

F.D. 30400 - 10/24/84 - Pages- 3456-3514

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
INTERSTATE COMMERCE COMMISSION

----- x
In the Matter of: :
SANTA FE SOUTHERN PACIFIC CORPORATION : Finance Docket
-- CONTROL -- : 30400 et al.
SOUTHERN PACIFIC TRANSPORTATION :
COMPANY :
----- x

Hearing Room A
12th & Constitution, N.W.
Washington, D.C.
Wednesday, October 24, 1984

The hearing in the above-entitled matter was
convened, pursuant to notice, at 9:10 a.m.

BEFORE:
JAMES F. HOPKINS,
Administrative Law Judge

APPEARANCES AS HERETOFORE NOTED, WITH THE FOLLOWING
ADDITIONS:

0023 0000

1 On behalf of the Santa Fe Southern Pacific
2 Corporation:

3 JAMES C. DECHENE, ESC.
4 Sidley & Austin
5 One First National Plaza
6 Chicago, Illinois

7
8 On behalf of the Atchison, Topeka & Santa Fe
9 Railway Company:

10 ROBERT R. COWELL, ESC.
11 Atchison, Topeka & Santa Fe Railway Company
12 80 East Jackson Boulevard
13 Chicago, Illinois

14
15
16
17
18
19
20
21
22
23
24
25

ALDERSON REPORTING COMPANY, INC.

20 F ST., N.W., WASHINGTON, D.C. 20001 (202) 628-9300

0023 8000 4

C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
Randall R. Reyff				
By Mr. Wilson	3458			
By Mr. Kharasch		3469		
By Ms. Reed		3489		
Frank M. Guerin				
By Mr. Wilson	3491			
By Mr. Levy		3493		
By Ms. Reed		3495		
Robert R. Fritts and Thor H. Sjostrand				
By Mr. Dechene	3498			
By Mr. Mayo		3500		
By Ms. Kooperstein		3539		
John H. Winner				
By Mr. Cowell	3552			
By Mr. Roper		3553		
By Mr. Mayo		3571		
By Ms. Kooperstein		3587		
By Mr. Cowell			3604	

E X H I B I T S

<u>Exhibit No.</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
MKT-C-23	3461	
SFSP-C-7		3490
DRGW-C-20 and 21	3502	3550

P R O C E E D I N G S

1
2 JUDGE HOPKINS: On the record, then. Call the
3 next witness, please.

4 MR. WILSON: Applicants call as their next
5 witness, Mr. Randall Reyff, Manager of Transportation
6 Research of the Atchison, Topeka & Santa Fe Railroad.
7 Whereupon,

8 RANDALL R. REYFF

9 was called as a witness in the above-entitled case by
10 counsel for Applicants and, having first been duly sworn
11 by the Administrative Law Judge, was examined and
12 testified as follows:

D I R E C T E X A M I N A T I O N

13
14 BY MR. WILSON:

15 Q Mr. Reyff, did you prepare a verified
16 statement in this proceeding dealing with the rail
17 traffic diversion study submitted by Applicants in this
18 proceeding?

19 A Yes, I did.

20 Q Is that verified statement the 29-page
21 verified statement in SFSP-14, which is signed by you in
22 March of 1984?

23 A Yes, it is.

24 Q Did you also assist in preparing the document
25 labeled SFSP-31, Rail Traffic Diversion Study, Summary

&

1 of Procedures?

2 A Yes. I co-sponsored that or co-authored that,
3 if you will, with Mr. Swain.

4 Q Sir, do you have any changes or modifications
5 you would like to make to your verified statement at
6 this time?

7 A I've got some minor changes on four pages of
8 my statement, page 12, 21, 24, and 26.

9 On page 12, going to the middle of the page
10 where we're talking about circuitry rules, rule No. 1
11 with respect to TOFC and COFC on the Union Pacific and
12 C&NW, I would amend after C&NW, amend the sentence to
13 say, "effective only in the PBS iteration."

14 The whole thing would read: "TOFC, COFC, and
15 expedited traffic moving via Fremont between the Union
16 Pacific and C&NW effective only in the PBS iteration."

17 On page 21, in the first full paragraph on
18 that page, I believe it would be the third sentence,
19 starting out "Norfolk Southern's impedance," et cetera.
20 The sentence should read: "Norfolk Southern's impedance
21 on westbound traffic to Southern Pacific was not
22 increased because the model nonetheless reflected
23 Norfolk Southern's ability generally to obtain Kansas
24 City Gateway haul on westbound movements;" no changes
25 beyond the semi-colon.

1 Is that clear?

2 On page 24 --

3 MR. FAKER: Would you repeat that, please?

4 THE WITNESS: Would you like me to read the
5 whole sentence? This is on page 21? Okay.

6 In the sentence where it says, "Traffic to
7 Southern Pacific was," insert "not," so it reads "not
8 increased." And then after "increased," insert "because
9 of the model nonetheless," strike the word "to," change
10 the word "reflect" to reflected."

11 Is that clear?

12 24, toward the bottom of the page on page 24,
13 we're talking about Southern Pacific/Burlington
14 impedances at Klamath Falls. And due to a typographical
15 error, the sentence -- going into the sentence where it
16 talks about interchange route would be used to handle
17 all traffic moving to or from points west of the
18 cascades, change that "west" to "east."

19 And then in demonstrating the opposite,
20 farther along in the sentence, traffic moving to or from
21 points east of the cascades, that "east" should be
22 changed to "west." We had it backwards.

23 And lastly, on page 26, in the second sentence
24 of the paragraph, starting out specifically, "The rule
25 applying," after the word "Oregon," strike "and Kansas

1 City or the northeast" and substitute "and Kansas City
2 and points beyond."

3 Just to read the sentence: "Specifically, the
4 rule applying only to traffic moving between Oregon and
5 Kansas City and points beyond." And then the sentence
6 continues as it had before. And those are the only
7 changes that I have.

8 BY MR. WILSON: (Resuming)

9 Q Okay, Mr. Reyff.

10 In addition there has been some discussion on
11 the record about your preparation of answers to MKT
12 discovery requests.

13 For the record, Your Honor, we have four
14 replacement pages to MKT-C-23. I would like those four
15 pages to be a counsel's exhibit which I would like to
16 have marked SFSP-C-7.

17 JUDGE HOPKINS: This is the one you gave me
18 before? It will be marked for identification.

19 (The document referred to
20 was marked Exhibit MKT-C-23
21 for identification.)

22 BY MR. WILSON: (Resuming)

23 Q Mr. Reyff, could you please explain the
24 changes that are reflected herein and the reasons for
25 the changes?

1 A All right.

2 When we were asked by MKT to develop responses
3 to interrogatories, specifically example movements from
4 the study, I took on that assignment earlier in the year
5 and went into our data base and attempted to answer the
6 questions.

7 And my level of expertise at that time, I
8 guess, in accessing the data base, I put down several
9 mistaken numbers. Almost all the facts that are
10 reported were correct. However, I did make a mistake in
11 terms of stating the diversion percentage, the diverted
12 carloads, and the route classification on several of
13 these pages.

14 For these pages, I gave the specific charges
15 to Mr. Kharasch and his assistant the other day.

16 Is it necessary to read each of the changes?

17 Q I don't think so. The document speaks for
18 itself.

19 A All right. Well, that's that.

20 Q Mr. Reyff, could you briefly explain your role
21 in the rail traffic diversion study process?

22 A Well, I guess I'm formally called an evaluator
23 in this process. My role as an evaluator was basically
24 to assist in focusing the study on the issues that were
25 going to be relevant in this case.

1 Also inspecting and learning about the DNS
2 model to see that it would effectively portray the kinds
3 of judgments, and describe the effects that we think
4 were going to be brought by the SFSP merger to the
5 marketplace.

6 I reviewed the model, I reviewed supporting
7 documents, I reviewed output and, along with Mr. Guerin,
8 directed changes and so forth so that the model would in
9 total reflect our point of view on rail traffic
10 diversions as a result of this merger.

11 Q Could you state what specific written
12 materials were available to you to enable you to confirm
13 that the model was operated properly and that the
14 diversion judgments were reasonable?

15 MR. KHARASCH: Your Honor, the agreement here
16 was, and the order of business in this proceeding was to
17 have direct testimony in written form with it all
18 supplied. One does not object to corrections. The
19 Commission should have the truth.

20 This is additional, and I object to it. There
21 will be another time that they can repair damages and so
22 on.

23 JUDGE HOPKINS: Mr. Wilson.

24 MR. WILSON: This issue is an issue which Mr.
25 Kharasch raised in the last couple of days. It's an

1 issue that I think it's appropriate to have further
2 evidence on the record on, and that is the issue of what
3 materials were available. How could you tell whether
4 the model was performing reasonably?

5 Obviously, Mr. Swain was familiar with the
6 model also. However, this witness and Mr. Guerin, as
7 evaluators, traffic experts, were participating in the
8 study process. They had before them certain materials
9 that were sufficient for them to satisfy themselves that
10 the model was operating reasonably.

11 It's a relatively brief line of questions,
12 Your Honor.

13 JUDGE HOPKINS: How brief?

14 MR. WILSON: I think it's about six questions
15 to establish what Mr. Beyff had available for himself
16 and to address the issue of the auditability of the
17 model which was raised for the first time by Protestants
18 a few days ago.

19 I think that it would be helpful to the record
20 and to the decision on this point to hear testimony from
21 the people involved in the study as to what information
22 was available.

23 JUDGE HOPKINS: Mr. Kharasch.

24 MR. KHARASCH: The issue of auditability of
25 the model was not raised a few days ago. It was raised

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

from the outset when the model was submitted and testimony was submitted.

JUDGE HOPKINS: Well, I'm going to allow a short series of questions, but not extensive at this time, because this could be brought out on rebuttal testimony at some later date.

But I don't want this to go on on any other line of questioning. Let's just limit it to this.

MR. KHARASCH: Also, Your Honor, I ask that the witness not answer any of these questions until we have time for objection. I'm not sure he's competent on this series of questions.

JUDGE HOPKINS: We'll do that. Go ahead.

BY MR. WILSON: (Resuming)

Q Would you like me to repeat the question?

A Yes, if you would, please.

Q Could you state what specific written materials were available to you to enable you to confirm that the model was operating properly and that the diversion judgments were reasonable?

MR. KHARASCH: I object to the question as leading -- thoroughly leading and obviously prepared last night.

JUDGE HOPKINS: It is very leading.

BY MR. WILSON: (Resuming)

0023,0010

1 Q Okay. To enable you to confirm whether the
2 model was operating properly and whether the diversion
3 judgments were reasonable?

4 JUDGE HOPKINS: Go ahead.

5 THE WITNESS: Okay. Basically, we had a lot
6 available to us. I think to focus it very quickly on
7 the specifics that we had available as evaluators, I'd
8 classify it in four, possibly five major documents.

9 First of all, of course, we had the impedance
10 reports which were generated before and after each study
11 iteration which allowed us to go through and see how
12 the model was operating in a very broad sense with
13 respect to changes of traffic flows over relevant
14 junctions.

15 We, of course, had diversion matrices starting
16 out with the stock matrix that DNS supplies with their
17 model which we developed. We had those diversion
18 matrices which expressed all these relationships which
19 Mr. Guerin and I felt were appropriate to apply
20 diversion percentages.

21 We had available line segment reports which
22 described the status, the classification, if you will,
23 of railroad physical plant in major markets, and then of
24 course the diversion detail reports which showed us the
25 model output and illustrated to us in a rather specific

1 form the operation of the model as it related to our
2 specific judgments and directions.

3 MR. KHARASCH: I move to strike this answer as
4 not responsive. We've heard about all these pieces of
5 paper. None of these pieces of paper, all of which were
6 testified to by Mr. Swain, are pieces of paper that have
7 to do with the auditability or the correctness of the
8 operation of the machinery.

9 JUDGE HOPKINS: He believes they are. I'll
10 allow it. I deny your motion to strike. Whether it's
11 true or not, he believes it is.

12 BY MR. WILSON: (Resuming)

13 Q Were those materials set forth in Applicants'
14 testimony and work papers filed in this proceeding?

15 A Yes, they were, with one temporary exception.
16 We come to find out that the diversion detail report
17 from the Rio Grande trackage rights iteration was not
18 available in our work papers.

19 I understand that's in production now.

20 Q Sir, you state in your testimony you
21 participated in other traffic diversion studies,
22 including the Santa Fe study in the Union Pacific
23 control case.

24 How did the information available to you,
25 which has been made available to Protestants in

1 discovery in this proceeding, compare with the
2 information available in the Santa Fe traffic study in
3 the Union Pacific control case, and your work papers
4 supporting that?

5 MR. KHARASCH: I object to the question as
6 beyond the announced subject. It's a matter that's
7 already dealt with, as a matter of fact, in the
8 witness's statement and not appropriate at this time in
9 the procedure that was set up.

10 MR. WILSON: It's a different question. I'm
11 asking him how the information that he had available to
12 him --

13 JUDGE HOPKINS: I agree with Mr. Kharasch. I
14 will sustain the objection.

15 (Brief recess.)

16 JUDGE HOPKINS: Back on the record.

17 BY MR. WILSON: (Resuming)

18 Q Mr. Beyff, with the changes you made in your
19 verified statement, is your verified statement correct,
20 to the best of your knowledge and belief?

21 A Yes, it is.

22 MR. WILSON: The witness is available for
23 cross-examination.

24 JUDGE HOPKINS: Are you first as usual, Mr.
25 Kharasch?

1 MR. KHARASCH: I'm first on these witnesses by
2 prior arrangement by counsel on this side, but not as
3 usual.

4 JUDGE HOPKINS: Go ahead, sir.

5 CROSS EXAMINATION

6 BY MR. KHARASCH:

7 Q Mr. Beyff, please put before you SFSP-C-7, the
8 changed pages in your responses to interrogatories, and
9 at the same time put before you, if you would, the
10 original answers to interrogatories that is now in this
11 record as MKT-C-23.

12 A Okay. As I have it, the first changed page
13 was page 7 of 30 of page 7 of your exhibit.

14 Q Is it your testimony that SFSP-C-7 is correct
15 and complete? And I draw your attention to both words,
16 "correct," and "complete."

17 A It's correct, certainly. I think it's
18 correct. By "complete," could you tell me if there is
19 something that you think should be there that isn't?

20 Q Have you reflected on pages, corrected pages
21 contained in SFSP-C-7 all the operations that would
22 occur in the procedure leading to a calculation of
23 diversion for this movement, for these movements of
24 traffic?

25 A Well, yes, I believe so. I've reflected the

1 facts that were associated with the specific waybill
2 being treated.

3 Q Yes.

4 A I have reflected --

5 Q You don't have to recite it. I'm just asking
6 you is it complete?

7 A I believe it is complete; yes.

8 Q How did you get the numbers that appear on
9 SFSP-C-7 on what's called page 7 of 30, the first page
10 of SFSP-C-7?

11 A How did I get all of the numbers there?

12 Q Yes. Did you go to the computer and did it
13 print out something that showed you how a calculation
14 was made for this specific movement or not?

15 A Well, it came up on a CRT. It didn't print
16 out on a piece of hard copy, and I wrote down what was
17 printed or what appeared.

18 Q Let's go back to the original page 7 which was
19 provided in response to interrogatories. How did you
20 obtain that information?

21 A In the same manner.

22 Q In the same manner. It appeared on a CRT,
23 tcc?

24 A Yes, sir.

25 Q Is this the same movement reflected on your

1 corrected page 7 as appeared on the original page 7 of
2 MKT-C-23?

3 A Yes, sir. I believe it is.

4 Q What leads you to believe that it is the same
5 movement?

6 A In accessing the data base, I selected this
7 movement in a way that, if there had been other
8 movements, they would have appeared.

9 Q At what date did you consult a CRT which is, I
10 suppose, a display screen? Is that right?

11 A Yes. Well, I don't recall the exact date.
12 Sometime in the spring, late spring, after we filed the
13 application, about the time that you had made your
14 interrogatory.

15 Q You consulted the display screen and it gave
16 you certain numbers which you wrote down and supplied as
17 answers to interrogatories. And those numbers, for
18 example, appear in the form that you supplied them as
19 page 7 of 30 of MKT-C-23.

20 A The facts came up. They didn't appear
21 directly this way on the screen. I tried to put them in
22 an order and a sequence that would be easy to read and
23 understandable.

24 Q All right. Now, when you prepared the first
25 page of SFSP-C-7, on what date did you look at a CRT?

1 A This past weekend.

2 Q Last weekend?

3 A Yes, sir.

4 Q And these numbers appeared last weekend?

5 A Yes, sir. After you had handed out your
6 exhibit, I sat there looking at it and scanning through
7 these examples that didn't look correct to me as I sat
8 there and looked at them. So when we adjourned on
9 Friday, we went back to the hotel and I tried to verify
10 the information that was there.

11 And that's when I discovered I had made a
12 mistake in what I had originally provided to you.

13 Q Now, the mistake is not a typographical error
14 in your copying, is it?

15 A No, it's not a typographical error. No.

16 Q How does -- what appears on the cathode ray
17 tube screen of your computer when you want to find out
18 how the route was classified?

19 A What appears? If I ask for --

20 Q What specific information appears on the
21 cathode ray tube display screen of your computer when
22 you want to know whether a movement is classified in a
23 certain way -- that is, you know, your As or A-1s,
24 whatever it might be?

25 A The major route classifications?

1 Q Yes.

2 A Well, it can appear in two forms. It can
3 appear as a total pre- and post-diversion route of
4 movement identifying the carriers and the junctions and
5 so forth. Additionally, it can appear as a diversion
6 line matrix reference. Applying the matrix reference,
7 then, you can then go to the matrix itself and see what
8 the category the matrix -- that movement is classified
9 in.

10 Q Which method did you use in the spring when
11 you produced the first pages -- when you produced the
12 pages that were given us as a response to our
13 interrogatories?

14 A I looked at the route in terms of the origin,
15 destination, the carriers, and the junction connection.

16 Q Which method did you use for this particular
17 fact that we're talking about, the route classification,
18 last weekend when you produced SFSP-C-7?

19 A I looked again at the route and I also
20 confirmed it against the diversion matrix reference.

21 Q I'm looking at the first page of SFSP-C-7. Do
22 you see the description on that page, as corrected,
23 where you tell us about how the routing model compared
24 routes to determine a potentially divertible route?

25 A The sentence that begins, "The routing model

1 compared the 824 mile" et cetera?

2 Q Yes.

3 A Yes.

4 Q Mr. Beyff, was a .7 multiplier actually used
5 by the routing model?

6 A Yes, it was.

7 Q Does that appear on page 7?

8 A No. I don't make specific reference to the .7
9 multiplier. The .7 multiplier appears in all cases --
10 appears as applied in all cases against the SFSP mileage
11 in a diverted route. That's a given.

