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Recent Developments in Feed Transportation to New England

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*Stanley K. Seaver and William J. Hanekamp**

INTRODUCTION

During the last fifty years the farm economy of the United States has undergone significant changes in its marketing practices. From its traditional role as a confined and localized enterprise, agriculture has progressed into a specialized and highly technical operation. With the growth of both domestic and foreign markets over the years, the agricultural industry of today is highly dependent on this country's transportation systems. Presently, transportation service is required to move millions of tons of farm products hundreds and oftentimes thousands of miles.

Commercial agriculture in New England is one sector completely dependent on a long-haul transportation network to support its production activities. Those most dependent on transportation services are the producers of livestock and livestock products. Since New England is a deficit feed grain producing region, the importing of feed grains is essential to the operations of the local livestock industry.

Many livestock farmers of New England however are unaware of the magnitude of costs associated with the long-haul movement of feed ingredients. Although many farmers are aware of short-haul costs of bulk feed deliveries through the billing practices of local feed mixers, the transportation costs of importing feedstuffs have been disguised in the total price of feed supplies.

The purpose of this publication is to familiarize all interested parties with recent developments in the costs of moving feed ingredients from Midwest

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origins to New England mixers. The contents of the text will focus on three issues concerning transportation and its impact on the agricultural economy of New England. The first subject area deals with the federally mandated guidelines established to reorganize the Eastern railroad industry in accordance to the Railroad Revitalization and Regulatory Reform Act (4-R Act) of 1976. Secondly, material is presented which examines the changes in the rail tariffs from 1938 to 1977, and lastly a summary is presented on the recent developments on litigation currently before the Interstate Commerce Commission concerning the rail tariff structures to ship feedstuffs into New England. In addition to each of these areas of interest a brief review also outlines additional actions underway to curb the increasing costs of transporting feed grain to New England.

A Historical Perspective

Long-haul transportation of farm products has been an important element in the operations of commercial agriculture since the 19th century. During this era the movements of food and fiber from the farmers of the Midwest to the consumers of the East represented the principle channel of agrarian trade. For a long period, however, open and free trade was blunted by the monopolistic powers of the railroads. With the railroads as the primary long-haul transportation system serving the nation, agriculture found itself subject to the whims of the railroad companies. Price discrimination, undue preferences, prejudices, bribery, and kickbacks were common in the agrarian marketplace.

The confrontation between agriculture and the railroad barons erupted into national attention during the late 19th century. The history of conflict during this period was fiery. Boycotts, public protests and legal action characterized the clashes between farmers and railroads. In the end, however, the movement by agrarian interests, principally the Grange, culminated in federal governmental regulation. In 1887 Congress passed the Interstate Commerce Act which created the Interstate Commerce Commission to oversee the operations and pricing policies of transportation industries; principally the railroads. It was the first direct action by Congress to install a regulatory body to influence the channels of commerce.

In the years following the passage of the Interstate Commerce Act of 1887, numerous Congressional and federal regulatory actions have affected the operation of commerce as well as the nation's transportation systems. All the history of transportation in the United States from 1887 to the present cannot be reviewed in this publication. It is our intent, however, to review the recent federal action which now outlines new statutes regulating the operation of the railroad industry.

PROVISIONS OF RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

The Regional Rail Reorganization Act was passed by Congress in 1973. The general purpose of the Act was to reorganize the bankrupt rail lines in the Northeast and Midwest, with the expectation that they could eventually be made viable. The Act created the United States Railway Association (USRA) to restructure the Northeast rail lines. The USRA in turn created what is now widely known as Conrail. This is a new quasi-public railroad corporation which was formed from the remains of six financially ailing Northeast roads, mainly the old Penn Central.

As part of the continuing effort to financially assist the railroads, Congress passed the Railroad Revitalization and Regulatory Reform Act (4-R Act), which was signed by President Ford in April 1976. Attention will be focused only on the changes in the Regulatory Reform sections of the Act. Changes in the regulations provided in the Act apply almost exclusively to the Interstate Commerce Commission.

First, the 4-R Act provides new definitions for the I.C.C. to use in determining whether railroad rates are just and reasonable. Rates that are equal to or exceed variable cost *shall not* be found to be unjust or unreasonable on the grounds that they are too low. In addition, no rate is to be found unjust or unreasonable on the grounds that it is too high unless the I.C.C. first finds that the carrier has "market dominance" over the traffic.

The question of market dominance represents the second major issue outlined in the 4-R Act. The I.C.C. was given 240 days to determine dominance standards. Establishment of such standards clearly would and do hold significant importance to the commercial viability of New England agriculture. On August 23, 1976 the standards were promulgated by the I.C.C. and they read as follows:

1) Market dominance holds if a carrier has handled 70 percent or more of the involved traffic during the preceding year. (Conrail originates more than 70 percent of the feed traffic with New England destinations.)

2) It holds if the rate at issue exceeds the variable costs of providing the service by 80 percent or more.

3) Market dominance obtains if shippers or consignees have made a substantial investment in rail related equipment which prevents or makes impractical the use of another carrier or mode.

The railroads argued against subsection 1 of the ruling, namely the hand-

ling of 70 percent of the traffic. The railroads contended that the standard should be set at 80 percent and that private carriage should be included in determining the total amount of traffic. The position held by railroads did not alter the initial ruling by the I.C.C. The Commission held to its ruling of market dominance at the 70 percent traffic level.

The issue of the market dominance concept, however, is still unresolved. Litigation sponsored by 38 of the nation's major railroads is now underway before the U.S. Court of Appeals concerning the market dominance standards. In the petition to the Court of Appeals the railroads assert that the market dominance standards "are contrary" to the intent of the 4-R Act and "frustrate the purpose of Congress in enacting that statute." Additionally the railroads maintained that the regulations set forth by the I.C.C. were "arbitrary and capricious".[1]

Another important section of the 4-R Act grants the railroads greater flexibility in establishing rates. For the next two years, railroads may raise or lower specific rates by as much as seven percent per year without the approval of the I.C.C. The I.C.C. only maintains its power to suspend such increases if there exists violations of Sections 2, 3 or 4 of the Interstate Commerce Act *or wherever the carrier is found to have a market dominance.* It seems likely that Conrail will be declared to have market dominance in New England, and hence the region may be exempt from the "automatic" rate increases. However, this does not mean that rates would not increase 14 percent or more since the railroads can still apply for general rate increases subject to I.C.C. approval.

