92
Detroit	Citrus	139.16	264.74
Do	Potatoes	106.47	299.48
Do	Vegetables	106.47	230.59
New York	Citrus	152.09	323.48
Do	Potatoes	121.67	334.70
Do	Vegetables	121.67	255.30
Philadelphia	Citrus	152.09	333.86
Do	Potatoes	121.67	339.45
Do	Vegetables	121.67	252.66
Pittsburgh	Citrus	139.16	303.67
Do	Potatoes	106.47	333.16
Do	Vegetables	106.47	236.30
	California-Arizona origins (initially iced by carrier, re-iced once in transit)		
Boston	Citrus	83.65	169.01
Do	Potatoes	74.52	142.24
Do	Vegetables	74.52	138.57
Chicago	Citrus	77.57	151.35
Do	Potatoes	73.00	147.48
Do	Vegetables	73.00	128.43
Cleveland	Citrus	80.60	141.99
Do	Potatoes	74.52	163.55
Do	Vegetables	74.52	132.35
Detroit	Citrus	80.60	160.45
Detroit	Vegetables	74.52	133.66
New York	Citrus	82.13	160.19
Do	Potatoes	74.52	156.11
Do	Vegetables	74.52	136.04
Philadelphia	Citrus	82.13	160.59
Philadelphia	Vegetables	74.52	137.41
Pittsburgh	Citrus	80.60	158.18
Pittsburgh	Vegetables	74.52	137.51

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Destination	Commodity	Revenue	Cost
California-Arizona origins (initially iced by carrier, re-iced twice in transit)			
Boston	Citrus	114.07	215.38
Do	Potatoes	98.85	202.88
Chicago	Citrus	106.47	198.00
Do	Potatoes	91.25	198.00
Cleveland	Citrus	111.02	210.29
Do	Potatoes	95.82	282.19
Do	Vegetables	95.82	150.58
Detroit	Citrus	111.02	206.24
Do	Potatoes	95.82	244.97
Do	Vegetables	95.82	155.85
New York	Citrus	112.55	224.47
Do	Potatoes	97.34	235.63
Do	Vegetables	97.34	184.14
Philadelphia	Citrus	112.55	223.74
Do	Potatoes	97.34	217.84
Do	Vegetables	97.34	164.87
Pittsburgh	Citrus	111.02	178.94
California-Arizona origins (initially iced by shipper, re-iced once in transit)			
Boston	Citrus	54.75	91.41
Chicago	Citrus	48.67	90.84
Cleveland	Citrus	51.72	89.37
Detroit	Citrus	51.72	91.15
New York	Citrus	53.23	93.85
Philadelphia	Citrus	53.23	93.10
Pittsburgh	Citrus	51.72	95.09
California-Arizona origins (initially iced by shipper, re-iced twice in transit)			
Boston	Citrus	85.00	149.60
Chicago	Citrus	76.00	153.29
Cleveland	Citrus	82.00	132.80
Detroit	Citrus	82.00	150.64
New York	Citrus	83.00	154.67
Philadelphia	Citrus	83.00	157.99
Pittsburgh	Citrus	82.00	159.75
Florida origins (standard refrigeration)			
Chicago	Citrus	104.19	205.08
Do	Potatoes	104.19	251.30
Do	Vegetables	104.19	213.74
Cincinnati	Citrus	92.77	214.70
Do	Potatoes	92.77	230.51
Do	Vegetables	92.77	207.07

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Destination	Commodity	Revenue	Cost
	Florida origins (standard refrigeration)—Continued		
Detroit	Citrus	104.19	188.96
Do	Potatoes	104.19	225.96
Do	Vegetables	104.19	186.06
New York	Citrus	73.00	198.74
Do	Potatoes	73.00	229.28
Do	Vegetables	73.00	222.53
Philadelphia	Citrus	73.00	208.60
Do	Potatoes	73.00	220.42
Do	Vegetables	73.00	210.61
	Florida origins (initially iced by carrier, re-iced once in transit)		
Chicago	Citrus	69.97	143.51
Do	Potatoes	69.97	172.30
Do	Vegetables	69.97	148.60
Cincinnati	Citrus	68.44	152.68
Do	Potatoes	68.44	185.72
Do	Vegetables	68.44	160.81
Detroit	Citrus	69.97	147.55
Do	Potatoes	69.97	179.69
Do	Vegetables	69.97	145.36
New York	Citrus	69.21	158.32
Do	Potatoes	69.21	174.69
Do	Vegetables	69.21	145.38
Philadelphia	Citrus	69.21	160.39
Do	Potatoes	69.21	174.87
Do	Vegetables	69.21	140.34
	Florida origins (initially iced by shipper, re-iced once in transit)		
Chicago	Potatoes	39.55	139.66
Do	Vegetables	39.55	145.34
Cincinnati	Vegetables	38.02	145.14
Detroit	Vegetables	39.55	145.81
New York	Vegetables	38.79	138.89
Philadelphia	Vegetables	38.79	154.76