12 And I didn't think I needed to repeat that
13 again.

14 Q That .7 multiplier we discovered yesterday, it
15 somewhat surprised the people that looked at this, it's
16 a multiplier that applies to the Applicants' mileage
17 only in a diverted route.

18 A That is correct.

19 Q And does not apply to the impedances.

20 A That is correct.

21 Q Was that .7 multiplier used in comparing
22 impedances and divertibility of routes?

23 A Well, the .7 multiplier was used as you and I
24 have agreed it was used. It was applied against the
25 Applicants' mileage and that went into the calculation

1 of the total weighted miles.

2 Q And that does not appear anywhere on SFSP-C-7
3 on any page, does it?

4 A What does not appear?

5 Q The use of the .7 multiplier.

6 A I didn't specifically state it, no. To my
7 mind it's just part and parcel of the whole process.

8 Q To your mind.

9 Let's look on page 2 of SFSP-C-7, which is
10 page 8 of 30 in MKT-C-23, your interrogatory responses,
11 as corrected.

12 Please tell us what the post-diversion route
13 is of this movement according to your corrected response
14 to the interrogatories.

15 A The post-diversion route is Milwaukee Road
16 Chicago, SFSP Corpus Christi, Tex-Mex for delivery to
17 Laredo.

18 Q All right. How many railroads are in that
19 route?

20 A In the diverted route, there is the Milwaukee
21 Road, the Applicants' road, and the Tex-Mex. There are
22 three railroads there.

23 Q What does a route classification of A-1 mean
24 according to -- do you have a copy of SFSP-31 up there?

25 A Yes, sir; I do.

1 Q Put it in front of you and look at the table
2 which is page 3 of Attachment -- no, excuse me. Look at
3 Attachment A to it, and tell us what A-1 route
4 classification means.

5 A Would you like me to just read it? The A-1
6 definition?

7 Q Yes.

8 A Okay. On Attachment A, A-1 is an interline
9 movement forwarded by a merging railroad to a
10 non-merging railroad that terminated the move.

11 Q All right. Now tell us what a 1A-2 is.

12 A Again, as per the attachment, a 1A-2 is an
13 overhead movement for one merging railroad.

14 Q Yes.

15 In the commonly accepted railroad parlance,
16 the normal meaning of words as railroad people use it,
17 is a route Milwaukee/SFSP/another railroad, three
18 railroad line, a route in which the SFSP is -- let me
19 get this just right -- an overhead railroad?

20 A In the diverted route here, you're asking me
21 is the SFSP an overhead railroad? Yes, it is.

22 Q That is an overhead movement for one merging
23 railroad?

24 A Well, in this case, it's an overhead movement
25 for the merged railroad.

1 Q I beg your pardon.

2 Now, when you first prepared the original page
3 8 of MKT-C-23, your response, you tell me that you
4 looked at the computer screen and you, in your head,
5 classified the route as -- the diversion route as 1A-2?

6 A That's right.

7 Q Overhead movement for one merging railroad.

8 A Yes, sir.

9 Q You did not look at the matrix line for this
10 movement?

11 A No, sir; I didn't.

12 Q Now, on the corrected page 8 of Exhibit 30,
13 you have classified the movement as A-1.

14 A The diverted route as A-1; that's right.

15 Q The diverted route as A-1, which means what?

16 A The diverted route A-1 means what we had read
17 a few minutes ago from Attachment A, that essentially
18 the merged railroad is forwarding the shipment -- not
19 originating, but forwarding the shipment to a receiving
20 carrier, in this case the Texas Mexican.

21 Q What happened to the Milwaukee Railroad which
22 originated the shipment and carried it to Kansas City in
23 the pre-diversion route and, you postulate, would carry
24 it to Chicago in the post-diversion route? What
25 happened to the Milwaukee?

1 A Well, this starts getting at why I had made my
2 initial mistake. Obviously, when you first looked at
3 the route, as you and I -- I think you and I both would
4 assume without any further insight into this model and
5 special rules associated with how certain segments were
6 treated -- would have called that a 1A-2, which I did.

7 I think, as Mr. Swain explained yesterday and
8 possibly the day before, the model classifies the route
9 A-1 when the diverted route moves through Chicago.

10 Q Mr. Swain did not so specify. Please be
11 completely explicit in the special rule that you're
12 telling us about today.

13 MR. WILSON: Your Honor, I object to that.
14 Mr. Swain did specify, and if counsel wants to be
15 specific and explicit, he could look at page 14 of Mr.
16 Reyff's statement where Mr. Reyff also so specifies, and
17 we don't have to go through counsel's attempt to pretend
18 that he can't understand this model, which he's been
19 doing for the last three or four days.

20 JUDGE HOPKINS: Well, maybe he can't
21 understand this model.

22 MR. WILSON: Maybe he doesn't, but that
23 doesn't necessarily mean that it is not clear.
24
25

1 BY MR. KHARASCH: (Resuming)

2 Q What is the special rule that causes a
3 Milwaukee applicant or some other railroad route not to
4 be treated as a three line movement but a two line
5 movement?

6 A Well, if I went through my notes and through
7 my work papers, I could probably find that rule, but
8 just generally to cite it by number the way I would
9 express it and the way I thought of it had, I guess,
10 generally as I did express it in the post-diversion
11 route. When that diversion route came through Chicago
12 for certain segments of traffic, the movement was
13 classified as an A1.

14 I believe Mr. Swain touched on this some time
15 during his testimony. It seems to me that we went into
16 a lot of these exceptions.

17 Q We went into a lot of exceptions, and we
18 discovered some, sir. I am looking at Page 14 of your
19 statement. Please turn to it.

20 A All right.

21 Q Now, I want you to tell me explicitly on Page
22 14 of your statement where your statement tells the
23 reader that a three-line move will be treated as a
24 two-line move for the purpose of classifying and purpose
25 of putting things into the matrix and multiplying.

1 A I believe you would be referring to the last
2 sentence in the partial paragraph at the top of the
3 page, "In classifying movements," to quote the sentence,
4 "In classifying movements on routes moving across the
5 major midcontinent gateways, we looked only at the
6 western portion of the route, i.e., that portion west of
7 Chicago Streator, St. Louis, Memphis, or New Orleans."

8 Q Well, sir, I see that sentence, and I would
9 think, though my geographical knowledge may be limited,
10 that Aberdeen, South Dakota, is west of Chicago. It
11 used to be, when I lived in Chicago.

12 How does that sentence tell me that you are
13 going to change in your model somewhere the
14 classification of routes in order to select a matrix
15 line, in order to get a multiplier, in order to do
16 whatever else goes on.

17 Let's break down the question. Is Aberdeen,
18 South Dakota, west of Chicago?

19 A It certainly is.

20 Q All right. How does that sentence saying you
21 looked at the western portion of the route tell me what
22 you did in the insides of the computer or Mr. Swair did
23 in the insides of the computer when you classified
24 routes, then changed your basic multipliers?

25 A We are referring to the SF or SFSE portion of

1 the route west of Chicago, in this case in the diverted
2 route. When we had movements that were diverted through
3 Chicago or moving through Chicago or diverted through
4 Chicago, we looked at the competitive situation as being
5 on the outbound side of Chicago.

6 The movement was contestable in a competitive
7 world outbound from Chicago.

8 Q And you think that your sentence in the
9 continuing paragraph on Page 14 of your statement
10 explains that?

11 A Yes, I think it does.

12 MR. KHARASCH: Excuse me one minute, Your
13 Honor.

14 BY MR. KHARASCH: (Resuming)

15 Q Your statement is that that explains it. Does
16 it explain what was then done in the routing matrix, and
17 how one computed how one was to apply the factors, the
18 base diversion factors?

19 A That sentence by itself doesn't explain what
20 happened in the matrix. Page 8 of 30 of your exhibit
21 does. I guess --

22 Q Page 8 of 30 as you corrected it does.

23 A Yes, sir.

24 Q When you prepared the original Page 8 of 30,
25 had the entire model been run, and had you submitted the

1 results of the model run as diversions in this case, and
2 had your testimony been submitted?

3 A Yes, sir, it had.

4 Q Okay. All right. I am not through with this
5 point. You say that you treated the movement as
6 contestable at Chicago.

7 A Yes, sir.

8 Q That is why you truncated the route,
9 apparently, west of Chicago.

10 A Yes, sir. Basically that's right. We were,
11 just if I could give a little background on this, we
12 were looking at a series of movements when we initially
13 started the model which were essentially east-west
14 movements over the major gateways. Our policy decision,
15 if you will, was to look at the movements on the
16 outbound or the western side of those gateways.

17 This is a western railroad case. It seemed to
18 us that traffic coming out of the east or the north of
19 Chicago even was contestable beyond the gateway served
20 by the new merging system. This was what -- this was
21 the policy that we wanted to follow in conducting the
22 study.

23 Q You will have to explain for the record what
24 contestable beyond the gateway means.

25 A Well, what I mean by contestable is that it

1 was that portion of the route which could conceivably be
2 affected by the SFSF merger. We might have in certain
3 circumstances the ability as a merged system to convince
4 the shipper to put us in the route. Obviously, he can't
5 put us in the route north or east of Chicago or Kansas
6 City or St. Louis or Memphis and so on. He has to put
7 us in where we run.

8 Q All right. You are saying you treated the
9 traffic when it arrived in Chicago as contestable and up
10 for grabs for diversion.

11 A Potentially, you know, contestable. I don't
12 like to say up for grabs, but I think contestable
13 expresses it.

14 Q Very nice. Suppose the shipment was delivered
15 at Chicago, up for grabs, and it appeared up for grabs
16 in neutral equipment, that is, any old equipment that is
17 not special equipment.

18 A Okay.

19 Q That would be up for grabs, right?

20 Did you treat it as up for grabs when the
21 carrier who you seem to be ignoring west of Chicago
22 owned the equipment?

23 A I am not sure I followed you. Do we ignore
24 the carrier who owned the equipment? Is that your
25 question?

1 Q Let me make the point quite flat to you. I
2 won't try to trick you into an answer on this one.

3 A Thank you.

4 Q Your system said on movements which appear on
5 Page 10 of 10 -- that's the fourth page of your
6 corrections and your answers to us -- that because the
7 equipment on which this contestable traffic arrived in
8 Chicago was owned by the Soo Railroad -- I am looking at
9 Page 10 of 10, the example -- you are going to throw
10 away four-fifths of the diversion, that is, apply a .2
11 multiplier.

12 A Yes, sir, that's right.

13 Q Now, I ask you, did your system consistently
14 treat the traffic as contestable when it arrived?

15 A Yes, sir, it did. It consistently did that.
16 More often, what we had was routing in other parts of
17 the country involving much more traffic than this which
18 was in fact contestable, where the equipment, special
19 equipment provided by a merged carrier on the route was
20 a -- certainly an identifiable factor in the commercial
21 relationship between that carrier and the shipper who
22 routed the traffic.

23 MR. KHARASCH: I don't know what the rest of
24 your answer means. I move to strike the last half of the
25 answer about more often, from more often on.

1 JUDGE HOPKINS: I will grant the motion to
2 strike. Can we move along with some of these? Don't
3 answer more than you'd like to, because I'd like to get
4 this case done within the next two years.

5 THE WITNESS: I share your concern.

6 MR. KHARASCH: I would like to learn what is
7 going on in the model over the next two years, too.

8 JUDGE HOPKINS: Maybe we need more than that.

9 All right, Mr. Kharasch.

10 BY MR. KHARASCH: (Resuming)

11 Q Is Kansas City one of these contestable points
12 like Chicago?

13 A My recollection is, in some circumstances it
14 is

15 Q In some circumstances, Kansas City is treated
16 as a contestable point, and the traffic behind Kansas
17 City, moved behind Kansas City is truncated and dropped
18 off?

19 A My recollection is that the principal
20 application of that was in the Rio Grande trackage
21 rights iteration where again, as Mr. Swain explained,
22 we, because the Rio Grande was entering Kansas City for
23 the first time, we tried to bring a consistency of how
24 we treated Kansas City in that case, similar to how we
25 treated the other midcontinent and/or river gateways in

1 the other iterations.

2 Q Please answer my question precisely. First,
3 for the SFSP iteration, was Kansas City -- traffic
4 behind Kansas City treated like traffic behind Chicago
5 in the SESP iteration, if you know?

6 A I am not absolutely certain. I guess I would
7 have to say I can't specifically say. The rules in the
8 model are what they are. It is very easy to find out
9 the answer to that.

10 Q I am sure the rules of the model are what they
11 are, but I am not one bit sure that we know what they
12 are, and I ask you if you know what they are at the
13 moment, the treatment of Kansas City traffic.

14 A I know how the rules of the model are
15 reflected in the way the model operated, and in terms of
16 the output I saw. I didn't have to be a programmer or a
17 model builder in order to express that.

18 MR. KHARASCH: That is not responsive, Your
19 Honor.

20 MR. WILSON: That was responsive.

21 JUDGE HOPKINS: Yes, it is.

22 MR. WILSON: That is the issue we are trying
23 to deal with.

24 JUDGE HOPKINS: No more argument on it. I
25 will allow it. There is too much argument back and

1 forth here on these things now anyway, and there is no
2 sense in arguing with the witness, either. No more Mr.
3 Nice Guy here. I am a little tired of the way things
4 are going in this proceeding.

5 Off the record a minute.

6 (Whereupon, a discussion was held off the
7 record.)

8 JUDGE HOPKINS: Back on the record.

9 BY MR. KHARASCH: (Resuming)

10 Q Mr. Reyff, in the classification of routes
11 used in applying the matrix for the examples that are in
12 your corrected pages, did you truncate consideration of
13 the move behind Chicago when you classified the
14 pre-diversion route?

15 A In terms of -- yes, sir. In most cases when
16 we were looking at a movement that as an example was
17 Conrail-Chicago-Santa Fe for delivery and some diversion
18 to SFSP after that -- well, wait a minute. I think we
19 did it in the diverted route. That's what we were
20 concerned about. The initial classification, I think,
21 took the whole route into consideration.

22 It was the diverted route which was classified
23 as an A or A1 if the merged system was picking it up
24 west of Chicago.

25 Q But the classification of the pre-diversion

1 route you think, you said, did not perform the same
2 truncation.

3 A Well, I don't recall what it did. Again, we
4 were looking at situations here in terms of output.

5 JUDGE HOPKINS: Do you recall one way or the
6 other? You don't know?

7 THE WITNESS: Not with absolute certainty,
8 no.

9 JUDGE HOPKINS: Thank you.

10 THE WITNESS: I really don't want to
11 speculate. So I don't know.

12 JUDGE HOPKINS: Just say that. Don't
13 speculate if you don't know.

14 MR. KHARASCH: Your Honor, I think despite the
15 news we get from time to time, that that is enough on
16 this diversion bowl of spaghetti. I have no further
17 questions.

18 JUDGE HOPKINS: Thank you.

19 MR. RAKER: No questions.

20 MR. LEARY: No questions, Your Honor.

21 JUDGE HOPKINS: Anybody else? We have got
22 one.

23 MS. REED: Just one.

24 JUDGE HOPKINS: There's one in every crowd.
25 (Laughter.)

CROSS EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. REED:

Q Good morning, Mr. Reyff. My name is Mary Reed. I am with the U.S. Department of Transportation. I have a question for you from the State of California. They want to know how much traffic originating or terminating in California will be diverted to the merged system.

A The total amount of traffic -- are you speaking to the SFSP revenue gain associated with that traffic, the number of carloads?

Q Any kind of breakdown that you might have.

A I don't have a breakdown with me on the stand. We could provide such a breakdown, however.

Q They would appreciate that.

Thank you. That's all I have.

JUDGE HOPKINS: Please do that.

THE WITNESS: Sure.

JUDGE HOPKINS: That is all, Ms. Reed?

MS. REED: Yes, sir.

JUDGE HOPKINS: Any further questions? Mr. Wilson?

MR. WILSON: No redirect, Your Honor.

JUDGE HOPKINS: You are excused.

(Witness excused.)

00230034

1 MR. WILSON: I move the admission of the
2 verified statement of Mr. Reyff and the admission of
3 SFSP-31.

4 MR. KHARASCH: Yes, we can argue about it
5 Wednesday.

6 JUDGE HOPKINS: Are you just talking about
7 this one, or is Mr. Guerin's the same way?

8 MR. KHARASCH: Mr. Guerin's is the same way.
9 If we could, Your Honor, I thought the understanding
10 was, we would have a Wednesday argument on the
11 admissibility of these.

12 JUDGE HOPKINS: I will withhold ruling on
13 these three. Don't let us forget afterwards one way or
14 the other.

15 MR. KHARASCH: However, I have no objection to
16 the admission of SFSP-C-7, which corrects answers to
17 interrogatories given to us.

18 JUDGE HOPKINS: It will be received in
19 evidence.

20 (The document referred to,
21 previously marked for
22 identification as Exhibit
23 Number SFSP-C-7, was
24 received in evidence.)

25 MR. WILSON: Applicants call as their next

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

witness Mr. Frank M. Guerin.

Whereupon,

FRANK M. GUERIN

was called as a witness, and having been first duly sworn, took the stand, was examined, and testified as follows:

DIRECT EXAMINATION

BY MR. WILSON:

Q Mr. Guerin, could you please state your name and business address?

A My name is Frank M. Guerin. My business address is Glendale, California.

Q Mr. Guerin, did you prepare a verified statement in connection with this proceeding of eleven pages in length as is set forth in Volume SFSP-14?

A Yes, I did.

Q Do you have any corrections or modifications you would like to make to your statement at this time?

A No, I do not.

Q Sir, could you briefly explain your role in the traffic diversion study process?

A I was the final evaluator that dealt with the traffic study. We, along with our group, involving DNS, Santa Fe, and myself, came up with the program to do a traffic study to support the Santa Fe-Southern Pacific

00230036

1 merger.

2 My role as final evaluator brought my
3 experience of my many years with Southern Pacific
4 Company, and therefore I felt that I was qualified to
5 make diversion judgments insofar as the Southern Pacific
6 portion of the data base was concerned.

7 Q Sir, were you able to satisfy yourself from
8 the written materials available to you whether or not
9 the model operated properly and whether or not the
10 diversion judgments were reasonable?

11 MR. KHARASCH: Same objection as with Mr.
12 Reyff.

13 JUDGE HOPKINS: I will overrule your
14 objection.

15 THE WITNESS: Yes. I was satisfied with the
16 material that was being produced. As a matter of fact,
17 the material that was produced through the computer
18 program was the basis on which we established the matrix
19 and also established our judgments insofar as the
20 diversions were concerned.

21 BY MR. WILSON: (Resuming)

22 Q Is your verified statement at this time true
23 and correct to the best of your knowledge and belief?

24 A Yes, it is.

25 MR. WILSON: The witness is available for

1 cross examination, Your Honor.