Lastly the 4-R Act requires the I.C.C. to establish within one year, standards and procedures for railroad rates based upon seasonal, regional, or peak period demand for railroad services. The intent of this provision is to develop a pricing mechanism to improve the utilization of rail equipment by controlling the fluctuations in demand for transportation service. Such a pricing system clearly has significant implications to traders in feed grain.

Serious economic hardships may fall on the local livestock industry if peak pricing rates are applied as a standardized rate for all regions. Under this form of pricing, New England would be subject to rate inequities due to the trade patterns of other regions — a situation clearly discriminatory. Unlike other regional grain traders, New England agriculture over the years has been characterized by minor seasonal variations in the flow of grain traffic to domestic users.

Presently the Southern Railway is moving to establish seasonal rates. Existing rates would apply to the "regular season", namely December 16 through July 31. The peak-season rates, as requested by the Southern Railway would increase general tariff levies during the months of August through the middle of December. For New England such a rate increase on local grain

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1 Association of American Railroads, **Information Letter**, "Railroads Ask Court to Set Aside Definition of Market Dominance", No. 2207, Dec. 8, 1976, p. 1.

imports would be another disruptive cost burden on the feed mixers and livestock producers of the region.

The final disposition of the Southern Railway request for peak pricing rates is pending. Furthermore the publication of the final standards for peak pricing has not been issued by the I.C.C. Consequently, at this time the establishment and corresponding impact of a peak pricing levy on the grain users and mixers of New England is unknown.

FREIGHT RATES ON FEED 1938-1977

Enter The "Big John"

The emergence of the "Big John" hopper cars marked the beginning of New England's present feed freight rate problems. Actually, the publishing of much lower rates by the Southern Railway, led to many of the current problems, but the much lower rates were possible because of the "Big John" cars.

In 1960 the Southern Railway published rates on multiple car shipments of five or more hopper cars 60 to 66 percent below the established rates on single box car movements. Considerable opposition to the Southern's proposed rate reduction appeared and a four-year legal battle ensued.

Southern Railway's first rate reduction in February 1963 was approximately 52 percent below previous rates on single car shipments. Three months later the I.C.C. approved a 60 percent reduction on minimum five car shipments. In July 1963, the I.C.C. reconsidered their action and issued a correctional order raising the railroad rate by 16 percent over the previous reduction. The railroad filed suit July 23, 1963 and a month later a temporary injunction was issued in their favor and against the I.C.C. correctional order.

The I.C.C. contended that the lower rates created destructive competition with other types of transportation, mainly river barge and trucking lines. Almost a year later, May 20, 1964, the court ruled that the conclusions rendered by the I.C.C. were not supported by the evidence and gave Southern Railway the right to keep the full rate reduction on grain shipments into the Southeast states.

The resulting court action established the first large differential in rates from Midwest origins to Southeast and Northeast markets. This can be briefly illustrated. The 1964 reductions in freight rates per ton of corn from Cincinnati, Ohio, to major poultry producing areas is shown in Table 1.

TABLE I

Reduction in Freight Rates, Per Ton of Corn, Cincinnati, Ohio, to Various Destinations, 1964.

DESTINATION	REDUCTION PER TON (dollars per ton)
Raleigh, North Carolina	6.15 [1]
Gainesville, Georgia	6.00 [1]
Wilmington, Delaware	4.70 [1]
Cape Charles, Virginia	4.10 [1]
Brunswick, Maine	2.05 [2]
Providence, Rhode Island	1.70 [2]

1 Multiple car, rate reductions
2 Single car, rate reductions

The single car rate, per ton of corn, from Cincinnati, Ohio, to Raleigh, North Carolina was cut from $9.90 to $4.60, a reduction of $5.30 per ton. The single car rate from Cincinnati to Gainesville, Georgia was reduced from $9.60 to $4.20 or a cut of $5.40 per ton. The large differentials in freight rates thus was established for movements of grain by both single and multiple cars between Midwest origins and Northeast and Southeast destinations. Moreover, as it will become apparent, this rate differential has constantly been widening.

On July 22, 1963, the Northeast was given limited relief in the cost of transporting feed grain. The I.C.C. issued its Report and Order approving reduced multiple car rates on corn, in bulk, from origins in Ohio, Michigan and Pennsylvania, to Manchester, Connecticut and to Augusta, and Portland, Maine. But the Order provided that these lower rates would be effective *only during* the open season of navigation on the New York State Barge Canal, April 15 to November 30th. During the winter months the rates would not be applicable. This action by the I.C.C., which allowed lower rates to be established during the open season of navigation, clearly indicates that rate setting is influenced by the actual availability or threat of an alternative mode of transportation.

The revised rates to the three New England destinations and the new non-transit mileage rates which followed fell far short of returning the costs of transportation to a parity with those in the Southeast. Most of the New England feed industry and associated interests were willing to accept the non-transit mileage rates as the first step to further rate reductions. But since the original combined non-transit mileage rate reduction in 1964 all subsequent changes to New England have been increases *except* the 1971 multiple car rate. *And all have been relatively greater increases for the Northeast than those applicable to the Southeast.*

Discrimination in Rate Adjustments

One of the reasons for the widening margin in the freight rate differential, as between the Northeast and the Southeast, is the procedure by which the I.C.C. approves rate changes. Under the existing system a standardized percentile formula is employed to adjust rates. Consequently over the years, the higher general rates for railroad service into New England have been assessed the same percentile rate increases as the lower rate levels in other regions of the country, especially the Southeast. As a result the absolute increases in the tariff rates significantly exceed the absolute rate increases of those regions serviced at lower rate schedules. Moreover, this condition has in effect, created an inherent cost penalty on those regions subject to higher tariff schedules.