APPENDIX C

Top icing is used by shippers for such commodities as broccoli, carrots, cauliflower, celery, and spinach to (1) cool the product and remove its field heat, (2) provide refrigeration during the transit period, and (3) supply moisture to enhance appearance at destination.

The initial supply of top and/or ice is furnished by the shipper; if he deems it necessary, the tariffs provide for re-top icing at certain in-transit points to assure sufficient ice remaining at destination. Cancellation of icing services would eliminate the re-top icing by carriers. Thus, the question arises as to in-transit protection available to such shippers for the protection of their products.

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First, it must be determined whether re-top icing is actually necessary, since ice bunker cars will remain in service and available for loading of top iced vegetables as long as they are serviceable and safe to run on the railroads.

Studies by PFE of the amount of re-top icing performed show a substantial reduction over the last 3 years for both RS ice bunker cars and mechanical cars. The total cars re-top iced and the tons of ice used at its major transcontinental re-top icing facilities for 1969, 1970, 1971 are shown in the following table:

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	1969				1970				1971			
	Mech	(Tons)	RS	(Tons)	Mech	(Tons)	RS	(Tons)	Mech	(Tons)	RS	(Tons)
Council Bluffs	1,137	(2,674)	836	(1,982)	712	(1,849)	760	(1,573)	206	(668)	87	(170)
El Paso	17	(59)	2,803	(4,850)	9	(33)	2,978	(5,209)	27	(104)	1,526	(2,606)
Kansas City	505	(1,188)	420	(1,007)	385	(1,136)	347	(1,004)	183	(543)	109	(264)
Totals	1,659	(3,921)	4,059	(7,839)	1,106	(3,018)	4,085	(7,786)	416	(1,315)	1,722	(3,040)

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PFE takes the position that the need for re-top icing will continue to decline due to (1) the replacement of ice bunker cars with mechanical cars having almost twice the insulation effectiveness, and (2) the increased amount of precooling of such commodities prior to loading at origin.

Based on its studies of the re-top icing situation, PFE concludes that a substantial amount of needless re-top icing is being requested by the shippers. For example, in a letter dated October 2, 1970, to the Western Growers Association (protestant herein) expressing a concern with re-top icing of mechanical cars in transit, it pointed out that there had been complaints from receivers of too much top ice on load at destination resulting in additional time and effort required to unload cars; that the very large amounts of body ice removed from mechanical cars at car shops several days after unloading indicates shipments had arrived at destinations with sufficient ice to adequately protect commodities; and that the cost of ice removal and the loss of valuable cardays on mechanical cars in performing this function works to the disadvantage of all concerned. Unrebutted evidence clearly shows that once the top icing has provided initial cooling, there is nothing to be gained by maintaining a thick layer of snow ice on top of a load in an operating mechanical car. In fact, maintaining such a condition impedes the air circulating necessary for effective refrigeration.

With the trend toward initial precooling being done prior to loading in the car, the mechanical refrigeration system can be used to these products' best advantage in maintaining close temperature control as well as the high humidity required. Not too long ago, lettuce also was top-iced in refrigerator cars when it was packed in open crates. However, with the changeover to fiberboard containers made possible by vacuum precooling essentially all lettuce now moves by mechanical car and top-icing of lettuce is a thing of the past.

Lettuce shippers also doubted that this leafy product could stand a long trip without wilting if top ice was not used, but the combination of rapid vaccum precooling (which actually depends upon the evaporation of water from the product) and the high relative humidity in the mechanical car has been proven to be the most effective means of protecting lettuce. Standing tests of both a railcar and a trailer of lettuce at the U.S. Department of Agriculture facilities at Fresno, Calif., in 1966, reflected good control of product temperature with mechanical refrigeration while maintaining relative humidity above 90 percent. See U.S.D.A. Publication ARS 51-13, July 1967, reporting test results.

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