2 JUDGE HOPKINS: Mr. Kharasch?

3 MR. KHARASCH: I am not going to ask any
4 questions of this witness.

5 JUDGE HOPKINS: You are not? Thank you.

6 Anybody else? Mr. Levy. You are beating Ms.
7 Reed to it. She was ready.

8 CROSS EXAMINATION

9 BY MR. LEVY:

10 Q Good morning, Mr. Guerin.

11 A Good morning.

12 Q I recall with pleasant memory that you served
13 as a traffic evaluator in the Southern Pacific
14 opposition phase to the Union Pacific merger. Is that
15 correct?

16 A That is correct.

17 Q Mr. Guerin, several days ago it was brought to
18 my attention that in a deposition transcript that was
19 taken in this proceeding, it was an informal deposition
20 conducted by the Rio Grande attorneys. The deposition
21 was taken of financial consultants to the Southern
22 Pacific who evaluated the transaction and apparently
23 expressed their views on the transaction's fairness.

24 In the course of that deposition, the
25 financial consultants referred to a traffic diversion

1 study that was conducted by Southern Pacific to estimate
2 prospectively the impact of the Union Pacific-Missouri
3 Pacific merger on Southern Pacific.

4 Specifically, they described it as a traffic
5 diversion model that was done by the Southern Pacific to
6 analyze the impact of various combinations of railroads
7 on the Southern Pacific, and with reference to the
8 impact of the UP-MP transaction, counsel for Rio Grande,
9 referring to a document that I have not seen, suggested
10 there was a note that the financial witnesses viewed the
11 future loss to Southern Pacific from that transaction to
12 be "not very substantial."

13 Are you familiar with any diversion studies
14 that were done of that nature, of the impact on the
15 Southern Pacific of the Union Pacific-Missouri Pacific
16 merger since the time of the consummation of that
17 transaction?

18 A No, sir. The only traffic diversion study
19 that was done involving me was the traffic diversion
20 study that was a part of the UP-MP merger case.

21 Q Not only did you not participate in any such
22 subsequent study, but you are not familiar with or know
23 of the existence of any such other study?

24 A No, sir. I was not involved in any way.

25 MR. LEVY: I have no other questions, Your

1 Honor.

2 JUDGE HOPKINS: Thank you.

3 Ms. Reed?

4 CROSS EXAMINATION

5 BY MS. REED:

6 Q Mr. Guerin, I have a question I would like to
7 ask on behalf of the State of California. They had
8 asked Mr. McNear whether the number of captive shippers
9 on the SP and Santa Fe lines in Oregon and California
10 before and after the merger, and he had referred that
11 question to you.

12 Do you know how many captive shippers there
13 will be in Oregon and California after merger as
14 compared to before the merger?

15 A I am aware of that question being handed off
16 to me, and I am informed that that information is still
17 in the development stage, and it will be furnished
18 shortly in some process of this case.

19 MS. REED: Thank you. That is all I have.

20 JUDGE HOPKINS: Thank you.

21 Any further questions?

22 MR. WILSON: We could furnish that
23 information, Your Honor, as counsel's exhibit when it is
24 available.

25 JUDGE HOPKINS: Thank you. Any questions?

1 Any redirect?

2 MR. WILSON: No, Your Honor. No redirect.

3 JUDGE HOPKINS: You are excused.

4 THE WITNESS: Thank you.

5 (Witness excused.)

6 JUDGE HOPKINS: The same objection to this
7 exhibit until we have the argument? I will hold ruling
8 pending that argument. Are we going to have any
9 witnesses available now?

10 MR. MOATES: Your Honor, this takes us
11 somewhat by surprise. The witness is on his way. We
12 hope he will be here within a few minutes. It will be
13 Mr. Winner.

14 JUDGE HOPKINS: Is he the only other one that
15 is going to be available?

16 MR. MOATES: We have others coming. We just
17 didn't know it would be quite this fast.

18 JUDGE HOPKINS: I didn't think you did.

19 MR. MOATES: Maybe we could take a five or
20 ten-minute recess.

21 JUDGE HOPKINS: I think that would be a good
22 idea. Make it 15, so we are certain he is here.

23 (Whereupon, a brief recess was taken.)

24 JUDGE HOPKINS: Back on the record.

25 Mr. Nelson?

1 MR. NELSON: If Your Honor please, in an off
2 the record discussion with counsel for RLEA at their
3 request indicating they have waived the cross
4 examination of Messrs. Sjostrand and Fritts, who will be
5 next on the stand, and that they had waived previously
6 the cross examination of Messrs. Taylor and Johnson with
7 the understanding that neither of those gentlemen
8 contributed in calculating the cost of labor
9 projection.

10 JUDGE HOPKINS: Call your next witness.

11 MR. DECHENE: Your Honor, I would like to
12 enter my appearance at this time before I call the next
13 witness. My name is James C. Dechene, D-e-c-h-e-n-e. I
14 am an associate with the law firm of Sidley and Austin,
15 One First National Plaza in Chicago, Illinois, 60603.

16 I have been admitted before the Supreme Court
17 of the State of Illinois and the bar of the Northern
18 District of Illinois, and I have also been admitted to
19 practice before this Commission.

20 MR. DECHENE: I would like to call at this
21 time Mr. Robert Fritts and Mr. Thor Sjostrand.

22 JUDGE HOPKINS: Thank you.

23
24 Whereupon,

25 ROBERT R. FRITTS and

THOR H. SJOSTRAND

were called as witnesses, and having been first duly sworn, took the stand, and were examined and testified as follows:

DIRECT EXAMINATION

BY MR. DECHENE:

Q Mr. Fritts, could you state your full name for the record, please?

A (WITNESS FRITTS) Robert R. Fritts.

Q And could you state your position and business address?

A (WITNESS FRITTS) I am assistant director of cost analysis and research with the Santa Fe Railway, 80 East Jackson, Chicago, Illinois, 60604.

Q Are you the same Mr. Fritts who sponsored a verified statement that was included in the September 20th, 1984, package submitted by applicants that adopted the verified statement of Mr. John A. Darling and Mr. Thor H. Sjostrand?

A (WITNESS FRITTS) I am.

Q And have you also submitted as part of the September 20th, 1984, package corrections to the verified statement of Messrs. Darling and Sjostrand which you have adopted?

A (WITNESS FRITTS) Yes, sir.

1 Q Is that verified statement as you have
2 corrected it true and accurate to the best of your
3 knowledge, information, and belief?

4 A It is.

5 Q Mr. Sjostrand, could you state your full name
6 for the record?

7 A (WITNESS SJOSTRAND) Thor H. Sjostrand, and
8 that is spelled S-j-o-s-t-r-a-n-d.

9 Q Could you state your position and business
10 address?

11 A (WITNESS SJOSTRAND) My position is executive
12 assistant in charge of corporate research at the
13 Southern Pacific Transportation Company, One Market
14 Plaza, San Francisco, California.

15 Q Are you the same Thor H. Sjostrand responsible
16 for the verified statement of Mr. John A. Darling and
17 Mr. Thor H. Sjostrand?

18 A (WITNESS SJOSTRAND) I am.

19 Q And have you submitted corrections to that
20 statement as part of the September 20th, 1984,
21 corrections submitted by applicants?

22 A (WITNESS SJOSTRAND) I am.

23 Q With those corrections, is this verified
24 statement true and accurate to the best of your
25 knowledge, information, and belief?

1 A (WITNESS SJOSTRAND) Yes, it is.

2 MR. DECHENE: The witnesses are tendered for
3 cross examination.

4 JUDGE HOPKINS: Who is going to start?

5 MR. MAYO: Your Honor, Rio Grande has some
6 questions, if no one else does.

7 CROSS EXAMINATION

8 BY MR. MAYO:

9 Q Good morning, gentlemen. My name is George
10 Mayo. I represent the Rio Grande.

11 Your joint testimony, I take it, addresses
12 cost savings that could be associated with traffic
13 reroutes and costs that could be incurred in connection
14 with the traffic diversions. Is that correct?

15 A (WITNESS FRITTS) Yes, sir.

16 Q And it also addresses anticipated equipment
17 utilization benefits that would accrue from the Santa
18 Fe-Southern Pacific merger, right?

19 A (WITNESS FRITTS) Yes, sir.

20 Q Now, you mentioned -- this is on Page 5 of
21 your testimony. You mention that Rail Form A assumes
22 that there is an intertrain-intrain switch every 200
23 miles, and you go on to state that this overstates the
24 frequency of I/I switching under modern operations and
25 that for both the rail and truck diversion cost studies,

ALDERSON REPORTING COMPANY, INC.

20 F ST., N.W., WASHINGTON, D.C. 20001 (202) 628-9300

00230045

1 I/I switching has been included in your costing
2 procedures as occurring once every 100 miles. Do you
3 see that?

4 A (WITNESS FRITTS) Yes, sir.

5 Q Now, if you had used a lower figure than this
6 800-mile figure, I take it that that would have produced
7 an increased level of cost. Is that right?

8 A (WITNESS FRITTS) That's true.

9 Q How did you arrive at the 800-mile figure?

10 A (WITNESS FRITTS) It is based on figures
11 derived from the Booz-Allen study and based on judgment
12 that the traffic being diverted is transcontinental in
13 nature, and is also subject to preblocking and
14 runthrough operations.

15 Q Would the 800-mile figure be appropriate for
16 traffic on the merged system other than the diverted
17 traffic?

18 A (WITNESS FRITTS) No, sir.

19 MR. MAYO: Your Honor, I would like to have
20 two documents marked as counsel's exhibits, the first as
21 DRGW-C-20, and the second is DRGW-C-21. The first
22 document is a letter dated February 7, 1984, from Tom
23 O'Connor to Messrs. Darling and Sjostrand. The second
24 appears to be a file which is marked SPSP Railroad
25 Merger, Booz-Allen Hamilton Model.

1 JUDGE HOPKINS: They will be marked for
2 identification.

3 (The documents referred to
4 were marked for
5 identification as Exhibits
6 Number DRGW-C-20 and
7 DRGW-C-21.)

8 BY MR. MAYO: (Resuming)

9 Q Would you look at the document that has been
10 marked Exhibit 20, the second page of that document? Do
11 you see down towards the bottom of the page there is a
12 bullet and then a paragraph that begins,
13 "Intertrain/intratrains costs would be applied on the
14 basis of one switch every 800 miles," and goes on to
15 say, "The 800-mile factor was used in constructing the
16 SFSP unit costs. DNS will make this adjustment while
17 preserving the conventional 200-mile switch frequency
18 for costing of the railroads." And then someone has
19 written in the margin, "No."

20 Do either of you recognize the "No?"

21 A (WITNESS FRITTS) No, sir.

22 A (WITNESS SJOSTRAND) I don't recognize that.

23 Q Do you know if this paragraph accurately
24 characterizes the work that was done?

25 A (WITNESS SJOSTRAND) No, it doesn't.

1 Initially the DNS study was going to cost out the
2 connecting railroads or anything that was diverted, but
3 also cost out the other railroads, and that procedure
4 was abandoned.

5 All we did was cost out the SP-Santa Fe
6 movements.

7 Q What was the reason that the procedure you
8 described was abandoned?

9 A (WITNESS SJOSTRAND) There was no purpose that
10 would be accomplished by doing it.

11 Q Looking at the exhibit which has been marked
12 as Exhibit 21, you have to go roughly two-thirds of the
13 way through to a page which bears the stamp CMD 001937.
14 Have you found that?

15 It has at the top the heading in handwriting I
16 & I Switching.

17 A (WITNESS FRITTS) Yes, sir, I have it. Thank
18 you.

19 Q Is this the work paper that supports the
20 selection of the 800-mile amount we have just
21 discussed?

22 A (WITNESS FRITTS) Yes, sir.

23 Q Now, looking at this page, am I to assume that
24 the figures that you have demonstrate that the I/I
25 switching for the Santa Fe base traffic occurred roughly

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

every 592 miles? Is that right?

A (WITNESS FRITTS) Yes, sir.

Q And for the Southern Pacific base trackage it is every 497 miles, roughly?

A (WITNESS FRITTS) Yes, sir.

0023 0044

1 Q And then for the merged system after internal
2 reroutes, the I/I switching is roughly every 559 miles?

3 A (WITNESS FRITTS) Yes, sir.

4 Q What does this before and after computation at
5 the bottom of that page mean?

6 A (WITNESS FRITTS) What you're looking at at
7 the top of the page, the 592, 497 and 559 figures, is
8 data arrived at in reviewing the internal reroute
9 studies. The before and after below is a rail diversion
10 study.

11 Q The before figure of 534 miles, what does that
12 relate to? What trackage does that relate to?

13 A (WITNESS FRITTS) That's prior to rail
14 diversion.

15 Q For the merged system?

16 A (WITNESS FRITTS) Yes.

17 Q Now, can you explain to me why that figure is
18 different than the 559 figure and the 540 figures that
19 appear immediately above it? Again, I understand those
20 to be the merged system as well?

21 A (WITNESS FRITTS) Yes, sir. The numbers above
22 relate to the internal reroutes where the traffic was
23 handled over the most efficient and, generally speaking,
24 shortest route between two common points. The number at
25 the bottom of the page relate to the diversion studies,

1 both before diversion and after diversion.

2 Q And I take it that the positive base figure
3 that appears at roughly the middle of the page, slightly
4 above the middle of the page, of 540 miles, that's prior
5 to any internal reroutes, is that right?

6 A (WITNESS FRITTS) Yes.

7 Q Now, it's a small point, but I'd be interested
8 in knowing why that figure is different than the 534
9 figure.

10 A (WITNESS FRITTS) Because you're looking at
11 two different areas of traffic. You're looking at
12 common traffic to the merged system before and after the
13 internal reroutes, on the one hand, and you're looking
14 at traffic that's potentially divertible, and then it
15 was decided was divertible on the other. There are two
16 different studies. They were layered on, one after the
17 other.

18 Q I see. So again down at the bottom of the
19 page, the 534 mile figure was the figure that represents
20 the switching for the traffic that was diverted to the
21 merged system prior to diversion?

22 A (WITNESS FRITTS) It was traffic that was
23 potentially divertible.

24 Q Prior to diversion. And then after the
25 diversion there was less switching, and it went up to

1 roughly 825 miles.

2 A (WITNESS FRITTS) Yes, sir.

3 Q Looking at page 6 of your testimony, you
4 submitted an errata on that page. In roughly the middle
5 of the page, the last two sentences of the carryover
6 paragraph you had stated, "We have also adjusted Rail
7 Form A to exclude the general overhead factor for TCFC
8 traffic in the truck diversion studies."

9 That means that you didn't have any overhead
10 cost for that traffic originally, is that right?

11 A (WITNESS FRITTS) Any general overhead
12 traffic, or any general overhead expenses -- excuse me.

13 Q And what was the reason for that exclusion.

14 MR. DECHENE: Objection, Your Honor. This has
15 been deleted from the study. This is not part of these
16 gentlemen's testimony. It has no relevance as to
17 something that they have no longer done. It is
18 something they are not doing in the testimony.

19 MR. MAYO: I agree with that. I would just
20 like to know what prompted the change.

21 JUDGE HOPKINS: Why they made the change?
22 I'll allow it.

23 WITNESS SJOSTRAND: Upon review of that we
24 decided that that was completely in error and decided
25 that general overhead was an appropriate element to

1 include.

2 BY MR. MAYO: (Resuming)

3 Q Now, before you included the general overhead
4 costs, the TOFC traffic was portrayed as being more
5 profitable than after you included the general overhead
6 cost, is that right?

7 A (WITNESS SJOSTRAND) That would have been the
8 conclusion, yes.

9 Q What components of cost are included in the
10 general overhead cost that had been originally excluded
11 that have now been included?

12 A (WITNESS SJOSTRAND) General overhead includes
13 accounting, traffic expenses. Those two would almost
14 compose half of the general overhead I would say, and
15 there are other items that go in there also.

16 Q Now, were general overhead costs included in
17 computations relating to the rail-to-rail diverted
18 traffic?

19 A (WITNESS SJOSTRAND) Yes, sir.

20 A (WITNESS FRITTS) It was that inconsistency
21 that prompted us to make this change.

22 Q Now, still on page 6, you say that "The merged
23 system's Rail Form A unit costs for variable operating
24 expenses are shown in Appendix A." And if you flip over
25 to Appendix A, you'll see that there are various entries

1 saying such things as "various applicable per diem,
2 applicable mileage." Where can those figures be found?

3 A (WITNESS FRITTS) They are in the work papers
4 in the depository.

5 A (WITNESS SJOSTRAND) Some of those changes
6 also or some of those per diem rates are shown on
7 Appendix B.

8 Q All right. I was trying to see if those
9 related directly to Appendix B. Can you tell me which
10 ones come off of Appendix B?

11 A (WITNESS FRITTS) Your car ownership costs are
12 contained on the time charges and mileage charges and
13 railroad-owned cars are in columns 4 and 5, for private
14 line cars in column 9. I was going to mention tare
15 weights but tare weights are not a component of unit
16 costs.

17 Q How about trailer ownership; is that reflected
18 anywhere in Appendix B?

19 A (WITNESS FRITTS) No, sir.

20 Q Can you identify on the stand today the
21 specific work papers where these might be found? The
22 reason I asked is we looked, and my understanding is
23 we've had difficulty locating these things.

24 A (WITNESS FRITTS) You have to look at the data
25 files on the printout we received from DNS &

1 Associates. They are all set out in there.

2 Q Is there a date on the data file, a rough
3 date, so we could go to the right one?

4 A (WITNESS FRITTS) I believe it's March 15th,
5 1984, but I would like to check that.

6 Q If you look at pages 10 and 11 of your
7 testimony, you talk about adjustments that were made to
8 your revenue expense data to reflect two operating
9 changes which began roughly January 1 of 1983.

10 A (WITNESS FRITTS) Excuse me, Mr. Mayo. If I
11 might clarify my last answer.

12 Q I'm sorry. I didn't know you were looking.

13 A (WITNESS FRITTS) It was March 15th, and the
14 time shown is approximately 11:00 p.m.

15 Q Thank you very much.

16 Going over to page 10 and these two
17 adjustments that were made, the first relates to the
18 commencement of trackage rights operations by the Cotton
19 Belt over the Missouri Pacific lines between Kansas City
20 and St. Louis and the second relates to the Southern
21 Pacific-Rio Grande solicitation agreement.

22 Did you make a separate study of the effects
23 of the Southern Pacific-Rio Grande solicitation
24 agreement?

25 A (WITNESS SJOSTRAND) No, that wasn't done. It

1 was combined in reflecting both the change in revenues
2 and expenses for both the trackage rights proposal or
3 trackage rights and the D&RG agreement.

4 Q So that your analysis doesn't show a breakout
5 of the relative costs and revenues associated first with
6 the solicitation agreement, and secondly, with these
7 trackage rights, is that right?