As an illustration, suppose the original rate to New England was $10.00 per ton of grain shipped and the rate to the Southeast was $5.00 per ton, an absolute difference of $5.00. Assume that the I.C.C. approves a 10 percent increase in rates. The new rate to New England will be $11.00 per ton and to the Southeast $5.50 per ton or a $5.50 absolute difference.

An example of how the increases since 1964 have discriminated against New England is revealed by the 1968 I.C.C. approved Ex Parte 259 rates. These rates are shown in Table 2.

TABLE 2

Comparison of Existing (1968) and Ex Parte 259 Rates on Corn and Soybean Oil Meal to Connecticut and Georgia

ORIGIN AND DESTINATION	MILES	EXISTING RATE (dollars per ton)	EX PARTE (dollars per ton)
CORN			
Toledo to Manchester, Ct.	691	8.60[a]	9.12[a]
St. Louis to Gainesville, Ga.	654	4.17[b]	4.32[b]
Difference		4.43	4.80
SOYBEAN OIL MEAL			
Fostoria, Ohio to Manchester, Ct.	691	11.40	12.08
Beardstown, Il. to Gainesville, Ga.	729	6.19[c]	6.34[c]
Difference		5.21	5.74

a All rail — 110,000 lb. minimum.
b All rail — 450 ton minimum.
c Combination rail and barge.

As demonstrated, every rate increase has led to the Southeast's gaining an additional advantage over the Northeast in the cost of feed. The *additional cost* for the Northeast over that of the Southeast under Ex Parte 259 was 37 cents per ton on corn and 53 cents per ton on SBOM.

A comparison of Ex Parte 267B rates, which became effective April 12, 1971, with those rates in effect in December 1967, (Ex Parte 256), is extremely revealing. Table 3[1] compares Ex Parte 256 and 267B rates to New England and to the Southeast.

The data clearly illustrate the continuing deterioration of the competitive position of New England vis-a-vis the Southeast. The Southeast had an advantage, which varied between $3.67 and $4.32 under (X-256) rates but under (X-267B) rates the difference varied between $5.76 and $6.78 per ton. This confirms what was previously stated, namely, determining new rates as a percentage of a previous rate has contributed to a growing comparative advantage for the Southeast. Rate making has and is discriminating against New England and other states of the Northeast.

TABLE 3

A Comparison of Ex Parte 256 (12/1/64), With 267B Rates (4/12/71) for Various Mileages from Points of Origin to Different Destinations.

	X-256			X-267B		
Miles from Origin	Manchester, Ct. [a]	Southeast [b] Effective 5/63	Difference	Manchester, Ct. [a]	Southeast [b]	Difference
	(Dollars per ton)					
710	8.40	4.49	3.91	11.80	5.59	6.21
722	8.60	4.56	4.04	12.00	5.67	6.33
866	9.70	5.38	4.32	13.30	6.64	6.66
	Augusta, Me. [c]			Augusta, Me. [c]		
909	9.30	5.63	3.67	12.70	6.94	5.76
921	9.50	5.70	3.80	12.90	7.03	5.87
1065	10.80	6.52	4.28	14.90	8.12	6.78

a Single car, non-transit rates, 55 ton minimum.

b 5 carlots — 450 ton minimum — 90 tons per car.

c Single car, non-transit, 55 ton minimum, specific commodity rates.

1 Condensed from "A Proposed Reorganization of the Transportation of Feed Grains into New England", Water Transport Association, 500 Fifth Avenue, New York, New York, April 1971.

Table 4 summarizes recent changes in rates from Midwest origins to New England and to the Southeast.

TABLE 4

Effect of Ex Parte Increases on Competitive Relationships Between New England and the Southeast, 1972-1977, 3-Car Corn Rates Per Ton.

Ex Parte	Effective Date	Toledo to Augusta, Me.	Toledo to Boston, Ma.	St. Louis to Atlanta, Ga.	Over Atlanta Augusta, Me.	Over Atlanta Boston, Ma.
		890 miles	759 miles	601 miles		
				(Dollars per ton)		
281B	10/23/72	12.40	10.30	5.05	7.35	5.25
295	8/19/73	12.80	10.60	5.20	7.60	5.40
299	1/1/74	13.15	10.90	5.35	7.80	5.55
303A	3/9/74	13.70	11.30	5.55	8.15	5.75
305A&B	6/20/74	15.60	12.80	6.30	9.30	6.50
310	2/5/75	16.70	13.70	6.75	9.95	6.95
313	6/6/75	17.55	14.40	7.10	10.45	7.30
313B	10/13/75	18.00	14.75	7.25	10.75	7.50
318	3/21/76	19.25	15.80	7.75	11.50	8.05
336	1/7/77	20.00	16.45	8.05	11.95	8.40

1 With some changes and additions this table has been adapted from a table attached to a letter dated August 22, 1975 from Frank Reed to George Chandler, Rail Service Planning Office, I.C.C.

a Rounded to nearest 5 cents.

It should be noted that the mileages from origins to destinations are not constant. If the mileages were exactly comparable, the Atlanta rates would be higher, and hence the absolute differences in the last two columns would be reduced. However, the important point is that the Southeast's advantage in the movement of feed is constantly increasing. Holding mileages constant would only change the level of the differences and not the trend which is allowing the Southeast to expand its comparative advantage vis-a-vis New England.

In addition to the large differences in rates between regions, domestic grain users are subject to much higher rates then those applicable to the export trade. For example in 1971, rather than allow grain to move via ship from Toledo, Ohio, directly for export, the railroads established a rate of *$4.24 per ton* from Toledo to Albany, New York, a distance of 575 miles. The I.C.C. approved this 100-car, unit train rate. The applicable *domestic* rate to Albany in 1971 was *$10.00 per ton*. At the same time, the *domestic* rate from Toledo to Manchester, Connecticut was *$11.56 per ton* for a distance of 691 miles. Of course, the domestic rate for 3-car shipments could not be as low as for 100-

car unit trains because of the additional costs associated with small multiple car shipments. But a rate approaching the export rate should have been available for domestic shipments of 50 to 100 cars. If such a rate had been available at that time, local feed mixers might have made the necessary investments in facilities to handle large shipments and New England would now have rates comparable to the Southeast.