8 A (WITNESS SJOSTRAND) The way the study was
9 done it does not separate those two.

10 Q Now, this study, I take it, is in your work
11 papers, is that right?

12 A (WITNESS SJOSTRAND) Yes, it is.

13 Q And this would appear in the work papers
14 relating to your name and your testimony?

15 A (WITNESS SJOSTRAND) Yes, it would.

16 Q Based off of that study, were you able to form
17 any conclusion with respect to the net benefit to the
18 Southern Pacific of the Rio Grande solicitation
19 agreement?

20 A (WITNESS SJOSTRAND) Not from that study, no.

21 Q Have you done that from some other study?

22 A (WITNESS SJOSTRAND) When the D&RG
23 solicitation agreement was developed, we worked very
24 closely with your costing people and revenue people and
25 developed the per car charge that was going to be

1 assessed because of the shifting of traffic from the
2 Golden State route to the Ogden route. And those papers
3 did have a splitting of the benefits that would be
4 realized.

5 Q Were you instructed to assume in your study
6 that the Southern Pacific-Rio Grande solicitation
7 agreement would be continued after the conclusion of
8 this merger proceeding? Was that one of the
9 instructions you had in your study?

10 A (WITNESS SJOSTRAND) I was not given any such
11 instructions. That was my assumption.

12 Q So your study does reflect that assumption, is
13 that right?

14 A (WITNESS SJOSTRAND) Yes, it does.

15 Q Now, if that solicitation agreement were
16 cancelled, what effect would that have on your study?

17 A (WITNESS SJOSTRAND) Well, the bulk of the
18 savings shown in Appendix -- in Appendix C is due to the
19 shifting of traffic from the Corsicana route to the
20 Tucumcari route, the shortening of the 400-mile distance
21 between the common points of El Paso and St. Louis.
22 There wouldn't have been any impact on the revenue
23 because the revenue would be the same regardless of
24 which route we used insofar as Southern Pacific-Cotton
25 Belt is concerned.

1 Q So what is the bottom line of that?

2 A (WITNESS SJOSTRAND) The bottom line is that
3 the bulk of the impact on Appendix C is due to the
4 change from the Corsicana route to the Tucumcari route.

5 Q And there's not much impact associated with
6 the solicitation agreement?

7 A (WITNESS SJOSTRAND) That's correct. There is
8 an impact on revenues and expenses, but the net is not
9 materially affected.

10 Q Now, the total expense figure that you show of
11 \$43.7 million, I take it that that doesn't include any
12 expenses associated with internal capital, is that
13 right?

14 A (WITNESS SJOSTRAND) That's correct. It has
15 no return on investment.

16 Q All right. You've taken out all of the
17 embedded debt costs, for example?

18 A (WITNESS SJOSTRAND) That's right.

19 Q Now, on page 11 you say, "The statistical data
20 concerning the internal reroutes were obtained from
21 Booz-Allen, and these data were used to develop costs
22 related to changes in train miles, locomotive unit
23 miles, gross ton miles and loaded and empty car miles.

24 What data was that that they gave you?

25 A (WITNESS SJOSTRAND) That was based on the

1 Booz-Allen study period from August through October
2 1983, and it was from that that Booz-Allen constructed a
3 design^A day, and that showed changes in those various
4 units such as train miles, locomotive unit miles, gross
5 ton miles, and loaded and empty car miles.

6 Q Now, is that data in your work papers or is
7 that in the Booz-Allen work papers?

8 A (WITNESS SJOSTRAND) There is the summary
9 sheet in our work papers.

10 Q Do you have a number on that?

11 A (WITNESS SJOSTRAND) I thought it was in these
12 errata work papers, but it isn't. It's in the basic
13 work papers, though.

14 Q All right. Thank you.

15 Q On page 13 you say that "The developing impact
16 of freight train car costs as a result of internal
17 reroutes, as well as for truck and rail diversions,
18 actual average car-hire rates for the national car fleet
19 by type of car have been adopted as an appropriate
20 measure of the changing expenses applicable to effective
21 freight car train days and miles."

22 Q Then you go on to say that "There has been an
23 adjustment to the private car rental data to reflect the
24 actual 1982 payments per loaded car mile for tank,
25 covered hopper and refrigerator cars, and the actual

F.D. 30400 - 10/24/84 - Pages - 3515 - 3574

1 payment per mile and per day for TOFC/COFC flat cars."

2 What was the reason that national car fleet
3 data was not used for the latter types of cars?

4 A (WITNESS SJOSTRAND) Sometimes these private
5 cars have different arrangements. In the national car
6 fleet average there are caps on the allowances. Some
7 traffic moves at zero allowances. The TTX cars will
8 have rental rates that will vary on utilization or
9 average miles per day, and we wanted to use that which
10 was most applicable to the applicant railroads.

11 Q Could you have used the actual data for the
12 former kind of cars as opposed to the national car fleet
13 averages?

14 A (WITNESS SJOSTRAND) You mean on all other car
15 time?

16 Q Yes.

17 A (WITNESS SJOSTRAND) I did check the average
18 for the Southern Pacific with the national. It was very
19 close.

20 Q On page 13 you say that "In certain instances
21 the operating plan did not develop car days for certain
22 traffic." What were those instances?

23 MR. DECHENE: I'm sorry. Could you give a
24 reference as to where you're referring to? What page
25 again?

1 MR. MAYO: Page 13, roughly the middle of the
2 page.

3 MR. DECHENE: Thank you.

4 WITNESS FRITTS: Is there a question?

5 BY MR. MAYO: (Resuming)

6 Q In what instances was that data not developed
7 by the operating plan?

8 A (WITNESS SJOSTRAND) There were certain
9 instances where we tried to or we did reflect the time
10 in the I&I switching which wouldn't be reflected in the
11 operating plan, and we used the quarter of a day which
12 is the standard measure in Rail Form A.

13 Q Now, could the operating plan have generated
14 that data, but you decided not to use it, or is it a
15 situation that the operating plan couldn't have
16 generated the data that you needed?

17 A (WITNESS SJOSTRAND) I don't think the
18 operating plan generated that data.

19 Q Now, back on page 11 carrying over to page 12
20 you say that development of the change in operating
21 expenses due to internal reroute, you did not follow the
22 average Rail Form A method of determining I&I switching
23 because you were concerned that there was a possibility
24 of double counting some portion of the savings. What
25 was the double count problem that concerned you?

1 A (WITNESS FRITTS) The basic concern that we
2 had at that time was the elimination of yardage
3 assignments where if we took into consideration the
4 switching effort in addition to the car costs, the
5 switching would include components which we had
6 calculated in the yard engine consolidations and
7 reductions.

8 Q I take it -- did you eliminate all effects of
9 the I/I switching reflected in Rail Form A costs? In
10 other words, did you take out all costs associated with
11 the assumption in Rail Form A of the 200-mile I/I
12 switching in this analysis so that no costs were
13 assigned?

14 A (WITNESS FRITTS) There were no costs assigned
15 at that particular exercise, no.

16 Q So in this exercise you removed all reference
17 to any costs associated with switching?

18 A (WITNESS FRITTS) All except for the car hire
19 or car costs associated with those intermediate
20 handlings.

21 Q And you substituted for that cost savings
22 associated with the reduction in engine assignments?

23 A (WITNESS FRITTS) Yes, sir.

24 Q Now, the \$18.7 million that you calculated,
25 the savings from reduction in yard engine costs, is

1 calculated exclusive of all embedded debt costs, is that
2 right?

3 A (WITNESS FRITTS) That's correct.

4 Q Then you go on to calculate what the current
5 cost of capital associated with this equipment would be,
6 and you say that it's \$4.5 million, is that right?

7 A (WITNESS FRITTS) Yes, sir.

8 Q What was the cost of capital that you used in
9 that calculation?

10 A (WITNESS FRITTS) 28.28 percent.

11 Q And that's the 1982 railroad cost of capital
12 as found by the ICC?

13 A (WITNESS FRITTS) Yes, sir. In Ex parte 436.

14 Q Do you use that cost of capital consistently
15 in your testimony when you calculate the current cost of
16 capital?

17 A (WITNESS FRITTS) Yes, sir.

18 Q Can you explain to me why you don't include
19 this current cost of capital in your calculation of the
20 cost savings associated with these internal reroutes?

21 A (WITNESS FRITTS) The whole function of this
22 exercise was to generate the numbers to pass to the
23 accounting people to prepare their pro forma income
24 statement, and cost of capital is not considered to be
25 an operating expense.

1 Q What does that cost of capital represent?

2 A (WITNESS FRITTS) A return on investment.

3 Q Return on investment on specific equipment and
4 plant?

5 A (WITNESS FRITTS) The net depreciated
6 investment plus working capital of plant and equipment.

7 Q Now, aren't those savings realized to the
8 extent that equipment and plant is made surplus as a
9 result of the internal recourses that are calculated
10 here?

11 A (WITNESS FRITTS) Again, true. There would be
12 some capital savings insofar as they are legitimate
13 costs, but it's not includable as a pro forma income
14 state item, and therefore was excluded to be consistent
15 with the effort.

16 Q Are those savings picked up by Mr. Winner in
17 his computation of equipment that is made surplus and
18 equipment to which he assigns a replacement value?

19 A (WITNESS FRITTS) I don't have any idea what
20 Mr. Winner has included.

21 Q Do you know that, Mr. Sjostrand?

22 A (WITNESS SJOSTRAND) It wouldn't be.

23 Q It would not be?

24 A (WITNESS SJOSTRAND) No. I don't think Mr.
25 Winner had any costs except in a very small portion of

1 his testimony pertaining to the special situations where
2 there was some savings in per diem.

3 Q What I'm going to is to try to figure out
4 whether Mr. Winner's computation of the replacement
5 value of surplus equipment is conceptually the same
6 thing as your computation of the current cost of capital
7 associated with investments in plant and equipment which
8 are made surplus as a result of the internal restructs.

9 MR. DECHENE: Your Honor, these witnesses have
10 explained how they developed their cost of capital. Mr.
11 Winner will be on, and counsel can ask Mr. Winner what
12 he has done. Mr. Winner's testimony is clearly beyond
13 the scope of these gentlemen's testimony.

14 MR. MAYO: Your Honor, I'm just trying to get
15 the fit of the two pieces of testimony. I'd be glad to
16 take an answer.

17 JUDGE HOPKINS: I think you can fit them. I
18 don't want the problem where we don't fit them
19 together.

20 Go ahead.

21 WITNESS SJOSTRAND: We have included in our
22 testimony -- it isn't in Mr. Winner's testimony -- the
23 annual -- on page 18 -- value of equipment savings of
24 \$360.2 million at the current cost of capital,
25 reflecting an annual savings of \$101.8 million.

1 Your reference, though, to return, normally it
2 would include return other than on equipment. It would
3 have some on the variable cost of road plus
4 locomotives.

5 BY MR. MAYC: (Resuming)

6 Q Well, this is a question I was going to have
7 later on, and you might as well do it right now. The
8 question is whether the computation that you do on pages
9 18 and 19 of your testimony is conceptually the same
10 computation as you do when you calculate the current
11 cost of capital associated with plant and equipment made
12 surplus as a result of the internal reroutes.

13 A (WITNESS FRITTS) No, sir.

14 Q Did you say no?

15 A (WITNESS FRITTS) No.

16 Q And what is the difference?

17 A (WITNESS FRITTS) Because the calculations of
18 the capital costs on page 12 are on net depreciated
19 investment at the historic level. Mr. ner is using
20 the replacement value for the avoidance of future
21 investments.

22 Q But if I gave you the assumption that the
23 replacement value used in pages 18 and 19 represented
24 the depreciated original cost of that equipment and
25 would thus be comparable to the depreciated original

1 cost, book cost of plant and equipment in your analysis
2 with respect to internal reroutes, the computation is
3 the same thing, is that right?

4 A (WITNESS FRITTS) We're using a different
5 base. The computation is mathematically the same, but
6 you're using a different investment base.

7 Q And your point is that one is a replacement
8 cost; the other is depreciated original cost?

9 A (WITNESS FRITTS) That's right.

10 Q On pages 18 and 19 are you suggesting that in
11 not having to acquire roughly \$360 million in equipment,
12 the merged system is realizing annual savings to capital
13 costs of roughly \$101 million a year?

14 A (WITNESS FRITTS) In capital costs only.

15 Q Let's go over to page 13 of your testimony.
16 Now, I'm right, I take it, that the \$47.2 million in
17 operating expense savings reflected on that page and the
18 \$10.5 million in car rent reductions don't include any
19 embedded debt cost, is that right?

20 A (WITNESS FRITTS) That's correct.

21 Q Moving to page 14 you say, "The cost procedure
22 with respect to rail-to-rail diverted traffic involved
23 computer application of Rail Form A," and you note that
24 the computer cost program was provided by DNS, whereas
25 the input data -- that is, unit costs, tare weights,

1 return ratios, et cetera -- were provided by the Santa
2 Fe and the Southern Pacific.

3 What specifically were the unit cost data
4 provided to you by the Santa Fe-Southern Pacific? Is
5 that the data that's shown in Appendix A?

6 A (WITNESS FRITTS) Yes.

7 Q Was there anything else?

8 A (WITNESS FRITTS) There were tables built for
9 car hire and tare weight by different car types, and in
10 part was differentiated between railroad and private
11 line equipment.

12 Q And those are in your work papers?

13 A (WITNESS FRITTS) Yes.

14 Q Does this apply to Appendix E, too? Is this
15 in Appendix B as well?

16 A (WITNESS FRITTS) Yes.

17 Q Did you use any tare weight data other than
18 the data shown in Appendix B?

19 A (WITNESS SJOSTRAND) Those should have been
20 the tare weights used. I'm sure they were.

21 Q How about the return ratio data? Where is
22 that?

23 A (WITNESS FRITTS) It is also in those same
24 data files.

25 Q Now, the DNS computer cost program was not

1 used to cost internal reroutes, is that right?

2 A (WITNESS SJOSTRAND) That's correct.

3 Q And it was not used for truck-to-rail
4 diversions either, is that right?

5 A (WITNESS SJOSTRAND) That's correct.

6 Q But it was used for the rail-to-rail
7 diversions?

8 A (WITNESS SJOSTRAND) That is right.

9 Q What influenced you not to use it for the
10 first two types of computations but for the last?

11 A (WITNESS SJOSTRAND) The internal reroute
12 study could be done by not worrying about the movement
13 from origin to destination. All we were trying to do
14 was to reflect the change from one route to another
15 route and its impact on train miles and gross ton miles
16 and locomotive unit miles. And that could adequately be
17 provided through the Booz-Allen simulation operating
18 model.

19 When it came to the DNS study, it involved the
20 diversion study, and it was necessary there to go to the
21 origin and to the destination of the actual route. And
22 it was, by its very nature, different from the internal
23 reroute studies.

24 Q Is the DNS cost model different from the DNS
25 traffic model? Are they part of the same model?

1 A (WITNESS SJOSTRAND) I would say it's part of
2 the same model.

3 Q Do you know whether they could be run
4 separately, or do they have to be run together?

5 A (WITNESS SJOSTRAND) I don't know whether you
6 could associate the revenues with each move or not.
7 That's a question you'd have to direct to DNS.

8 Q For the purposes of your rail-to-rail
9 diversion costing, it's your understanding that the
10 model was run one at the same time to produce both the
11 revenues and the cost?

12 A (WITNESS SJOSTRAND) Well, it could be run
13 separately. They didn't have to be run together.

14 Q Do you know whether the DNS cost model was
15 applied to the net of traffic changes; that is, sort of
16 taking a before figure as to traffic and an after figure
17 as to traffic and then running the model only as to the
18 difference; or was it run as to the entire before
19 traffic base and the entire after traffic base, and then
20 that difference was computed?

21 A (WITNESS SJOSTRAND) As I recall, it just
22 costed out the relevant traffic, that which was impacted
23 by diversion.

24 Q So it started off with the traffic difference
25 before and after?

1 A (WITNESS SJOSTRAND) That's my understanding.
2 It didn't really matter. If you would have done it
3 either way you should have come out with the same
4 answer.

5 Q Do you know whether cost consideration was
6 given to the type of route used in the diversion study;
7 that is, whether a route was a Type A Main or a Type B
8 Main?

9 A (WITNESS FRITTS) To my understanding there
10 wasn't.

11 Q There was no difference, so the same costs
12 were assigned regardless of the type of route?

13 A (WITNESS FRITTS) Yes, sir.

14 Q You're familiar with the different types of
15 routes, I take it.

16 A (WITNESS FRITTS) Yes, sir.

17 Q They are FRA classifications, is that right?

18 A (WITNESS FRITTS) Yes, sir.

19 Q What's the difference between a Type A Main
20 and a Type B Main?

21 A (WITNESS FRITTS) I'm familiar with them, but
22 I can't tell you the specific differences between the
23 two. It has to do with weight of rail and traffic
24 density, I understand.

25 Q So a Type B Main you think is a higher grade

1 than a Type A Main, is that correct?

2 A (WITNESS FRITTS) I presume so.

3 Q And the model assumes that the costs are the
4 same for the two?

5 A (WITNESS FRITTS) Yes, sir.

6 Q Now, still on page 14 you say that your rail
7 diversion results were furnished to Booz-Allen for
8 inclusion in the operating model to determine pre- and
9 post-merger routes and miles. What exactly did you give
10 Booz-Allen for their analysis?

11 A (WITNESS SJOSTRAND) We didn't give them
12 anything. That was a direct input between Booz-Allen
13 and DNS.

14 Q Do you know what DNS gave Booz-Allen, what the
15 format of the data was? Was it just a tape?

16 A (WITNESS SJOSTRAND) That's my understanding.

17 Q Do you know whether it was a printout?

18 A (WITNESS SJOSTRAND) I really don't know.

19 Q Now, you say that spot checks were done to
20 ensure that the computer functioned properly and that
21 the program produced reliable data. Can you tell me
22 something about the nature of those checks? What were
23 those checks?

24 A (WITNESS FRITTS) We printed up samples of the
25 records that contained the applicable operating

1 statistics for the movements within that record. We
2 then applied the unit costs against them and expanded it
3 out to test to make sure that our manual effort matched
4 with what the machine was producing.

5 Q How many of those checks did you make?

6 A (WITNESS FRITTS) I'm not sure of the exact
7 number, but I'd say in the hundreds.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Q Did you make them over a period of time?

2 A (WITNESS FRITTS) Yes.

3 Q When did you start, and when did you finish?

4 A (WITNESS SJOSTRAND) Well, we did that over a
5 series or a period of time because when they thought
6 they had the costing model running, then we ran some of
7 these manual checks to see if the hand-calculated
8 results would be the same as the machine results, and in
9 some cases we found some programming problems, and so it
10 was necessary to make changes, and that is just fine
11 tuning that model, and we kept doing that until we had
12 the right product.

13 Q Just to make sure it is absolutely clear, I
14 take it then on Page 14, the \$155.3 million variable
15 operating expense figure does not include any imbedded
16 debt costs?

17 A (WITNESS FRITTS) The 155 million?

18 Q Right.

19 A (WITNESS FRITTS) Does not include any capital
20 costs.

21 Q Let's talk a little bit about that figure, and
22 the current return on plant and equipment of \$36.5
23 million which you calculate. Tell me what that \$36.5
24 million relates to.

25 A (WITNESS FRITTS) We made two runs through the

1 DNS model, and on Page 56 of CMD001547 is a recap for
2 all car types dated 3/15/84 at approximately 11:00 p.m.
3 at night. That has zero cost of capital in it. We then
4 made another run which is identified as CMD001544 in the
5 depository on Page 67, and the difference between those
6 two numbers is where the \$36.5 million comes from.

7 Q The second run included the cost of capital of
8 28.28 percent?

9 A (WITNESS FRITTS) Yes, sir.

10 Q So that the cost of capital in that instance
11 is associated with equipment in those runs. Is that
12 correct?

13 A (WITNESS FRITTS) Equipment and road
14 property.

15 Q Now, is that additional equipment that the
16 merged roads would require in order to handle the
17 diverted traffic? What equipment is that?

18 A (WITNESS FRITTS) There is -- the presumption
19 was made up front that there would be no equipment
20 acquired to handle the diverted traffic, that there was
21 sufficient excess capacity on the two combined
22 railroads, three combined railroads that it would not
23 require acquisition of equipment or any significant
24 expansion in plant.

25 Q I think it is pretty obvious that that is

1 equipment that you wouldn't have to use if you did not
2 proceed with diverted traffic? Is that right?

3 A (WITNESS FRITTS) Yes, sir.

4 Q I take it those capital costs associated with
5 that equipment and associated road properties is not
6 reflected anywhere in the financial performance filed
7 with the Santa Fe-Southern Pacific? I take it that that
8 capital expense is not picked up anywhere in the
9 financial performance filed by the Santa Fe-Southern
10 Pacific?

11 A (WITNESS FRITTS) No, sir. We were talking
12 about an absence of capital expense. Therefore it would
13 not show up in the pro forma. The pro forma does not
14 reflect the acquisition of any plant and equipment.

15 Q In the truck-to-rail diversion study, who did
16 the costing work there? Was that you? I take it Reebie
17 did not do that costing.

18 A (WITNESS FRITTS) No, sir. Reebie furnished
19 us with the truck diversions, and we costed it
20 manually.

21 Q Looking at the truck to rail diversion study,
22 if you add the \$9.8 million shown as variable return on
23 plant and equipment to the \$41.8 million variable cost
24 figure, you get a total of \$51.6 million. Is that
25 right?

1 MR. DECHENE: Could you give us a reference as
2 to where you are getting these numbers from?

3 MR. MAYO: Yes, on Page 15, top of the page.

4 BY MR. MAYO: (Resuming)

5 Q Are you with me so far?

6 A (WITNESS FRITTS) You said it would be 51.6
7 million?

8 Q Right.

9 A (WITNESS FRITTS) That's correct.

10 Q Now, you compare that to the increase in
11 revenues of \$45.4 million, and there is a shortfall of
12 roughly \$6 million. Is that right?

13 A (WITNESS FRITTS) Yes, sir.

14 Q Now, based on those figures, would you
15 recommend to Santa Fe-Southern Pacific management that
16 they solicit that traffic?

17 A (WITNESS FRITTS) Well, you have got to
18 understand that intermodal traffic is highly
19 competitive, and highly competitive traffic, generally
20 speaking, will not cover its current cost of capital,
21 being highly competitive, and therefore lower rated. I
22 wouldn't make any recommendation one way or the other.
23 That is a traffic decision.

24 Q And to the extent that rail cars and trailers
25 are needed to handle this equipment, that would come

1 from your existing inventory. Is that right?

2 A (WITNESS FRITTS) The inventory of our
3 combined companies plus trailer train.

4 Q Looking on Page 19, do you see at the bottom
5 of the page there is a figure there of \$73.1 million?

6 A (WITNESS FRITTS) Yes, sir.

7 Q Which you say relates to return on the road
8 and equipment of apparent cost of capital. Can you tell
9 me how that was calculated?

10 A (WITNESS SJOSTRAND) I think if you just take
11 each one of the sections, the four, and add them up, you
12 will come up with the 73.1.

13 Q I may be wrong, but I didn't come to that
14 answer.

15 A (WITNESS FRITTS) The rail-to-rail diversion
16 study shown on CMD -- the difference between CMD 1547 and
17 1544 amounts to the \$36.5 million. Truck-to-rail
18 diversions is \$9.8 million. Yard and road engine
19 assignments, \$5.4 million. Internal reroute, \$17.2
20 million. Car management savings of \$4.3 million comes
21 up with \$73.1 million.

22 Q Okay. Now, you added rail to rail diversion,
23 which I take it is a capital expense. We are talking
24 about capital expense there to internal reroutes, which
25 I take it relates to a capital savings. Is that

1 right?

2 A (WITNESS FRITTS) No, sir. Internal reroute
3 is on down here further. Rail to rail diversions of
4 \$36.5 million was that number referred to which we were
5 speaking about a minute ago, which was the difference
6 between those two printouts.

7 The \$36.5 million appears on Page 14.

8 Q Right, and that's a cost figure, right?

9 A (WITNESS FRITTS) Sir?

10 Q That's a cost figure. It's an additional --
11 since we are talking about additional traffic and
12 equipment and plant required to handle that traffic, it
13 is an additional cost figure, right, as opposed to a
14 cost savings figure which would be associated with
15 internal reroutes.

16 A (WITNESS FRITTS) That's correct.

17 Q Did you just read out on that listing an
18 internal reroute capital cost figure?

19 A (WITNESS FRITTS) Yes, sir. The capital cost
20 figures attributable to internal reroutes is \$17.2
21 million.

22 Q Now, that is a savings, right?

23 A (WITNESS FRITTS) Yes, sir.

24 Q In the listing you just gave me, didn't you
25 add a cost to a saving when you should be subtracting

1 the cost from the saving to get a net figure?

2 A (WITNESS FRITTS) All that is is just an
3 arithmetic sum of the capital costs attributable to each
4 category of both cost and cost savings. It is a
5 fabricated number, if you will, Mr. Mayo, that was
6 included as a mandate of the Commission, not necessarily
7 to lend any credibility.

8 Q But you are not contending that the \$73.1
9 million represents a cost saving in any respect because
10 you agree that that includes both cost savings plus
11 costs.

12 A (WITNESS FRITTS) Yes, sir. It is the
13 arithmetic sum of all the capital costs attributable to
14 all of the above.

15 Q Now, can you capitalize -- no, that's not
16 right. Could you capitalize the current cost of capital
17 figures that you derive at 28.28 percent to arrive at
18 the depreciated original cost of the plant and equipment
19 to which those costs of capital relate?

20 A (WITNESS FRITTS) I don't understand your
21 question.

22 Q Could you in essence take the reciprocal of
23 the 28.28 percent that you used in calculating the
24 current cost of capital to calculate the depreciated
25 book value of the plant and equipment to which it

1 relates? I think the answer should be yes. It is just
2 the obverse mathematical process to the one that you
3 employed in using the 28.28 percent to arrive at the
4 current cost of capital.

5 A (WITNESS FRITTS) I am not sure what you would
6 get, but if you went through the mathematical exercise,
7 you would get a number, but you would only get a number
8 as attributable to that particular traffic that you are
9 studying.

10 Q Right, and that would be a number that would
11 relate to plant and equipment associated with that
12 traffic. Is that right?

13 A (WITNESS FRITTS) Not in all instances,
14 because in the internal reroute, for instance, when we
15 costed out the changes in the statistic, we didn't cost
16 out the before internal reroute and after internal
17 reroute statistic.

18 Q But wouldn't you arrive at a figure for plant
19 and equipment that is tied to that difference between
20 before and after traffic?

21 A (WITNESS FRITTS) No, I don't think so. You
22 are only making the calculation of that difference
23 attributable to the change in train miles, car miles,
24 locomotive unit miles, et cetera.

25 Q But doesn't that represent an apportionment of

ALDERSON REPORTING COMPANY, INC.

20 F ST., N.W., WASHINGTON, D.C. 20001 (202) 628-9300

00230001

1 the plant and equipment necessary to handle that
2 difference in before and after traffic?

3 A (WITNESS SJOSTRAND) I am not sure that you
4 are trying to back into the variable part of the plant
5 and equipment. Is that what it is? Normally what you
6 do is, Rail Form A develops the variable part of the
7 plant and equipment. It also then develops a unit cost
8 for that which is applied along all the way, and it is
9 the cumulation of those unit costs applied against the
10 service units that come up with the cost of capital.

11 A (WITNESS FRITTS) You would end up with a
12 part, and not the whole, because you are only dealing
13 with the change. If you had a million train miles before
14 and 750,000 afterward, we only costed 250,000 train
15 miles. Those are hypothetical numbers.

16 Q Sure. I understand. What we are trying to
17 identify is -- we are trying to see what the plant and
18 equipment associated with variable portions of cost
19 associated with plant and equipment are needed to handle
20 that additional -- you gave me an internal reroute
21 savings.

22 I suppose you can look at it on either side,
23 but the additional equipment and plant needed to handle
24 either traffic diverted to the system or the savings of
25 plant and equipment associated with internal reroutes

1 and greater efficiencies on the system, and I am just
2 trying to identify what the, if you can use your figures
3 to calculate the depreciated book cost of that plant and
4 equipment.

5 MR. DECHENE: Your Honor, I object to this
6 question as being beyond the scope. They have
7 identified how they have developed their variable
8 costs. They said they have gone through Rail Form A. I
9 don't know what kind of mathematical calculations
10 counsel is asking them to go through, but it is not
11 relevant to what their testimony is developing, and it
12 is not part of what they have testified to in their
13 verified statement.

14 MR. MAYO: Your Honor, I am just trying to
15 develop what this current cost of capital is and why it
16 is appropriate to exclude it from their cost
17 calculations, and if it is excluded there is it picked
18 up some place else? And I am just trying to --

19 JUDGE HOPKINS: I think they tried to explain
20 it as well as they could as to how they -- I don't know
21 what more you want.

22 WITNESS FRITTS: Again because capital costs
23 are not an operating expense, and the sum and substance
24 of this whole project was to enable the accountants to
25 produce a pro forma income statement, the capital costs

1 are superfluous.

2 Secondly, Mr. Mayo, the mixing of depreciated
3 net investment on a historic basis on the one hand and
4 replacement values on the other would not give you a
5 meaningful figure anyway.

6 BY MR. MAYO: (Resuming)

7 Q Where does the mixing occur that you are
8 talking about?

9 A (WITNESS FRITTS) Well, for instance, the car
10 management savings were predicated on replacement
11 value. The internal reroute numbers were predicated on
12 net depreciated investment.

13 Q I think the horse just died.

14 No further questions.

15 JUDGE HOPKINS: Thank you.

16 Who is next? Are there any other questions?
17 Mr. Ratner? Ms. Kooperstein? I haven't seen you in a
18 few days.

19 CROSS EXAMINATION

20 BY MS. KOOPERSTEIN:

21 Q Good morning. My name is Donna Kooperstein,
22 and I represent the United States Department of
23 Justice. I just have a few questions for you.

24 Is it correct that you used the Rail Form A
25

1 methodology in deriving all of your figures?

2 A (WITNESS SJOSTRAND) That is correct.

3 Q Is Rail Form A an accounting income analysis?

4 A (WITNESS SJOSTRAND) No, I would not
5 categorize it as an accounting tool. It is a costing
6 tool.

7 Q Do you believe that it is an economic costing
8 tool?

9 A (WITNESS SJOSTRAND) Yes.

10 A (WITNESS FRITTS) It depends on your
11 application.

12 Q What do you mean by that?

13 A (WITNESS FRITTS) It depends on whether you
14 are looking at historic traffic or proposed traffic.

15 Q Does Southern Pacific or Santa Fe have an
16 economic cost model that differs from Rail Form A that
17 they use?

18 A (WITNESS SJOSTRAND) Southern Pacific does.

19 A (WITNESS FRITTS) So does Santa Fe.

20 Q Did you try using that model to determine the
21 cost savings from internal re-cutting, yard and local
22 switching and equipment utilization?

23 A (WITNESS FRITTS) No, ma'am.

24 Q In your statement, you explain several
25 adjustments that you made to Rail Form A. Is that

1 correct?

2 A (WITNESS SJOSTRAND) There are references to
3 adjustments, yes.

4 Q Did you modify Rail Form A in any other way?

5 A (WITNESS FRITTS) There is one fatal error in
6 the Commission's version of Rail Form A which has been
7 corrected on Santa Fe and Southern Pacific.

8 Q What is that?

9 A (WITNESS FRITTS) It is the allocation of car
10 ownership or it is the allocation of net car hire to
11 time and mileage. The Commission's version allocates it
12 entirely to time. The version used by our two companies
13 takes the time component of net car hire and allocates
14 it to time, takes the mileage component and allocates it
15 to mileage. That is an insignificant change,
16 incidentally. We didn't use car hire on Rail Form A
17 anyway.

18 Q Right. Did you use all parts of Rail Form A
19 then in arriving at your savings?

20 A (WITNESS FRITTS) Only the variable portion.

21 Q Only the variable portion. In using the
22 variable portion, did you include all the costs that the
23 Commission has in that portion of Rail Form A?

24 A (WITNESS FRITTS) Excluding capital costs.
25 The expenses, rents, and taxes, yes, as they were

1 applicable to the traffic in question.

2 Q Does that include labor costs?

3 A (WITNESS FRITTS) Yes, it does.

4 Q And that includes wages and fringe benefits?

5 A (WITNESS FRITTS) Yes, ma'am.

6 Q Does that include insurance costs?

7 A (WITNESS FRITTS) Yes, it does.

8 Q Does it include costs for purchases of
9 materials?

10 A (WITNESS FRITTS) Yes, it does.

11 Q Does it include costs of loss and damage?

12 A (WITNESS FRITTS) Yes, it does.

13 Q Did you make any effort to ensure that your
14 savings didn't include savings that were included in
15 other parts of the application?

16 A (WITNESS FRITTS) We took great pains to make
17 sure that we didn't end up with what you are referring
18 to as what we refer to as a double count.

19 Q To the extent that Rail Form A includes labor
20 costs, are you certain that none of those labor cost
21 savings are also included in Mr. Champion's statement,
22 for instance?

23 A (WITNESS SJOSTRAND) We did review that. We
24 are fairly certain that there isn't any double
25 counting.

1 Q How did you take care of that?

2 A (WITNESS SJOSTRAND) Well, the merger of the
3 two companies, for example, taking the accounting
4 people, I think that the total expense is something like
5 \$150 million by the time we merged -- no, the difference
6 between the fixed cost and the variable cost was about
7 \$50 million. The savings that Mr. Champion computes are
8 approximately \$10 million, as I recall, in the
9 accounting carry.

10 And what happens when you put these two
11 companies together, you are going to get rid of what I
12 would characterize mostly as fixed costs, not variable
13 costs. And I think there is sufficient amount as
14 represented by that \$40 to \$50 million that are
15 considered fixed costs that it is easily understood how
16 putting two companies together you can get rid of part
17 of that excess overhead.

18 Q I know you tried to answer the question, but I
19 am still a little bit confused. If something was
20 included in Mr. Champion's statement, how did you make
21 certain that that cost wasn't included when you used
22 Rail Form A?

23 A (WITNESS SJOSTRAND) In the application and
24 Rail Form A we were just using variable costs, and
25 variable costs are those costs that will vary with

1 traffic levels.

2 A (WITNESS FRITTS) It only constitutes
3 approximately 78 percent of your total reported expenses
4 in the R1.

5 Q So you didn't make any changes in using Fair
6 Form A, then?

7 A (WITNESS FRITTS) No, ma'am.

8 A (WITNESS SJOSTRAND) No, we did not.

9 Q Did you make any assessments as to actual
10 reduction in number of employees?

11 A (WITNESS SJOSTRAND) We didn't, or I didn't
12 get involved in that. That was Mr. Champion and the
13 labor people that were involved.

14 A (WITNESS FRITTS) Nor did I.

15 Q Pardon me?

16 A (WITNESS FRITTS) Nor did I become involved.

17 Q Are you familiar with the term "linearity
18 assumptions?"

19 A (WITNESS FRITTS) I am not offhand.

20 A (WITNESS SJOSTRAND) No.

21 Q Could you turn to Page 7 of your testimony,
22 please?

23 MR. BAKER: Is it possible for the witnesses
24 to speak up?

25 JUDGE HOPKINS: Please try.

1 BY MS. KOOPERSTEIN: (Resuming)

2 Q On the bottom of Page 7 you talk about the
3 weights of the rail cars. Do you know how the weight of
4 the Southern Pacific and Santa Fe cars compare to the
5 national average figures?

6 A (WITNESS SJOSTRAND) They would be
7 approximately the same. As I understand it, cars of
8 ownership go all over the United States, and half of the
9 foreign cars, or half the cars on the line,
10 railroad-owned cars are foreign cars, so it was
11 appropriate, I think, to use the national average for
12 that car type.

13 Q Would you turn to Page 8, please? In the
14 first full paragraph you talk about empty return data.
15 Do you see that? When you use empty return data, are
16 you using a national average, or data for Southern
17 Pacific and Santa Fe?

18 A (WITNESS SJOSTRAND) It was data for the
19 Southern Pacific, Santa Fe, and Cotton Belt for the year
20 1982.

21 Q Could you please turn to Page 10? On Page 10,
22 you discuss your use of per diem. Is it correct that
23 you use per diem as a proxy for the costs of car
24 ownership?

25 A (WITNESS SJOSTRAND) Yes.

1 Q What was your basis for doing that?

2 A (WITNESS SJOSTRAND) Well, we thought that was
3 the best measure of car value on car days and car miles
4 that would be incurred or saved.

5 Q Do you know what type of cost items are
6 reflected in the per diem?

7 A (WITNESS SJOSTRAND) Yes.

8 Q Would you just tell me briefly?

9 A (WITNESS SJOSTRAND) It includes repairs,
10 depreciation, and return on investment and property
11 taxes.

12 Q Do you know whether the per diem is associated
13 at all with getting cars to return home efficiently?

14 A (WITNESS SJOSTRAND) I think the per diem is
15 designed to compensate the owner at a level that is fair
16 to the -- repeating. The per diem is designed to
17 determine the cost of ownership and it is designed
18 hopefully to be fair to the owner and to the user.