Review of Transportation Tariffs

All segments of the feed trade, but especially livestock producers, should be familiar with freight rates on feed ingredients. When producers pay their feed bill, they ought to know about what proportion of that bill goes to pay for transportation. Table 5 summarizes a rather long history of rates, from Toledo to Boston covering the period 1942-77 and from Toledo to Augusta, Maine, from 1958 to 1977.

TABLE 5
Freight Rates Per Ton of Corn, Toledo to Boston, 1942-77
and Toledo to Augusta, Maine 1958-77

Effective Date of Rate	Toledo to Boston	Toledo to Augusta	Effective Date of Rate	Toledo to Boston	Toledo to Augusta
	(dollars per ton)			(dollars per ton)	
3/18/42	5.75	N.A.	11/20/70	11.15	11.70
7/1/46	6.05	N.A.	4/12/71	11.50	12.05
1/1/47	6.45	N.A.	9/18/71	10.00 [3]	12.00 [3]
8/21/48	8.05	N.A.	2/5/72	10.25	12.30
9/1/49	8.80	N.A.	11/23/72	10.30	12.40
4/4/41	8.95	N.A.	8/19/73	10.60	12.80
5/2/52	9.85	N.A.	10/1/73	10.80	13.05
3/7/56	10.25	N.A.	1/1/74	10.90	13.15
12/28/56	10.75	N.A.	3/9/74	11.30	13.70
8/26/57	11.15	N.A.	6/20/74	12.80	15.60
2/15/58	11.50	11.50	2/5/75	13.70	16.70
7/15/64	8.70 [1]	10.10 [1]	6/6/75	14.40	17.55
12/1/64	8.70	9.10 [2]	10/13/75	14.75	18.00
6/24/68	8.95	9.35	3/21/76	15.80	19.25
11/28/68	9.20	9.65	1/7/77	16.45	20.00
11/18/69	9.75	10.25			
6/9/70	10.25	10.75			

1 Revised non-transit mileage rates in effect with X-256.
2 Hold down over Boston.
3 Multiple car rates (3-cars) became effective.

There are two critical points in Table 5 requiring explanation. Note the reduction in rates in 1964. In the early 1960's a number of eastern railroads considered breaking away from the historic rate structure. Several different proposals were placed on the public docket. After the completion of numerous public hearings every proposal was subsequently disapproved by the rate committee of the eastern railroads. Finally in July 1964, the railroads approved a new system of rates, which was restricted to the movement of *corn,* between points within the official territory east of the Illinois-Indiana state line. The initial publication of the new non-transit mileage rates was July 15, 1964 in TL-CTR Tariff No. E-772, I.C.C. C-458.

Strong objections by Maine poultry interests, moved the eastern railroads to depart from the true mileage concept. As a result the railroads published a set of new rates from origins east of the Illinois-Indiana line to destinations in Maine, New Hampshire, and Vermont. The rates were restated to represent a maximum of two (2) cents per 100 pounds over the mileage scale rate to Boston. These new rates became known as the "Boston hold-down" of December 1, 1964 shown in Table 5.

On May 27, 1967 the railroads published a full line of mileage rates covering an expanded list of animal and poultry feeds and feed ingredients. The new publication continued the arbitrary maximum 2 cents per hundredweight levy beyond Boston or 40 cents per ton. Future Ex Parte increases would be applicable to the "Boston hold-down" rate formula. With these increases, the 40 cents per ton differential between Boston and Augusta widens over time. This can be seen in Table 5 where the Boston-Augusta spread on April 12, 1971 was 55 cents per ton.

Another important rate adjustment occurred in 1971 with the publication of a series of multiple-car rates (3-car, covered hoppers) for the shipment of corn. The tariff change actually resulted in a small reduction ($12.05 to $12.00) on movements of corn to Augusta, Maine. The reason for the minor rate adjustment was the elimination of the Boston "hold-down". In addition there was no direct relationship between the new multiple-car rate scale and the previous single-car non-transit rates. All rate increases since 1971 have been based upon the 3-car non-transit mileage rates.

The absolute rate spreads to move feed grain between New England and southeast destinations represents one example of the growth in transportation cost differentials. (Table 4) There are also widening rate spreads between numerous New England destinations. When mileage rates were published in September 1971 the rate to Augusta, Maine from Toledo was naturally higher than Boston. With each percentage increase in the rate, since that time, the absolute differences as between Boston and Augusta, widened. In November 1972 the difference between the two rates was $2.10 per ton, and as of January 7, 1977 it was $3.55 per ton.

Establishment of the reduced rate structure to ship corn by the Southern Railway in 1963, has concerned the New England feed industry and livestock producers over the years. Since both New England and the Southeast are grain deficit areas, the cost to import grain from Midwest surplus areas is an important component in the local price of feed grain. Hence, any change in transportation rate relationships has repercussions upon interregional competition. A reduction in costs of feed in one region via lower freight rates has important competitive effects upon another region. The history of comparative tariffs between the Northeast and Southeast has clearly shown its impact on the costs of feed in both regions.

A change in the transportation rate to ship feed grain affects the profitability of production in the livestock sectors of New England and the Southeast. Due to the lower rates it became relatively more profitable to produce broilers in the Southeast, and sell the finished products in the high priced markets of the Northeast.

Since one area, the Southeast, has lower costs of production, increased output was encouraged over and above what would "normally" have been produced. And the way it works itself out may be stated as follows:

> When products are homogenous (eggs, broilers and milk) the production and marketing are very competitive. Product prices are higher in New England than the Southeast which indicates that the supply and demand are not in balance. It follows that it would be profitable to ship from the low priced region to the high priced area. As a result of the shipment, the supply in the high priced region (New England) will increase and the price will decrease. At the same time, the supply in the low priced region (Southeast) decreases and the price increases. The shipment of commodities from the Southeast to New England will continue until the prices are uniform in the sense that price differentials can differ at most by the cost of transportation. The result — a reduction in the prices received by producers in New England.