19 Q Could you please turn to Page 12? On the
20 bottom of Page 12 you talk about calculating the cost of
21 eliminating seven road switches and local plants. Do
22 you see that?

23 A (WITNESS SJOSTRAND) Yes.

24 Q What was your basis for that?

25 A (WITNESS SJOSTRAND) In the operating study

1 conducted by Booz Allen there were some road switchers
2 that didn't operate between nodes, and there was a
3 special study made by Booz Allen, and they determined
4 that those seven engines could be eliminated, or seven
5 assignments could be eliminated.

6 Q Could you please look at the bottom of Page
7 13? You talk about a reduction in car rents of 10.5
8 million. Do you see that?

9 A (WITNESS FRITTS) Yes, ma'am.

10 Q Are you talking there about a reduced payout
11 or is that your use of car rents as a proxy for car
12 ownership costs?

13 A (WITNESS FRITTS) Both.

14 Q Both? Do you know how much of that is
15 accounted for by reduced payout in car rents?

16 A (WITNESS FRITTS) It is not possible to
17 quantify based on the data that we had to work with.

18 Q Do you have any feel for it?

19 A (WITNESS FRITTS) You can take a guess, which
20 is nothing more than it would be of one-third private,
21 one-third foreign, and one-third system. But the mix on
22 any given railroad at any given time is so flexible that
23 you can't quantify it as -- you may be able to quantify
24 it today, but it would be totally inapplicable
25 tomorrow.

1 Q How did you compute the figure then?

2 A (WITNESS FRITTS) The 10.5 million?

3 Q Yes.

4 A (WITNESS FRITTS) We took the difference
5 between the pre-merger car miles for the three railroads
6 added together and then took the post-merger figures of
7 those same car types and the degree of utilization they
8 would get through internal reroutes, and then multiplied
9 those car miles and those car days by the appropriate
10 mileage and time factor for that car type.

11 Q What return on investment figure did you use
12 on the bottom of Page 13?

13 A (WITNESS FRITTS) For the \$18 million?

14 Q Yes.

15 A (WITNESS FRITTS) 28.28 percent.

16 Q Could you please turn to Page 15? Under
17 Multilevel Auto Rack Cars, you talk about a reduced
18 payout -- reduced car rents. Did you calculate that in
19 the same way you just explained to me?

20 A (WITNESS FRITTS) Yes.

21 Q And would that hold true for your calculation
22 on the top of Page 16 in regard to TOFC?

23 A (WITNESS FRITTS) Which particular figure are
24 you referring to?

25 Q The reduced car hire of one million at the top

1 of Page 16?

2 A (WITNESS FRITTS) Yes, it is.

3 Q And also for the figure of .5 million in the
4 next paragraph on 16?

5 A (WITNESS FRITTS) Yes, it is. Well, excuse
6 me. I believe in that particular paragraph we are
7 referring to half a million dollars in trailer hire.
8 There is no mileage component to trailer costs. Maybe I
9 misspoke myself. That is referring to car hire.

10 Q Okay. On the top of Page 17, you have a
11 figure of 2.5 million in car hire savings. Is that
12 calculated the same way you discussed previously?

13 A (WITNESS FRITTS) Yes, it is.

14 Q Could you please explain the last sentence in
15 that paragraph?

16 A (WITNESS SJOSTRAND) We included the savings
17 in car miles and car days at the per diem rates rather
18 than valuing at the current cost of capital.

19 Q Could you please turn to Page 18? You discuss
20 TOFC inventory needs, and you have a figure for reduced
21 car hire savings. Do you see that?

22 A (WITNESS SJOSTRAND) The 1.2 million?

23 Q And .4 million, for a total of 1.6 million.

24 A (WITNESS FRITTS) 1.2 being applicable to the
25 trailers, and .4 million to the flat cars.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Was that calculated the same way you explained previously?

A (WITNESS FRITTS) Basically, except again trailers do not have a mileage component.

MS. KCOOPERSTEIN: I have no further questions.

JUDGE HOPKINS: Thank you.

Any further questions? Any redirect?

MR. DECHENE: No redirect.

JUDGE HOPKINS: You are excused, sirs.

(Witnesses excused.)

MR. DECHENE: Your Honor, I would like to move at this time the verified statements of Mr. Fritts and Mr. Sjostrand into evidence.

JUDGE HOPKINS: Any objection?

MR. MAYO: Your Honor, I would also move the admission of DRGW-C-20 and 21.

JUDGE HOPKINS: Any objection? They will all be received in evidence.

(The documents referred to, previously marked for identification as Exhibits Number DRGW-C-20 and DRGW-C-21, were received in evidence.)

JUDGE HOPKINS: Do you have another witness

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

available?

MR. MOATES: We do now, Your Honor.

MR. STEPHENSON: Your Honor, as a matter of clarification --

JUDGE HOPKINS: Off the record.

(Whereupon, a discussion was held off the record.)

00230046

1 JUDGE HOPKINS: Back on the record.

2 MR. COWELL: My name is Robert Cowell, and I
3 represent Applicant Atchison, Topeka & Santa Fe Railway
4 Company, with my address at 80 East Jackson Boulevard,
5 Chicago, 60604.

6 JUDGE HOPKINS: Will you call your witness
7 then, please?

8 MR. COWELL: I call Mr. John Winner.
9 Whereupon,

10 JOHN H. WINNER
11 was called as a witness in the above-entitled case by
12 counsel for Applicants Atchison, Topeka & Santa Fe and,
13 having first been duly sworn by the Administrative Law
14 Judge, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. COWELL:

17 Q Mr. Winner, do you have in front of you volume
18 SFSP-13 which was filed as part of the merger
19 application in this proceeding?

20 A Yes, I do.

21 Q And is statement No. 5 in that volume the
22 verified statement that you filed?

23 A I believe it's the fifth one.

24 Q Would you just confirm that?

25 A Yes.

1 Q Other than the changes that are contained in
2 the errata, do you have any other corrections to make to
3 your verified statement?

4 A No, I do not.

5 Q Is the statement then correct, to the best of
6 your knowledge and belief?

7 A Yes, it is.

8 MR. COWELL: The witness is available for
9 cross-examination.

10 JUDGE HOPKINS: Mr. Roper.

11 CROSS EXAMINATION

12 BY MR. ROPER:

13 Q Mr. Winner, my name is Roper, and I represent
14 the MKT Railroad.

15 I would like to know what exactly was your
16 assignment with regard to the preparation of your
17 verified statement?

18 A With regard to the preparation of the verified
19 statement or with regard to the study itself?

20 Q The studies that you made. What were your
21 instructions?

22 A My instructions -- the assignment that
23 Booz-Allen had, there were two assignments. One of them
24 was to do the operating plan and the other was to look
25 at equipment utilization issues.

ALDERSON REPORTING COMPANY, INC.

20 F ST., N.W., WASHINGTON, D.C. 20001 (202) 628-9300

882380098

1 We did both of those. I looked at the
2 equipment utilization aspects of the merger.

3 Q And when were you given this assignment?

4 A I believe it was some time in the middle of
5 November. The 18th of November I think is the date of
6 the letter of our proposal to the two carriers.

7 Q Did you participate in the decision that was
8 made, that there would be no new equipment considered as
9 a result of the diversions in this case if the merger
10 was granted?

11 A I didn't study diversions. No, I didn't
12 participate in that decision.

13 Q Look at page 4 of your testimony, if you
14 would, please.

15 A Page 4?

16 Q Page 4. At the top, the first complete
17 sentence, "For example, it is often in a railroad's
18 economic interest to incur added car miles." Do you see
19 that sentence?

20 A Yes, I see that sentence.

21 Q Are you saying that both the Santa Fe and the
22 Southern Pacific engage in this sort of activity?

23 A I'm sure they do, although I don't know any
24 specific cases. It's often in a rail carrier's interest
25 to maximize the use of his particular owned car fleet

1 and reduce his equipment rents cost by chasing -- by
2 trying to chase non-owned equipment off-line.

3 Q Do you believe it will still be in their
4 economic interest to do so after the merger?

5 A It's between the two carriers. Of course
6 not. It won't make any difference at all between the
7 two carriers.

8 Q But as to other carriers, it will still be in
9 their economic interest to engage in this sort of
10 activity?

11 A It may. But to the extent that it happens at
12 all, it will be greatly reduced by the merger. The two
13 carriers are their own largest interchange carriers, so
14 it will be greatly reduced.

15 Q Also on page 4, in the new paragraph, the
16 first sentence, it says: "Railway mergers tend to
17 reduce these kinds of short-term actions and often
18 result in more questionable long-term economic
19 decisions."

20 Do you see that sentence?

21 A Yes, I do.

22 Q What studies have you made to support that
23 conclusion?

24 A Well, I studied this particular merger. I
25 also have looked at equipment utilizations for other

1 carriers.

2 Q Were these particular studies that you made of
3 the other non-Applicant carriers in this case?

4 A Particular studies for clients that my
5 consulting firm had; yes.

6 Q And were these studies basically the same kind
7 of studies you did in this proceeding?

8 A Some of them were. I mean I don't think any
9 equipment utilization study is really the same as
10 another one, but the issues were, in general, the same
11 types of issues. And the analytical techniques were, in
12 general, the same types of techniques.

13 Q Okay. In that sentence, you refer to that
14 railway mergers tend to reduce these kinds of short-term
15 action.

16 What other kinds of action are you talking
17 about, other than returning of foreign car empty miles,
18 of returning foreign cars to their owners?

19 A Well, those are those types of actions. There
20 are other actions that prohibit independently operated
21 carriers or make it difficult for independently operated
22 carriers to maximize equipment use.

23 They can maximize their own equipment use, but
24 it's very difficult to maximize the national equipment
25 use or equipment use of other carriers' cars by

1 themselves, because they don't have day-to-day control,
2 they don't have day-to-day information.

3 Q Okay. What are these prohibitions that you
4 just mentioned?

5 A They don't have day-to-day control and they
6 don't have day-to-day information, and they often don't
7 have the right to move a car.

8 Q Is there any reason that railroads could not
9 work together in these areas without a merger?

10 A Of course not. And I point out in my
11 statement that the industry has worked very hard to
12 develop ways to improve equipment utilization and it's
13 done fairly well over the past few years, but again what
14 you can do as a group of independent carriers, you can't
15 be as effective as you can as a -- as one company, when
16 you control your own fleet and you know its whereabouts,
17 you know its condition, you know -- you control the kind
18 of condition the equipment is in. You just don't have
19 that kind of control and information over other people's
20 cars.

21 Q On page 5 of your testimony and over on into
22 page 6, you discuss peak use balancing. I believe there
23 you indicate that if the merged carrier had been
24 combined in 1982, it could have handled its '82 traffic
25 with 2,634 fewer cars.

1 Did that figure change in the errata that you
2 filed?

3 A No.

4 Q How did you determine that the system could
5 have handled its traffic in 1982, had it been merged
6 with that many fewer cars?

7 A How did I determine it? Well, that's covered
8 in my statement starting on page 11 and going through
9 page No. 15, through the first half of page No. 15.

10 In general, how I determined it was I looked
11 at the loading patterns of the two carriers. I treated
12 the SPT as including the SSW. And I looked at their
13 loading patterns by type of equipment by month, and
14 found that in fact, as I point out here, there were
15 times when a peak in one carrier's loads would coincide
16 with a non-peak period in the other carrier's loads, and
17 that provided the opportunity to make the equipment
18 saving.

19 And the calculation method is explained.

20 Q Is it basically savings in car miles that
21 provides the basis for your decision as to when a car
22 could be saved?

23 A No. It's in fact the ownership, not the car
24 miles. It's the ownership of equipment.

25 Q Well, but is there some calculation which

1 allows you to say that if X happens, one car fewer will
2 be needed?

3 A The calculation methodology, as I pointed out
4 here, yes, there's an equation that's used. And the
5 only X that has to happen, I guess, is that the fleets
6 have to be combined and managed as one unified fleet.
7 And that's the X that has to happen.

8 If that X does happen and the merged carrier
9 has the type of car distribution group that the two
10 individual carriers have now, that is to say, a very
11 effective group with a lot of information and good
12 ability to control the movement of equipment and to get
13 it moved from place to place very promptly, then once
14 they do merge, they do have that one equipment fleet
15 managed by that one car management group. And, in fact,
16 they will make these savings.

17 That's the X.

18 Q Is it your testimony that if this merger is
19 approved, that the SFSP will save \$141 million based on
20 this 2,634 fewer cars?

21 A It is my testimony that the merged carrier, as
22 I pointed out here, would have required 2,634 fewer rail
23 cars to handle the same traffic that it handled in 1982,
24 and that those cars have a replacement cost value of
25 \$141 million.

1 Now, I used replacement cost value as a
2 measure of the benefit. I don't know how else to
3 measure it. That's \$141 million that the carrier --
4 merged carrier won't have to reinvest when the equipment
5 wears out.

6 Q Well, it's not your testimony that if this
7 merger is approved, the SFSP will get rid of 2,634 cars,
8 is it, out of their present fleet?

9 A That is not my testimony.

10 Q You're saying that the savings you're talking
11 about are some time in the future; that presumably the
12 SFSP would have to buy 2,634 cars, and now they will not
13 have to buy those 2,634 cars?

14 A That's exactly right.

15 Q And that's even dollars. I believe the cost
16 witnesses just testified, even with the additional
17 diversions they will get, no new equipment will be
18 needed. Is that your testimony?

19 A That's correct. I mean I did not forecast
20 future car loadings. What I did do was look at the car
21 loadings and the equipment fleet the carrier had, and
22 found that the carrier could have moved that same
23 traffic with \$141 million less in equipment costs, less
24 equipment.

25 Q Also on page 6, you talk about a reduction

1 of -- I guess it's a reduction -- of 715 cars based on
2 network improvements. Am I determining that correctly,
3 page 6?

4 A Yes.

5 Q And does that mean that in 1983, the merged
6 system could have handled its '83 traffic with 715 fewer
7 cars?

8 A Yes, that's correct. At least the traffic
9 that was in the study period that we used, yes.

10 Q How many of those cars are boxcars?

11 A How many of those of the 715?

12 Q Are boxcars.

13 A I think that's shown in a table here. Yes, it
14 is. It's shown on the table on page No. 17. There were
15 72 sliding door boxes and 28 plug door boxes and 88
16 insulated boxes.

17 Q Do you know whether or not either the SP or
18 Santa Fe presently have any plans to acquire additional
19 boxcars at this time?

20 A I don't know whether they do.

21 Q Do you know how many boxcars are presently
22 stored by either the SF or the SP at this time?

23 A Not offhand.

24 Q Well, if we assume that there are a
25 considerable number stored, is it likely that the merged

1 carriers at any time would go out and purchase
2 additional boxcars?

3 A Well, if you assume that there are boxcars
4 stored -- and I believe there are, I just don't know
5 exactly how many -- that does not mean that the rail
6 carriers won't ever have to buy another boxcar.

7 They will eventually have to buy boxcars, most
8 likely have to replace part of their boxcar fleet. They
9 won't have to buy -- what did I have here -- 72 extra
10 sliding door boxcars, they won't have to buy 28 extra
11 plug door boxcars, they won't have to buy 88 extra
12 insulated boxcars. They won't have to replace those.

13 Now, even if they do have equipment, stored
14 equipment does wear out. That equipment will come out
15 of storage and it will be put to use and does have to be
16 replaced sometime.

17 And even if it isn't replaced, this is
18 equipment that they don't have to buy, that they can
19 take the money for that and buy trailers or buy some
20 other kind of equipment.

21 Q They could do that today, couldn't they, if
22 they had stored boxcars?

23 A If they had the savings, they could, yes.

24 Q Don't they have the savings today for those
25 boxcars if they're not using them, they're not having to

1 replace them? If they're standing idle -- are they?

2 A They'll have to replace -- they are using
3 some. In fact, the largest proportion of their fleet is
4 in use and not stored.

5 Q Do you have any idea how many additional cars
6 it would take to handle the amount of traffic which
7 Applicants project as being diverted in this case?

8 A No, I don't. I didn't study that.

9 Q Do you know who did study that, if anyone?

10 A Who studied how many extra?

11 Q Additional cars would be needed to handle the
12 diversions.

13 A No. I think the cost witnesses put a cost, an
14 equipment cost in the calculation in the net benefit
15 from that. I don't know that anybody computed the
16 amount of equipment that they would require.

17 Q Also on page 6, again discussing the 715 cars,
18 you talk about a reduction of loaded and empty car miles
19 by about 1.6 percent.

20 A Yes.

21 Q Now, does that 1.6 percent reduction translate
22 into the 715 cars? Is that basically how you made that
23 calculation?

24 A No. That 1.6 percent relates to the car
25 miles, both loaded and empty, of all types of cars on

1 the merged carrier. That is to say, all cars, ever cars
2 of other carriers, will in fact benefit from the better
3 routes and the faster trains and the other stuff. And
4 that 1.6 percent is the amount that all car miles are
5 reduced.

6 And the 715 is only merged railroad system
7 equipment.

8 Q Why did you use a different time period for
9 the network improvements than you used for the peak use
10 balancing studies?

11 A Well, the period that we used for the network
12 improvements was the period that the network model was
13 running. That was the August to October period, 1983,
14 and that was the current period that reflected traffic
15 levels and traffic diversions that had taken place
16 because of the BN-Frisco merger. It was a more
17 representative period for the network studies.

18 For the peak use balancing studies, I needed a
19 long period, and I needed to have data -- I mean in peak
20 use balancing, you can't just look at a week or
21 something and do a peak use balancing study. You need
22 to look at a full year, and I wanted to look at a full
23 calendar year.

24 So the latest available full calendar year for
25 me was 1982, and that's the period that I picked.

1 Q Are you saying that you didn't have a full
2 year of 1983 traffic available to you when you made your
3 study?

4 A Yes, that's correct.

5 Q Then how did you determine that the merged
6 carriers would have been able to handle their traffic in
7 1983 with 715 fewer cars if you didn't have the entire
8 year of 1983 traffic available?

9 A Again, the period that was used as the
10 August-October period, and I believe that that was
11 annualized to an annual level, and what my study shows
12 is they would be able to handle that level of traffic
13 with 715 fewer cars.

14 Q So in 1983, you looked at a three-month period
15 and somehow that was annualized, multiplied by four
16 probably?

17 A It was annualized. It's a little more
18 complicated than that, but it was annualized to look
19 like the year.

20 Q Well, do you know how that was annualized?

21 A I didn't do the annualization process. You'd
22 have to ask the operating plan people who prepared
23 that. They also were responsible for preparing the
24 traffic tapes.

25 Q On page 7, the last section down there,

1 special situations, it says: "SFSP or SPSF would be
2 able to improve equipment utilization through equipment
3 use arrangements not otherwise possible in a competitive
4 environment."