What actually caused the New England agricultural industry to initiate the freight rate case was the discriminatory nature of the rates to New England vis-a-vis the Southeast. The industry was not asking for protection *from com-*

petition. Rather it was only asking the government (I.C.C.) *not to take action which artificially precludes* it from competing with the Southeast or other regions.

As a result of the deteriorating competitive position of New England producers, the agricultural industry and governmental representatives[1] initiated an investigation which was contained in a joint petition filed February 8, 1973 with the I.C.C. The petition rested on the following contentions:

(1) that the existing rail rates on grain from Midwest origins to New England destinations were so high in comparison with rates from the same or similar origins to southeast destinations as to impose a *severe* and *unduly* prejudicial and disadvantageous burden upon the New England agricultural industry, thus contributing significantly to the enconomic distress of the region, and were therefore unjust and unreasonable;

(2) that the inequities can be effectively remedied by requiring the railroads to offer, for the movement of grain to New England, such rates as are comparable, cost and distance considered, to those applicable in moving grain from Midwest origins to the Southeast; and

(3) that the I.C.C. should act to prevent the denial of the benefits of intermodal transport by requiring that comparable rail service and rates be offered on rail segments of water-rail routes. (Water might be a cheaper means of transport if the rail rate from Buffalo or Oswego, New York, to New England, for example, were at least proportionally comparable (lower) than the rail rate from Toledo, a much longer distance.)

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1 The New England Governors' Conference; The Northeast Association of Commissioners of Agriculture; State of Maine, Department of Transportation, for itself and on behalf of the Department of Agriculture; Niagara Frontier Transportation Authority; New England Grain and Feed Council; Water Transport Association; Maine Farm Bureau Association; New Hampshire Farm Bureau Federation; Vermont State Farm Bureau, Rhode Island Farm Bureau Federation; Massachusetts Farm Bureau Federation; Connecticut Farm Bureau Federation; Farm Bureau Association; The New York-New England Dairy Cooperative Coordinating Committee; Maine Feed and Grain Cooperative; Merrimack Farmers Exchange; Central Connecticut Co-op; Farmers Agriculture Cooperative Trading Society; Northeastern Egg Marketing Association; United Cooperative Farmers; New Hampshire Poultry Growers Association; H. K. Webster Co.; E. C. and W. L. Hopkins Co.; and Maine Poultry Industries Association.

In addition to petitioners interested parties were: Board of Trade of the City of Chicago, the Department of Business and Economic Development of the State of Illinois, the National Grange, the New York State Department of Transportation, the Seaway Port Authority of Duluth, the United States Secretary of Agriculture, and the United States Department Transportation.

Table 6 summarizes the long and continuing history of I.C.C. Case No. 35786 "Feed Grains to New England."

TABLE 6
Chronological Development of I.C.C. Case No. 35786

DATE	ACTION TAKEN
Feb. 8, 1973	Petitioners request the institution of an investigation.
June 29, 1973	I.C.C. instituted the investigation into rail freight rates and service on corn from Midwest to New England, New Jersey and New York.
Nov. 27, 1973	Pre-hearing conference, Boston, Massachusetts.
June 26, 1974	Pre-hearing conference completed, Washington, D.C.
Nov. 1, 1974	Last day for petitioners to file initial briefs.
Dec. 3-5, 1974	Petitioners testified at hearings held in Boston, Mass.
May 6-8, 1975	Respondents testified at hearings in Boston, Mass.
June 12, 1975	Hearings completed in Washington, D.C.
May 17, 1976	Law Judges' initial decision.
July 16, 1976	Petitioners file appeal to May 17, 1976 decision.
Feb. 2, 1977	Decision rendered on the appeal. 1
April 11, 1977	Court action instituted by petitioners before the United States Court of Appeals, District of Columbia Circuit. 2

1 On April 13, 1977, I.C.C. Chairman O'Neal denied a request of the respondent Eastern Railroads for a stay of the order of February 2, 1977, pending Judicial review. The stay request was concerned with the order directing the establishment of 10-car rates on feed corn moving to destinations in the Northeast.

2 On April 13 the Baltimore and Ohio Railroad Company, et al, filed notice of court action and entered the case before the United States Court of Appeals for the Fourth Circuit.

It was almost four years to the day from the petitioners initial request for an investigation to the decision on the appeal. And the final disposition of the case is not yet complete as indicated by the action of April 11, 1977.

The initial decision of May 17, 1976 was unfortunately very discouraging to all the petitioners. Concerning the discriminatory rate issue, the judge failed to order the railroads to eliminate the discriminatory structure of rates. While it is clearly a matter of law (the authors are neither lawyers or judges) it

appears the judge in the case clearly bypassed Section 1 of the Interstate Commerce Act which deals with the creation of a competitive advantage in one region due to a discriminatory rate structure. The judge did find the 3-car scale rates unreasonable to the extent they exceed single-car rates to the same destinations and ordered the rates corrected. This occurred only for destinations North and East of Augusta, Maine, where livestock production is not heavily concentrated.

The request of the petitioners for rates comparable to those applicable to the Southeast, costs considered, was also denied. New England was asking the I.C.C. to require the publishing of multi-car rates up to unit train size. For a number of years the feed mixers have been interested in unit train rates. The railroads have taken the position that the region lacks facilities of sufficient size to handle unit trains and hence there is no need to publish such a rate. The feed mixers have taken the position that substantial investments are required and such investments cannot be made without first being assured of a unit train rate. Thus the familiar "circle around the mulberry bush."