5 What did you have in mind there?

6 A Well, I had in mind a lot of special
7 arrangements that a company normally -- a lot of uses a
8 company will make of its fleet, of its own fleet, that
9 it can't make of its neighbor's fleet because it doesn't
10 own it. That is, his neighbor is not likely to let him
11 have it.

12 That's a fairly common --

13 Q But again, those carriers could work together
14 if they so chose, couldn't they?

15 A In some cases they could, but in some cases
16 they can't. Or while they can, it's just unlikely that
17 they would. I mean you may have some arrangements that
18 provide benefits to only one carrier, and the other
19 carrier is not likely to participate in that if he
20 doesn't get any major benefit out of it.

21 So those are not likely to occur.

22 Q Look at page 9 of your testimony, if you
23 would, please. There you discuss a problem that occurs
24 with boxcars regarding significant increases in empty
25 miles. Do you see that?

1 You say that you studied this problem. What
2 kind of study did you make with regard to this problem?

3 A Well, with the assistance of the two car
4 utilization groups who had the traffic data available to
5 them, I looked at what kinds of traffic, what kinds of
6 cars could be routed adverse to the merged carrier, or
7 for which the merged carrier could have responsibility
8 for returning an empty on a longer haul than it
9 otherwise would, or that it was responsible for, that
10 either of the two carriers were responsible for prior to
11 the merger.

12 Q And is that study contained in your work
13 papers?

14 A Yes. Uh-huh. I think some of them were. And
15 I have some letters concerning that in my work papers.

16 Q Could you describe to me how you conducted the
17 study?

18 A We looked at traffic flows for specific types
19 of equipment and for specific ownerships.

20 Q And it was your conclusion that boxcars have a
21 larger problem with regard to empty mileage than other
22 types of cars?

23 A Yes. We found few gondola movements at all
24 and very few -- very few flat movements. We are only
25 concerned with the boxcar problem and considered the

1 problem and looked at the type of traffic that was
2 involved.

3 And, of course, you see, in my testimony I
4 concluded that I don't think it's going to be a
5 problem. It's not going to be a problem at all.

6 Q What was the basis for that conclusion? What
7 kind of tools do rail managers have to make sure that
8 rail carriers equitably share empty mileage car
9 obligations?

10 A Well, they have a lot of tools. The location
11 and number of special corridor outlets itself is a tool
12 that the industry uses to try to balance the requirement
13 to handle empties equitably between carriers.

14 But in addition to that, through the AAR,
15 there are also bilateral agreements between carriers.
16 There is modifications to car service rules that happen
17 regularly; Rule 6 tests that the merged carrier could
18 invoke to avoid long hauls.

19 Q How did you make your determination that the
20 maximum impact would be less than \$5 million annually
21 from this problem?

22 A Well, we looked at this -- by this time, we
23 had a year's worth of traffic data available, not in
24 tape form for analysis through the models that I use,
25 but that the carriers had on their own computers, and we

1 looked at the years '83 -- up into the year '83 flows,
2 and looked at the specific traffic flows that would
3 cause -- that could cause problems, to see how many
4 there were and how great it might be.

5 Q What was the specific calculation that you
6 derived this \$5 million figure from?

7 A I believe it was the car miles times, I think
8 it was, 35 cents a mile.

9 Q Why did you use 35 cents a mile?

10 A That's kind of a standard cost. It's spelled
11 out in the car service rules and also was used in the
12 boxcar deregulation case.

13 Q And this calculation is also contained in your
14 work papers?

15 A Yes.

16 Q Now, when you looked at network improvement
17 and peak use balancing, is it possible that any of the
18 same cars could be involved in each of those studies?

19 In other words, could a car that you say would
20 be saved in rail car utilization or in the network
21 improvement, could also be the same car that would be
22 saved in the peak use balancing?

23 A Because of the way the calculations were done,
24 no, that's not the case. They wouldn't be the same
25 car.

1 Q Okay. How do we know that?

2 A Well, in the case of peak use balancing, we
3 aren't eliminating any loads or anything like that.
4 We're just getting rid of equipment because we can use
5 existing equipment better.

6 In the LP model, I'm getting rid of car miles,
7 and that's cars that must move to a load. Again, I
8 haven't changed any loads. And the car miles result in
9 the equipment reduction.

10 Q So you're telling me, then, that you made some
11 check or that the difference in the systems ensured that
12 there was no overlap or double-counting of the cars that
13 were saved?

14 A Yes. The difference in the way the
15 calculations were made ensures that there's not a
16 double-counting. I mean you, in fact, get both
17 benefits. They aren't overlapping.

18 MR. ROPER: I believe that's all the questions
19 I have.

20 JUDGE HOPKINS: Thank you.

21 Off the record a minute.

22 (Discussion off the record.)

23 JUDGE HOPKINS: Let's take five minutes.

24 (A brief recess was taken.)

25 JUDGE HOPKINS: Back on the record. Who is

1 going to take it next?

2 MR. MAYO: Your Honor, I will.

3 CROSS EXAMINATION

4 BY MR. MAYO:

5 Q Mr. Winner, I'm George Mayo representing the
6 Rio Grande.

7 On page ten of your testimony you state that
8 because your studies measured the economies, car
9 utilization efficiency produced by consolidating the
10 Santa Fe and Southern Pacific and the single unit type
11 carrier --

12 A What page are you on again?

13 Q I'm on page ten.

14 You say the type of merger is irrelevant, and
15 you go on to say that increased car miles and costs
16 associated with the conversion are described in the
17 verified statement of Messrs. Fritts and Sicstrand. Do
18 you see that?

19 A Yes, uh-huh.

20 Q Sir, am I correct that your analysis of the
21 merged system's reduced rail car requirements relates
22 solely to such requirements before taking into account
23 any rail-to-rail or truck-to-rail conversions?

24 A That's correct.

25 Q Moving on to page 39 of your testimony at the

1 bottom of the page --

2 A Page 39?

3 Q Right.

4 A Yes.

5 Q You show there that the merged system would
6 require 4,881 fewer cars with a replacement cost of \$257
7 million.

8 A Yes.

9 Q Are you there talking about the car fleet that
10 would be required by the merged system prior to any
11 diversions of traffic to that system?

12 A I'm talking about the car fleet that would be
13 required by the carrier to move the 1983 traffic.

14 Q Right. And that's prior to any diversions?

15 A That's right. It's just the 1983 traffic.
16 And in the case of the peak use study, it was 1982
17 traffic.

18 Q I'm sorry, I'm confused. We are talking about
19 pre-diversion; right?

20 A Yes.

21 Q Now, you've testified just a second ago that
22 Messrs. Fritts and Sjostrand calculated the costs that
23 would be associated with the additional equipment
24 required to handle diverted traffic.

25 Do you know if anybody related those costs to

1 actual cars and car types? I think your answer was no,
2 that you're not sure if anyone did that. Is that
3 correct?

4 A That's right.

5 Q Now, on page 34 with respect to locomotive
6 requirements, you say that you did two studies, two
7 analyses. First you determined the reduction in
8 locomotive units that would be needed to handle the
9 merged system's traffic prior to any diversion of
10 traffic.

11 And second, you computed the number of
12 locomotives which the merged system would require to
13 handle all of its post-merger traffic, and that takes
14 into account the traffic that's diverted to the merged
15 system.

16 Is that right?

17 A That's correct.

18 Q Now, you didn't do the second type of study
19 with respect to rail cars; is that right?

20 A That's correct.

21 Q What's the purpose of doing the post-diversion
22 study with respect to locomotives, but not doing it with
23 respect to cars?

24 A Yeah. Rail cars are generally interchanged
25 between carriers and there is a mechanism for performing

1 interchange, and there is a cost structure for costing
2 the interchange and for the use in borrowing, and it's
3 very common to borrow and use other carrier's equipment,
4 rail car equipment.

5 You must use it, if in fact you want to have a
6 nationwide rail system capable of moving a boxcar of
7 good from here to there. It is not common for rail
8 carriers to interchange their locomotives. That's not
9 to say they don't do it; of course they do it with
10 run-through trains and other types of things, but it is
11 not like a boxcar or any other type car.

12 There are some interchanges with locomotives,
13 but those are fairly limited in scope and in nature, so
14 it is common in a study like this where you are looking
15 at traffic diversion, adding to a traffic base requiring
16 additional trains, requiring additional yard crews, and
17 perhaps added local assignments to look at the power
18 requirements, what kind of locomotives do you have to
19 have for those, because that traffic is not going to
20 come with a locomotive.

21 In most cases, that traffic will come with a
22 rail car or a trailer. It will already be in a rail
23 car.

24 Q All right. Fine. On page 39, you state that
25 exclusive of these considerations of diverted traffic,

F.D. 30400 - 10/24/84 - Pages 3575-3605

1 the merged system could have operated its trains with
2 123 fewer locomotives than they are currently operating
3 or operated as of 1982, and you assigned to these
4 locomotives a replacement cost of \$99.2 million.

5 A That's correct.

6 Q But you go on to add that after all projected
7 traffic diversions, the merged carriers would actually
8 require five more locomotives than they currently
9 operate and, in fact, would have to increase their fleet
10 of high horsepower locomotives by 52 units. Right?

11 A Yes.

12 Q Now, despite the fact that the merged system
13 will actually have to add locomotives to its operating
14 inventory, you suggest on the table at the bottom of
15 page 39, that as a result of the merger, the merged
16 system could reduce its locomotive fleet by 123 units
17 and realize replacement cost savings of \$99.2 million.

18 Is that correct?

19 A That's right.

20 Q Now, how do you square the claim that the
21 merger would generate this \$99.2 million in capital cost
22 savings, when in fact the merged system, by your own
23 calculations, is going to require the 123 units that you
24 identify as surplus, plus five additional locomotives to
25 handle the traffic diverted to it?

1 A How do I square that?

2 Q Yes.

3 A I square that by spelling out that the merger
4 itself produces quite a few benefits in terms of
5 equipment that's worth \$360 million; that some traffic
6 might be diverted to the carrier will require it to make
7 some investment, which we sized here for the cost
8 witness, you know, for their costing purposes. But I
9 don't know that that is going to happen.

10 I don't know that those traffic diversions are
11 there. What I studied was what kind of equipment
12 savings would the merger allow these two carriers to
13 make, independent of all other activity. What could the
14 carriers do with their equipment fleets, and they could
15 make \$360 million worth of equipment savings with their
16 equipment fleet.

17 Now, if they elect to take on the burden of
18 this extra traffic, then they'll have to have more
19 locomotives.

20 Q And those benefits will not be there; is that
21 right?

22 A They will be there. I mean they wouldn't have
23 had -- they wouldn't have had those locomotives if they
24 hadn't been merged. Those benefits will be there.

25 Q Let's talk solely on locomotives. If you

1 merge the systems and don't get any diverted traffic,
2 you have a surplus of 123 locomotives with a replacement
3 value of \$99.2 million, then that's a benefit; correct?

4 A Uh-huh.

5 Q In the merged system -- and you get the
6 traffic diverted to it -- you're going to need every one
7 of those locomotives to handle that diverted traffic,
8 plus you're going to have to get five additional ones;
9 is that right?

10 A That's correct. And I would presume that's
11 also a benefit, and that benefit has been handled in the
12 cost witness's calculation

13 Q But you can't enjoy the benefits
14 simultaneously, can you? You can't, on the one hand,
15 enjoy the benefit of the diverted traffic and
16 simultaneously enjoy the benefit of the \$99.2 million in
17 replacement cost savings for locomotives that, after
18 all, you're going to require in order to handle the
19 diverted traffic?

20 A I would say of course you can. That's the
21 purpose of the merger. If you don't have the merger,
22 you don't have the economies that produce the \$99
23 million in locomotive savings.

24 Now, if you do have the merger, you have those
25 savings, you also have the added traffic, so you're

1 enjoying both benefits.

2 Perhaps I'll spend my \$99 million on handling
3 that traffic. But I've got both benefits. I've got
4 better locomotive use and I've got added traffic. That
5 sounds very much like I'm enjoying both benefits.

6 Q Isn't it true that if you enjoy the traffic
7 diversions that come to the merged system over time,
8 you're going to have to replace the 123 plus 5
9 additional locomotives in order to continue to enjoy
10 that diverted traffic.

11 Is that right?

12 A I'll have to replace all my locomotives over
13 time, much more than 123. Of course.

14 Q You're not enjoying a savings of the luxury of
15 not having to replace those 123 locomotives; is that
16 right?

17 A I don't think I understand. I pointed out
18 that I think that you enjoy both benefits. If I don't
19 have the merger, I don't get improved equipment
20 utilization.

21 Now, if I do have it, I get this improved
22 equipment utilization and I measure that, and it turns
23 out it measures to be 123 locomotives. Now, it turns
24 out that in addition to that improved equipment
25 utilization, I get additional traffic, and that measures

1 to require 128 locomotives.

2 I have the benefit of the added traffic which
3 has been costed with 128 locomotives and I have also
4 gained the improved equipment utilization. I mean my
5 equipment utilization is better. I express it here in
6 terms of number of units.

7 If I did it in terms of horsepower, hours per
8 hour, or -- I get better equipment utilization.

9 Q Your equipment utilization is better and you
10 can realize benefits of that increased equipment
11 utilization as long as you don't acquire the diverted
12 traffic.

13 Isn't that correct?

14 A Of course not.

15 Q It's only if you don't acquire the diverted
16 traffic that you don't have to replace the \$99 million
17 in locomotives. Isn't that right?

18 A Of course not. The diverted traffic gives me
19 something very interesting to spend my \$99 million on
20 that I have realized.

21 Q But you're having to spend the \$99 million.

22 A But I've realized it. If I didn't realize it,
23 I couldn't spend it.

24 Q I'm sure you don't have this in front of you.
25 I have a couple of extra copies. If you'll look at

1 Volume 1-A which appears in SFSP-4A, it's the summary
2 volume of the merger application, I just want to tie
3 down a couple of figures here.

4 This is uncorrected, except for the last page
5 where I have attached the corrected version.

6 Q Okay.

7 MR. COWELL: I'm sorry, counsel. What page
8 are you on?

9 MR. MAYO: I'm looking at the summary of
10 benefits which is on page 27.

11 THE WITNESS: Page 27?

12 BY MR. MAYO: (Resuming)

13 Q Right.

14 A Okay.

15 Q Now, I am correct, am I not, that the total
16 capital avoided figure of 66.8 -- I'm sorry, \$668.7
17 million, appearing roughly two-thirds of the way down
18 that page --

19 A I see 667.8.

20 Q Look at the last page. That's the corrected
21 page. Do you see the figure?

22 A Yes.

23 Q I take it that that figure includes the \$360.2
24 million figure that you calculate as capital cost
25 savings for equipment, both rail cars and locomotives.

1 Is that right?

2 A I don't know. Is it spelled out in the list
3 there?

4 Q I think if you look in the text of the
5 summary --

6 A It may be included in the longer term avoided
7 capital expenditures of \$395 million. I don't know
8 where it is on this.

9 Q Look on page 13 of the text, top of the page.

10 A Okay.

11 Q That suggests to me that your \$360 million
12 figure is included in the \$668 million. I take it you
13 don't have any reason to think that that's incorrect, do
14 you?

15 MR. COWEIL: Your Honor, the witness stated he
16 didn't prepare this. He doesn't know how the numbers
17 got into the summary table. That would be just pure
18 speculation on his part.

19 MR. MAYO: I just wanted to know if he has any
20 belief.

21 JUDGE HOPKINS: The indication here is that
22 Mr. Winner's testimony reflects, et cetera, et cetera.

23 MR. COWEIL: I think he's already testified to
24 that.

25 JUDGE HOPKINS: He hasn't clearly indicated.

1 Mr. Mayo is just trying to get it clear.

2 THE WITNESS: The \$360 million is in my
3 testimony, and where it is in the chart I don't know.

4 BY MR. MAYO: (Resuming)

5 Q Have you ever seen this summary of benefits,
6 page 27, before?

7 A Yes, I have.

8 Q And this page reflects as a benefit of the
9 merger, an annual benefit of the merger, net gains from
10 diverted rail traffic and net gains from diverted truck
11 traffic. Is that correct? Do you see that at the top
12 part of the page?

13 A Uh-huh. That's net of cost, I would guess.
14 Right?

15 Q Say again?

16 A That's net of cost.

17 Q That's correct.

18 A It must include equipment costs, too. I mean
19 I don't know what's in here.

20 Q It's net of cost, but it doesn't include the
21 capital costs associated with the equipment. Is that
22 right?

23 A I don't know. I mean I really don't know.

24 Q Let's go back to page 8 of your testimony.

25 A Page 8?

1 Q Yes.

2 You are there talking about your use of the
3 replacement cost approach to calculate the value of
4 surplus equipment.

5 A Are you in my testimony?

6 Q In your testimony now. And you are saying
7 that the cost savings of replacement costs won't be
8 realized in one year because railroads don't replace
9 their equipment fleet in that short a time span.

10 And you go on to say that the savings would be
11 realized over time. Do you see that?

12 A Yes.

13 Q Over what period of time would you expect the
14 savings to be realized? What kind of turnover would you
15 expect to see in the equipment?

16 A Well, I don't know. I didn't study the age of
17 their fleet to the extent to see what the timing of
18 these things would be. So I don't have a calculated
19 answer.

20 Q What's the life -- assuming that you had a
21 reasonably new fleet, what would you expect the life of
22 that fleet to be?

23 A Well, the life of rail equipment varies a
24 lot. I mean there is a lot of equipment that is 30
25 years old, and there is some equipment that's six or

1 seven years old and is already life-expired or is
2 economically useless just because it's not -- you know,
3 there is no market for it anymore.

4 Q But you would expect some of the equipment not
5 to have to be replaced for as long as 20 or 30 years,
6 and other equipment would have to be replaced next
7 year. Is that right?

8 A Yes. Uh-huh.

9 Q Now, in order to get an assessment of the
10 actual cost savings associated with not having to
11 replace that equipment, shouldn't you be present valuing
12 your replacement cost figures, bringing them back to
13 present value?

14 A Well, there's a lot of ways. I mean what this
15 is is a measure of efficiency. I measured it in two
16 ways. One way is count of cars. The other way is the
17 value of those cars.

18 I guess there are a lot of other ways you
19 could also measure it. You could measure it by --

20 Q Let's stick to replacement costs. You're not
21 going to be replacing this equipment all next year.
22 You're going to be replacing it over time, and isn't the
23 appropriate way of assessing the present value of that
24 need to replace the equipment over time the application
25 of a discount rate to the cost as of the date that it

1 has to be replaced?

2 You bring it back and you arrive at a figure,
3 and that figure would be lower than the \$360 million
4 figure because of the effects of the discounting. Isn't
5 that right?

6 A It depends on what kind of study you are
7 doing. If you are looking at an investment, making an
8 investment and getting a return, then yes, you are
9 trying to calculate a return on investment there.