The Administrative Law Judge's decision in this instance is cause for frustration. The Judge cited the *Lake Carriers* v. *United States*, in which a three-judge District Court held that the availability of facilities essential to a transportation service *need not precede* the tariff provisions therefore. The judges' decision emphasizes the point that without the incentive of a tariff provision, (a published rate) no capital investment would likely take place which would eliminate operational difficulties. The Administrative Judge stated:

> "The obligation of common carriers is to provide the public with reasonable and workable transportation service, and establishment of a tariff provision which could be expected to generate traffic is part of that obligation. As noted by the court in *Lake Carriers*, if the traffic does not materialize, there is little harm done."[1]

From the foregoing, one might have expected the decision to contain an order requiring the publishing of multiple car rates up to unit train size even though feed mixers might not be in a position to utilize immediately the larger multi-car rates. Such was not the case. In the paragraph immediately following the preceding quotation, the Judge stated,

> "The *Lake Carriers'* decision should not be interpreted as requiring the carriers to establish rates where none are requested, where operations are impractical or when a reasonable level therefor could not be determined. Herein rates for greater volume than three-car shipments are sought. About a third of the corn receivers responding to a petitioners survey

1 Initial Decision, I.C.C. No. 35786, "Feed Grains to New England", May 7, 1976, pp. 31.

could now handle ten-car shipments and others would so expand their facilities if it were feasible to do so. The evidence suggests establishment of such rates, at some level lower than the three-car scale."

Even though the courts (Lake Carriers v. United States) ruled that the I.C.C. could order the publishing of rates, even though the industry was not in a position to immediately utilize such rates, and even though rates for greater volume than three-car shipments were sought, the Administrative Law Judge ordered as follows:

> "The eastern railroad respondents[1] herein are *requested to consider* (underlining ours) the establishment of ten-car rates on the subject traffic to northeastern destinations; they are directed to inform the commission as to the steps they have taken in this regard, within 120 days of the effective date herein, the proceeding to be held open for the receipt and review thereof."[2]

The initial decision only noted the final request of the petitioners, namely, that benefits of intermodal transport not be denied by requiring that comparable rates be offered on rail segments of water-rail routes. No findings, rulings or orders were issued pertaining to this subject.

It is quite clear, from the foregoing, that New England obtained no relief on any of the major points contained in the February 8, 1973 request for an investigation. However, in view of the decisions arrived at by the Judge hearing the case, an appeal was filed July 16, 1976 by the original petitioners. The decision on the appeal was issued February 2, 1977.

The appeal decision, by another Administrative Law Judge, essentially supported the initial decision. The appeal concurred with the initial decision in finding the eastern three-car mileage scale unreasonable to the extent of a reverse taper between 500-600 miles. There was also concurrence in finding the eastern three-car rates to be unreasonable to the extent they exceed single-car rates to destinations north and east of Augusta, Maine. Neither of these findings in favor of the petitioners is of any significant importance to New England.

The initial decision *requested the railroads to consider* the establishment of a 10-car rate to northeastern destinations. The appeal decision found the record sufficient to *order* Eastern Railroad respondents to *establish* 10-car rates from Midwest origins to destinations in the Northeast within 60 days.

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1 The respondents are rail carriers represented by the Traffic Executive Association-Eastern Railroads and/or by the Southern Freight Association.

2 Op. Cit. pp. 32.

In compliance with the order, the Eastern Railroads filed a ten-car rate which averaged two cents per hundred weight below the existing 3-car rate. The petitioners claim, however, that such a multi-car rate offers little inducement for many New England grain dealers to adopt the use of ten-car shipments. As a result further court action is underway to challenge the establishment and acceptance of this new multi-car rate by the I.C.C.

It may be that the most important result of the appeal was the joining statement by Commissioner O'Neal. He did concur in the findings but said in addition, the following:

> "There can be no question on this record that the Southeast enjoys a freight rate structure on feed grains that results in lower rates to the Southeast than from the same orgins to Northeast destinations. Granted that the reasonableness of the respective rates cannot be determined ultimately without consideration of differences in transportation conditions and that, as a consequence, some disparity may be justified here. But it is far from clear how much disparity is warranted. With respect to broiler, egg, and milk production trends generally, the Northeastern states have fared poorly when compared with the Southeast. I find it particularly unsatisfying to dispose of this proceeding on the basis that the petitioners have failed to prove a specific relationship between these trends and rail rates on feed corn."[1]

RESEARCH DEVELOPMENTS

Simultaneous with the I.C.C. case, research plans were developed to investigate the economic feasibility of modernizing the existing feed grain marketing system of New England. The principle objective underlying the research program was to formulate a marketing system which would allow the feed mixing industry of the region to utilize the most efficient and most modern grain transportation systems currently serving the nation's agricultural sector.

In seeking a plan for grain market reorganization, two specific study areas are underway. The first focuses on the feasibility of establishing a coordinated railroad-grain elevator system to move feed grain by unit train. The other reorganizational scheme involves the economic appraisal of intercoastal and inland water transportation as a substitute for overland railroad service.

1 Appeal Decision I.C.C., No. 35786 "Feed Grains to New England", February 2, 1977, pp. 26.

Unit Train Delivery

The railroad industry first utilized the unit train concept in the early 1900's to promote an economical system to move coal from the fields of Pennsylvania, West Virginia and Kentucky to the industrial centers of the east. But it was not until a half-century had passed that the cost efficient multi-car rates of a unit train system were introduced to the agricultural industries of the nation.

One of the first segments of the grain trade to receive unit train consideration was the export market. During the 1960's, unit train rates were established for grain traffic moving between the subterminal and terminal grain elevators of the Midwest and Gulf states. Within a short time span, grain traffic moving by unit train significantly increased along the network of railroads connecting the production areas of the Midwest with the seaports of the Gulf of Mexico. Rapidly, unit train service found itself a viable model system to compete with the truck and barge carriers of the region.

With the introduction of unit train service to new regions, the local grain elevator industries followed the predicted pattern of reorganization. Expansion and construction of new elevators characterized the corporate strategies of the commercial grain traders.

An example of this reorganization phenomenon is currently underway in southern Minnesota. In a two year period following the establishment of multi-car rates in 1972, nineteen grain elevator firms either by remodeling or constructing new elevators developed unit train facilities with a combined storage capacity of 10.5 million bushels. By the end of 1975, an additional ten elevators were expected to be in operation with a storage capacity exceeding 4 million bushels.[1]

Clearly, the reorganization of the commercial channels of trade is moving rapidly within the grain elevator industry of the country. However, with no unit train service available to the feed mixers and grain users of New England, few changes have taken place within the grain marketing system of the region. As a result, the modernization of the local grain marketing channels has legged behind other regions of the country.

Unit-Train, Grain Elevator System in New England

Under various alternatives proposed by the University of Connecticut, a unit-train, grain elevator transshipment approach appears the most feasible system to service the feed mixers of the region. Under this framework a grain subterminal becomes the principal receiving point of all volume shipments of raw

1 Dahl, Reynold and Michael Martin, **Multiple Car Rail Rates — Their Impact on Grain Transport**, Minnesota Agricultural Economist, No. 356, Agricultural Extension Service, University of Minnesota, January 1975, pp. 1-2.

grain. Additionally each subterminal functions as the district grain storage site. With grain stocks in subterminal storage, the facilities become the distribution centers for the delivery of raw grain to surrounding grain users and mixed-feed plants of the area.

A preliminary solution to the transshipment plan shows a multisite pattern as the optimal for implementing a subterminal system. The optimal placement of subterminal sites includes the establishment of a grain elevator in Northern Vermont to service the dairy districts of the Lake Champlain Valley; one in Maine to service the poultry and dairy industries of the state; another in central Massachusetts to service the state of Massachusetts and the area of southern New Hampshire and Vermont; and one elevator in eastern Connecticut to supply Connecticut and Rhode Island.

The cost to underwrite this grain subterminal program involves both the capital investment in facilities and the financing of annual operating expenditures. Preliminary estimates indicate that funds totaling 5.85 million dollars will be needed for the construction of new elevators. The annual operating expenses for the four subterminals will range between 3.2 and 3.8 million dollars. Of this total, the short haul movement of grain to the feed mixing plants represents the largest expenditures with estimates of 2.0 to 2.3 million dollars per year to move volumes equivalent to the supplies of 1975.

Economic Feasibility of Reorganization

Identification of the financial, locational, and structural parameters required to institute a rail delivery plan to move large volumes of grain only represents the first stage in developing a modern grain marketing system for New England. Another factor important to the success of the plan, is the establishment of a tariff rate structure that offers the grain receivers and users a sufficient economic incentive to adopt the direct trainload program.

Presently there exists a degree of uncertainty in estimating the appropriate cost savings associated with a unit train system. The only guidelines available lies in the rate of schedules developed for export movements of grain to the East, and those tariff schedules developed for volume shipments of grain within and between other regions. Examination of these rates show adjustments ranging from 30 to 50 percent below the traditional one and three-car rate schedules. And just recently, similar reductions were shown in the newly published tariff rates for unit train shipments of corn from Midwest origins to central New York. Unit train rate reductions ranged from 36 to 47 percent below the published levies on movements of corn by 3-car lots.

The rate reductions accompanying the shipment of grain by unit train in neighboring regions however may not be applicable for similar movements to New England. It must be noted that rates are developed by the railroads either individually or through their regional Freight Tariff Bureau's. Con-

sequently under this rate making procedure, promulgation of a unit train rate will depend on the unique cost characteristics of rail service from Midwest origins to New England destinations.

Although there is a lack of information on the rate reductions which might be attached to unit train service in New England, an assessment of the viability of the proposed plan can still be performed by estimating the rate levels necessary to economically justify the capital investment and cost of reorganization. According to preliminary research results, a net reduction of 25 percent in the existing grain transportation rates represent the breakeven position of the region. But for the agricultural sector to accept the risk of financing the subterminal program, additional savings certainly will be needed to supply the necessary economic stimulus for implementation.

WATER TRANSPORTATION

The extensive coastline of New England has prompted the grain users and feed mixers of the region to investigate ideas concerning the development of a grain delivery system by water. But through the years such a trade channel has been hindered by economic, political, and institutional barriers. As a result of these barriers, sponsorship of experimental programs to establish water transportation as a serious competitor in the New England grain trade have been short lived.

Previous Research

A few studies were conducted on the operational and economic feasibility of moving feed grain by water. One of the most comprehensive was sponsored by the Water Transport Association, (WTA). Included in the WTA report was the investigation of a number of systems and routes to service the grain users of New England.

More specifically, both intra and intermodal transportation channels were examined in the WTA report. Under study were the all-water route of the Great Lakes-St. Lawrence Seaway to New England, the intercoastal route from the Gulf Coast, and a Great Lakes-New York inland canal route to the coastal and inland waterways of New England. Each of these proposed waterway

networks however proved to be operationally or economically unsatisfactory. In total they could not effectively compete with the overland railroad system.

The alternative to all rail movement was a recommendation by the WTA for a combination water-rail route. It represented, according to the findings of the report, a cost efficient transportation system. With the movements of grain on the Great Lakes by self-unloading vessels to rail transfer points at Buffalo or Oswego, New York, significant savings in the total transportation bill appeared possible. A primary component of the economic success of such an intermodal system was the development of unit train service from the Great Lake ports of New York to final destination points in New England. To date, unfortunately, efforts to coordinate a unit train intermodal system has met with resistance from the railroads and other vested interests.

Water Transportation for New England

In the face of the various institutional and economic barriers which have deterred the development of maritime trade, interest still exists. This interest has continued to the present as a result of the rapidly increasing rail rate structure of the last five years.

One of the primary factors contributing to the reevaluation of water transportation is the rapid decline of the northeastern railroads as viable and efficient long haul carriers. For the last five years, the quality of rail service has deteriorated rapidly, while the costs have spiraled. The escalation of rail transportation costs has intensified the squeeze on the profit earnings of producers of livestock products. With profit margins in jeopardy, the members of the feed manufacturing and livestock industries, in turn, have been seeking alternatives to rail movement.

In response to the continuing interest in water shipments, the research program in progress is again reviewing the feasibility of establishing a direct feed grain delivery system by water. Among the principal areas of study are the identification and selection of feed grain supply centers, methods of shipping grain products by water, routes of delivery, grain receiving ports in New England, and elevator designs to service the maritime grain trade.

Preliminary results show two all-water systems of delivery as the most feasible for the grain trade in New England.