10 I'm not. I'm trying to see what kind of
11 benefits are generated by an event, by an act, by the
12 combination of these two carriers. I'm not trying to
13 compute an investment study. I want to know what kind
14 of benefits they are, and they are \$360 million.

15 Now, when I get those, whether it's this year
16 or next year or over three or four years, I don't know.

17 Q Well, if you want to compute it as of a date
18 certain, for example, the date that the merger is
19 consummated, you would have to present value the \$360
20 million figure. Right?

21 A If I'm going to buy that company, then I
22 probably would, but I'm not going to buy the company. I
23 am just looking at what kind of savings are produced by
24 the merger.

25 If I was looking at it as an investment, I

1 would look at it that way, probably. But I'm not
2 looking at it as an investment. I'm looking at it as an
3 event. Here are two carriers who are going to merge.
4 What's the value of the equipment fleet?

5 How do you value equipment utilization
6 improvement? Well, you value that a lot of ways. One
7 way is how much is the equipment worth that it obviates
8 the need for.

9 Q And if you are valuing it as an investment, if
10 you are valuing it as of a date certain, that is, the
11 date of the merger, what would be an appropriate
12 discount rate? Would it be the debt rate associated
13 with the equipment?

14 A I have no idea. If I evaluate it as an
15 investment? I don't know. I mean I would have to talk
16 to my stockbroker, I guess, and see what I'm getting on
17 other investments. And then I would want to get at
18 least that much, so it would have to be somewhere around
19 what I'm getting in the rest of the market.

20 MR. COWELL: Your Honor, I think the cost
21 witnesses this morning testified how they annualized the
22 equipment savings that Mr. Winner projected. He didn't
23 study that.

24 JUDGE HOPKINS: I agree.

25 MR. MAYO: I have no further questions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE HOPKINS: Anything further?

MR. MAYO: No, sir; I'm through.

JUDGE HOPKINS: Ms. Kooperstein.

CROSS EXAMINATION

BY MS. KOOPERSTEIN:

Q My name is Donna Kooperstein, and I represent the Department of Justice.

Would you please turn to page 11 of your testimony?

A Yes.

Q On that page you discuss "The peak demand determines the maximum fleet size." Is that correct?

A In the way that I computed it here, yes.

Q Can't carriers lease cars to carry them over in their peak periods?

A Yes, they can. This was a one-month peak that I was looking at, and I was looking at only the carrier's equipment, its own equipment, not its leased equipment. Just its own equipment.

Q But the carriers can lease equipment to carry them through their peak periods; is that correct?

A Yes. Sometimes. Not always correct. It's hard to lease grain hoppers when everybody wants grain hoppers. You pretty much have to buy the number of grain hoppers that you need because you can't get them.

0023 0332

1 But at other times, yeah, you can lease
2 equipment, and carriers do.

3 Q If they have different peak periods, they can
4 lease from each other, couldn't they?

5 A They could.

6 Q And if SF and SF had different peak periods,
7 couldn't they lease from each other?

8 A Yeah, and they do I am sure.

9 Q Could you please turn to page 13?

10 A Yes.

11 Q In the third paragraph, you talk about using
12 the best average monthly utilization rate. Do you see
13 that?

14 A Yes.

15 Q What do you mean by that?

16 A I wanted to compute a reasonably high
17 standard, but not an unusually high standard. And the
18 standard that I chose was a month average equipment
19 utilization rate which is measured by days per load or
20 number of loads per month is the inverse of that, I
21 guess.

22 And I picked the highest that occurred in the
23 year, the highest monthly average that occurred in the
24 year.

25 Now, I might point out in here in regard to

1 both that calculation and the way the study was done,
2 while it is true that carriers can lease equipment
3 between each other and do so, and they have car hire
4 rules for that, you can't -- it isn't common to do it on
5 a detail -- on a managed, detailed, day-to-day basis.

6 You can do it, and it is done sometimes for a
7 month or six months or that kind of period, but it's not
8 done for -- you know, I need them Friday, or I need them
9 Wednesday, or I need these cars by next Tuesday. You
10 just don't make lease agreements that fast

11 This kind of peak use covers that momentary
12 gain.

13 Q Is that all it involves -- the momentary
14 gain?

15 A Of course. It's the ability to make that gain
16 all the time that makes it a benefit.

17 Q Do you know that all of the gains that you
18 talk about here -- that none of the gains you discuss
19 here could be obtained by leasing?

20 A Here in which piece?

21 Q In your section on peak use balancing.

22 A I don't think they could.

23 Q You don't think any of them could?

24 A I don't think they're likely. I don't think
25 any of them are likely to take place.

1 Q Did you study that?

2 A I looked at the condition, I guess. I didn't
3 study it in detail.

4 Q Could you please turn to page 15?

5 A Yes.

6 Q There, you continue your discussion of network
7 improvements. Do you see that?

8 A Yes.

9 Q Did you make any studies of ways the railroads
10 could achieve network improvements short of merger?

11 A No.

12 Q Could you please turn to your discussion of
13 car distribution improvements that begins on page 18?

14 A Yes.

15 Q In doing your linear program, did you
16 determine whether either of the railroads could improve
17 its car distribution at present?

18 A No. I assumed that the carriers were doing an
19 efficient job at present, as best they could do. And
20 that was the standard to which DLP was adjusted.

21 Q So did you then assume that they are operating
22 at optimal now?

23 A No. I assumed that they were operating as
24 well as they could operate now. I assumed that they
25 were reasonably efficient, and that if they could be

1 more efficient, they would be.

2 Q Could you look at page 18, the bottom of the
3 page? You talk about empty car miles in the merged
4 system were determined from the model and compared to
5 the level of empty car miles in the two separate
6 carriers.

7 Is that exactly what you did in this study?

8 A Is that exactly what I did? That is generally
9 what I did in the study. I didn't say exactly what I
10 did in the study.

11 Q Did you modify all the level of empty car
12 miles that the railroads have at present?

13 A No.

14 Q You just used the figure of empty car miles
15 that you computed that each of them have right now? Is
16 that correct?

17 A Yeah. As it applied to the study that I did.
18 Yes. That is to say, there were a lot of car miles that
19 they have that I didn't analyze, and I didn't use
20 those.

21 Q Would you look at the top of page 22?

22 A 22? Yes.

23 Q You talk about certain adjustments that you
24 made. Do you see that?

25 A Yeah.

1 Q Could you explain those?

2 A Yeah. In order to compute the actual benefits
3 that would be achieved from the linear programming model
4 or from the merger allowing you to do a better job of
5 car distribution, I wanted to eliminate from my
6 calculation any benefit that came from network
7 improvements, like shorter routes.

8 And that calculation was done to eliminate
9 network improvements from shorter routes from the
10 benefits computed for the LP car distribution. That was
11 to be sure that I didn't have a double count.

12 Q Did you run the linear program for the
13 railroads individually?

14 A Yes.

15 Q What were the results of that?

16 A The results of that were the basis for the
17 calibration phase for the linear programming model.

18 Q When you ran the linear program model for the
19 railroads individually, did that show how far away they
20 were from optimal under the program?

21 A No. It showed some differences between what
22 the linear programming -- what my model was doing and
23 what they were actually doing. And where those
24 differences were great, I investigated what those
25 differences were and whether or not that had any effect

1 or should be adjusted for or accounted for.

2 Q Were there any great differences when you did
3 that that you had to make adjustments for?

4 A Some, yes.

5 Q How did you make the adjustments?

6 A Well, quite a few different ways. In some car
7 types, I started out doing -- including them in the
8 linear programming analysis, and finally in the end, I
9 excluded them because of the nature of the equipment.

10 Others, I adjusted the LP to fix an error that
11 had occurred in the model as to say a lack of definition
12 that caused the model to behave in a manner that's not
13 like the real world. I fixed the model so that it
14 behaved more like the real world.

15 And then in other cases, I identified
16 movements that would be outside the scope of the model
17 so that I could add those back to the model once the
18 calculation was done.

19 Q Did you determine the likelihood of both
20 parties achieving these car distribution improvements?

21 A Did I determine the likelihood of them
22 achieving the movements?

23 Q Yes.

24 A No. I think because of the type of study that
25 I did, it is likely that they will achieve these kinds

1 cf benefits. That is to say, the study that I did was
2 realistic and represents the kind of performance that
3 the carriers are currently getting on their own fleets,
4 and there is no reason to expect that once merged, and
5 once the fleet is managed by one car distribution group,
6 that they won't get the same kind of performance from
7 the new merged fleet.

8 Q Could you do a similar type program to
9 determine whether Southern Pacific, for instance, could
10 improve its car distribution now? Could that be done?

11 A Could I do a similar type program to see
12 whether the Southern Pacific could improve its car
13 distribution? I probably could; yeah. I would like to
14 have that assignment.

15 (Laughter.)

16 Q But you didn't do that?

17 A No, I didn't.

18 Q We discussed this a few minutes ago. I just
19 wanted to try one more time.

20 How far did the linear program differ from
21 what the current performance of the railroads is?

22 A In some cases it didn't differ at all; in
23 other cases it was -- there was some difference. I
24 mean, you know, it varied.

25 Q How close was it overall to the actual

1 performance?

2 A Once it was adjusted, it was exactly.

3 Q Could you turn to page 26, please?

4 A 26? Yeah.

5 Q On the bottom of page 26 you talk about a
6 rental payment of about \$56,000 annually. Do you see
7 that?

8 A Yeah.

9 Q Does this represent the amount that Southern
10 Pacific would no longer have to pay out to use foreign
11 cars?

12 A Let's see. I believe it says there that that
13 represents the cost -- the rental payments that the
14 merged carrier could save. In addition, there are some
15 other equipment rentals that it could earn.

16 Q Right. But that is the amount that Southern
17 Pacific is presently paying out in rental payments?

18 A I believe it is. Yes.

19 Q And is the \$125,000 figure the amount that the
20 merged carrier would receive in per diem payments from
21 other railroads?

22 A That's correct. Or from other users. May or
23 may not be railroads.

24 Q Do you know from which railroad Southern
25 Pacific presently rents cars?

1 A No, I don't.

2 Q Do you know what would happen to those after
3 the merger?

4 A Well, no, I don't. They would continue in use
5 on the other carrier.

6 Q Could you look at your discussion of wood chip
7 cars?

8 A Yes

9 Q Did you consider whether Santa Fe could
10 purchase or lease Southern Pacific cars now?

11 A Did I consider whether they could?

12 Q Right.

13 A Yes, I did. And I don't think they would.

14 Q Why wouldn't they purchase the excess now?

15 A Well, it is cheaper for the Santa Fe. My
16 conclusion is it was cheaper for the Santa Fe to
17 maintain its 517 wood chip cars instead of using --
18 instead of paying the SP for its.

19 Q So then the Santa Fe hasn't made a decision to
20 purchase new wood chip cars if it doesn't go through
21 with the merger? Is that correct?

22 A What was the question again?

23 Q From your prior statement, I assume that the
24 Santa Fe hasn't decided that if it doesn't go through
25 with the merger it will purchase new wood chip cars.

1 A I guess that's right. I don't know what
2 they've decided to buy. You'd have to ask one of the
3 railroad witnesses about that.

4 Q Could you look at the section on page 27 on
5 flatcars?

6 A Flatcars for pipe loading?

7 Q Right.

8 Is it correct that in your discussion here you
9 are stating that Santa Fe would no longer lease
10 flatcars?

11 A That's right.

12 Q And does the figure of 259,000 represent the
13 amount Santa Fe currently pays out for leasing those
14 cars?

15 A That's correct.

16 Q Okay. Would you focus now on your discussion
17 of automotive parts boxcars? Is it correct that Santa
18 Fe will use Southern Pacific cars after the merger,
19 according to your discussion?

20 A Well, they won't be. No, that's not correct.
21 The merged carrier will use the merged carrier's cars
22 after the merger.

23 Q Well, the cars that were formerly Southern
24 Pacific, will those be used by the Santa Fe?

25 A There will be one set of cars and they will be

1 used by all -- by the carriers, by the merged carriers.

2 Q And some of those cars were once Southern
3 Pacific's; is that correct?

4 A They might be once the SP's.

5 Q Is that what you are talking about here?

6 A I'm talking -- yeah, um-hum.

7 Q Could Santa Fe buy or lease those cars now?

8 A Could it buy or lease those cars now?

9 Q Right. Buy or lease those cars now from
10 Southern Pacific?

11 A All those cars from the SP?

12 Q Right.

13 A It could buy or lease cars now. Whether it
14 would get the ones from the SP or not, I don't know. It
15 probably wouldn't.

16 Q Why not?

17 A Well, the SP would want to keep them, I think,
18 because auto traffic is increasing.

19 Q Is that just speculation on your part?

20 A Yeah. I don't know what, in fact, they would
21 do.

22 Q Would you please focus on your discussion of
23 chain tie-down equipped flatcars?

24 A Yes.

25 Q Does the figure of 98,000 represents SP's

1 current payout for these type of cars?

2 A I believe that it does; yes.

3 Now, I'd like to point out that in each of
4 these cases, both the chain tie-downs and the
5 flatcars -- and I guess that's the two that have
6 equipment rental costs -- there are other costs
7 associated with that, and that's the cost of
8 repositioning the car, of -- you know -- getting it from
9 Conrail or from whoever own its, empty, over to the
10 carrier, the using carrier, and back again.

11 And, of course, rent is a real cost for a
12 carrier. It has to be paid.

13 Q Could you focus on your paragraph on ballast
14 cars?

15 A Yes.

16 Q You're talking about the fact that 546 general
17 service hopper cars would be released for general use?

18 A Uh-huh.

19 Q Do you see that?

20 A Uh-huh.

21 Q Do you know if there's a need for these cars
22 at present?

23 A Do I know if there's a need for these cars?
24 I'm sure there's a need.

25 Q Did you study whether the merged party would

1 be putting its cars to use?

2 A I didn't study how they would put them into
3 use; no. It would seem to me to be pretty nice that
4 there's 546 extra cars out there for people who load
5 hopper cars.

6 Q Could you focus on your discussion on page 29
7 and 30 on multi-level auto movements?

8 A Uh-huh. Is it correct that you computed that
9 the companies could save about \$8 million by
10 coordinating multi-level auto movements?

11 A Yeah.

12 Q Wouldn't it be in their interest to coordinate
13 and achieve that savings now, even without the merger?

14 A I think because of the type of traffic that
15 independent of the merger there would be no incentive
16 for the ATSF or the SP acting as independent carriers to
17 do this coordination.

18 Q What's your basis for that?

19 A Well, it's traffic that's, in fact, managed by
20 Ford reload pool team and they pretty much determine how
21 the equipment is used. And without merging together and
22 presenting a case to Ford, I don't think the two
23 carriers individually would act to disturb that
24 arrangement.

25 Q Could you focus now on your discussion of TOFC

1 equipment? Did you study whether any of the savings
2 that were discussed here can be achieved by a means
3 other than the merger?

4 A No. I only studied cases that I thought would
5 require the merger to, in fact, produce the benefit.

6 Q Could you look at the bottom of page 31 now?

7 A Yeah.

8 Q You talk about rent coordination. Could you
9 explain that, please?

10 A Yeah. What happens there is the merger of the
11 two carriers will produce quite a few towns where both
12 carriers will have an operating ramp and the operating
13 plan contemplates that in quite a few of these
14 locations, the ramps would be consolidated and operated
15 as one.

16 At these locations, traffic volumes then would
17 go up in the consolidated plan ramp.

18 Q You're talking about your analysis of ramps in
19 that statement. Do you see that?

20 A Uh-huh.

21 Q Where is that analysis? Is that in your work
22 papers?

23 A Yes, it is.

24 Q Could you look at page 33 now? Do you have
25 that?

1 A Yes.

2 Q You talk about \$55,000 annually in drayage
3 charges. Is that the amount the SP pays out presently
4 for drayage?

5 A At that location, yes.

6 Q Did you make any study in regard to
7 locomotives, whether SP or SF would use their
8 locomotives more efficiently now?

9 A More efficiently now? I did not, not as a
10 part of the study.

11 Q Could you turn to page 9, please?

12 A Page 9?

13 Q On page 9 you talk about the flexibility the
14 carriers will have because of boxcar deregulation. Do
15 you see that?

16 A Where is it on the page?

17 Q The second paragraph, about the middle.

18 A Yeah. Uh-huh.

19 Q Did you calculate the effect of that
20 deregulation on Santa Fe's car utilization at present?

21 A Did I calculate the effect of deregulation?

22 No.

23 Q Did you do that for Southern Pacific?

24 A No. If I understand your question, no, I did
25 not.

1 Q Do you understand the question?

2 A I believe I did. Did I make a special
3 calculation of how boxcar deregulation might affect
4 their car utilization? No.

5 I would point out, of course, that the reason
6 for boxcar deregulation is to improve everyone's --

7 JUDGE HOPKINS: We don't need any more answers
8 other than the no.

9 THE WITNESS: All right.

10 BY MS. KOOPERSTEIN: (Resuming)

11 Q You've been over this before, and I think what
12 you said is you don't know the answer, but let me just
13 try it.

14 Would you look at page 39?

15 A Yes.

16 Q Where you talk about the 99.2 million in
17 replacement costs for locomotives?

18 A Yes.

19 Q Do you know whether that amount was accounted
20 for anywhere in the application as a cost of diversion?

21 A I don't know.

22 MS. KOOPERSTEIN: I have no further
23 questions.

24 JUDGE HOPKINS: Thank you.

25 MR. COWELL: Your Honor, one redirect

1 question.

2 REDIRECT EXAMINATION

3 BY MR. COWELL:

4 Q Mr. Winner, in response to a question from Mr.
5 Roper earlier about the study period that you used for
6 your network improvements -- I believe it was the
7 August-October 1983 period -- Mr. Roper asked you why
8 you chose that period. And you said, in part, because
9 it incorporated the impacts of the BN-Frisco merger.

10 Do you recall saying that?

11 A I recall saying that. Yes.

12 Q Is that what you meant to say?

13 A No. I meant to say the UP/McP merger, because
14 the BN-Frisco merger took place earlier.

15 JUDGE HOPKINS: Is that it?

16 MR. COWELL: No further questions.

17 I move the admission of Mr. Winner's verified
18 statement.

19 JUDGE HOPKINS: Any objection?

20 (No response.)

21 JUDGE HOPKINS: It will be received in
22 evidence.

23 Off the record a minute.

24 (Discussion off the record.)

25 JUDGE HOPKINS: We'll be in recess until 9:00

1 o'clock tomorrow morning in Hearing Room B.

2 Thank you.

3 (Whereupon, at 1:24 p.m. o'clock, the hearing
4 in the above-entitled matter was recessed, to reconvene
5 at 9:00 a.m. o'clock the following morning, Thursday,
6 October 25, 1984.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25