One system proposes the shipments of feed grain from the grain market of Toledo, Ohio to the grain users of northern Vermont and southern New England. Scheduled shipments can be routed over the Great Lakes by bulk freighters to a transfer point at Oswego, New York, where smaller barges can move the grain along the New York Barge Canal to final destination points on Lake Champlain and southern New England. A number of seaports are under study as destination points for these grain shipments. Presently they include St. Albans and Burlington, Vermont, and Portland and New London, Connecticut.

The alternative system proposes the shipments of feed grain from export grain elevators at Norfolk, Virginia to the grain users of southern New England and Maine. Direct shipments of feed grain by large ocean barges can move along the coastal waters of the mid-Atlantic states to New England. Of the numerous southern New England seaports, Boston, Massachusetts, New London, Connecticut and Providence, Rhode Island, are under consideration as possible grain importing sites. For the state of Maine, Portland, Bath, and Winterport are feasible receiving ports.

A Potential Competitor

Transportation of feed grains by water carriers into New England can be developed into an economical long haul delivery system. Comparison of estimated rates to move feed grains by barge with the existing railroad tariff structure shows net savings of 8 to 10 dollars per ton of feed shipped. However to adopt a water movement, other cost factors must be considered. Expenditures to finance new grain receiving facilities and additional grain handling equipment, shrinkage, and short haul distribution costs need to be added to the initial cost of movement by water.

Long range forecasts place both maritime systems competitive with rail if economic trends within the railroad industry and the agricultural economy of the region continue at their existing pace. With rail rates racing upward, movements of grain from Norfolk, Virginia by ocean barges will be the first to become competitive. It is estimated that by the early 1980's the cost of moving feed grain by ocean barge to Maine and southern New England will parallel the projected costs of rail service.

SUMMARY

The Railroad Revitalization and Regulatory Reform Act of 1976 is one of the most comprehensive pieces of legislation to affect this nation's railroad industry since the creation and passage of the Interstate Commerce Act 1887. Among the provisions outlined in the 4-R Act, the reform of rate regulations is a subject of paramount importance to New England. Reform of rate regulations will affect each manufacturing sector of the region's economy, and for the agricultural community it is critical to the development of a viable feed processing and livestock industry.

The sections on rate regulations which command close scrutiny include the determination of just and reasonable rates, establishment of market dominance standards, deregulation of general rate making procedures, and the creation of new pricing systems to develop rail rates based on seasonal peak or regional demand.

Under the definitions outlining market dominance and just and reasonable rates, the feed grain trade in New England appears insulated from rate adjustments unrelated to general tariff increases. In recent months the I.C.C. has acted firmly in supporting market dominance standards through numerous appeal procedures and court actions sponsored by the railroad industry. Paradoxically, however, regulation of the rate making procedures mandated to the I.C.C. is under attack by Congress, the Office of the President, and private lobbying groups.

There appears to be growing support to allow the railroads to establish rates according to economic forces of the market place. Consequently, the continuation of the seven percent rate adjustment empowered to the railroads under the 4-R Act seems a certainty through 1978.

Shortly, rules and standards will be established for promulgation of rail rates on seasonal, peak or regional demand. It is difficult to assess the impact of peak and seasonal pricing on the New England's agricultural community since the formulation of standards is still underway. For New England however, a danger does lie in the national standardization of pricing systems by the I.C.C. Hopefully, standardization of rate systems will be avoided, and instead, careful consideration will be paid to the specific seasonal, regional, and peak patterns of grain traffic moving to the domestic users of New England.

The issue of discriminatory practices in freight rate formulations remains of paramount importance to New England Agriculture. The cause of the discriminatory structure is due in part to the procedures employed by the I.C.C. in levying rate increase adjustments. For many years the Commission has used

a percentile formula to implement rate adjustments. The result of such a practice has created economic hardships for New England grain users.

The plight of the grain users of New England vis-a-vis their counterparts in the Southeast has been well documented. In 1964 the cost differential to ship a ton of corn from a common midwestern source favored the southeastern shippers by $4.04. By 1971, the cost differential increased to $6.33 per ton. Unmistakably, for the short time span of seven years a systematic cost penalty was levied on the grain users and agricultural industries of New England.

Equally significant to the growth of the cost inequities of transportation is the lack of modal competition to service the grain trade of New England. The impact of modal competition on rail rates is significant and the effect of a competitive balance is most visible in the southeast. With the establishment of competitive barge and motor carrier operations the rate increases to ship grain by rail were constrained. The actions to establish a competitive mode prompted the rapid introduction of alternative forms of rail service. Shipments of grain by large hopper cars and movements in multi-car unit train lots soon became available to the grain trade of the Southeast.

In order to counteract the economic imbalance of transportation service to New England, the local poultry and livestock industries with assistance from public and private interests embarked on three courses of action.

On February 8, 1973, the grain trade, livestock producers and the New England Governors filed a joint petition before the I.C.C. to seek relief from the high costs of rail service. Judgements, appeals and counter appeals characterize the history of the New England Feed Grain Case, and presently it is before the Court of Appeals, District of Columbia Circuit Court. In summary, however, the rate case has proved fruitless. To date the I.C.C. has denied the requests of the New England Petitioners in each of the major areas of grievance.

In conjunction with the aims of the New England Feed Grain Case, a research project financed by the New England Regional Commission was undertaken by the Universities of Massachusetts and Connecticut to investigate the economic feasibility of utilizing rail systems to ship feed grain. The general outline of research focused on the feasibility of unit train service to the region. Preliminary results indicate that the standard rate reductions accompanying unit train shipments place the operation of subterminal grain elevators as a feasible alternative to the existing grain marketing system.

Lastly, further research is underway to examine the economic feasibility of utilizing alternative modes of transportation to ship feed grain into New England. Under the study program conducted by the University of Connecticut two water routes are under investigation. One waterway system entails the movement of grain by lake vessels and inland barges from the Great Lakes, through the New York State Canal System. The alternative system represents the movements of grain by ocean barge from Norfolk, Virginia to various New England ports.