



CIVIL AERONAUTICS BOARD—OVERSIGHT

*United States House,
" Committee on Interstate and
Foreign Commerce, Subcommittee
on Transportation
and Aeronautics.*

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HEARING
BEFORE THE
**SUBCOMMITTEE ON
TRANSPORTATION AND AERONAUTICS**
OF THE
**COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE**
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS
SECOND SESSION
ON
LEGISLATIVE OVERSIGHT OF THE CIVIL AERONAUTICS BOARD

FEBRUARY 7, 1974

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CIVIL AERONAUTICS BOARD—OVERSIGHT

THURSDAY, FEBRUARY 7, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2123, Rayburn House Office Building, Hon. John Jarman, chairman, presiding.

Mr. JARMAN. The subcommittee will please be in order.

The Subcommittee on Transportation and Aeronautics and other subcommittees of the Committee on Interstate and Foreign Commerce are conducting oversight hearings concerning the various agencies and departments which are within the committee's legislative jurisdiction.

This morning the Civil Aeronautics Board is with us and we are looking forward to their briefing. Because of the time limitation it will not be possible to explore all of the specific questions which members may have. I might say in some instances we may raise a question and ask for a written statement at a later date from the Board that can be made a part of the record.

We can hold the record open for the transmittal of all pertinent questions and Agency responses thereto, and they will be recorded in the printed hearing.

Let me at this time welcome Chairman Robert D. Timm of the CAB and other members of the Board.

Chairman Timm, I will ask that you introduce your colleagues and proceed with your testimony in your own fashion.

STATEMENT OF HON. ROBERT D. TIMM, CHAIRMAN, CIVIL AERONAUTICS BOARD; ACCOMPANIED BY HON. G. JOSEPH MINETTI, MEMBER; HON. LEE WEST, MEMBER; THOMAS HEYE, ADMINISTRATIVE ASSISTANT TO THE CHAIRMAN; RICHARD LITTELL, GENERAL COUNSEL; ROBERT J. SHERER, DIRECTOR, BUREAU OF ECONOMICS; WILLIAM B. CALDWELL, JR., DIRECTOR, BUREAU OF OPERATING RIGHTS; CHARLES F. BUTLER, DIRECTOR, BUREAU OF INTERNATIONAL AFFAIRS; JAMES KOLSTAD, DIRECTOR, OFFICE OF COMMUNITY AND CONGRESSIONAL RELATIONS; JACK A. YOHE, DIRECTOR, OFFICE OF CONSUMER COMPLAINTS; JIM HUGHES, DIRECTOR, OFFICE OF PUBLIC INFORMATION; HARRY J. ZINK, MANAGING DIRECTOR; WILLIAM GINGERY, DIRECTOR, BUREAU OF ENFORCEMENT; AND W. FLETCHER LUTZ, DIRECTOR, BUREAU OF ACCOUNTS AND STATISTICS

Mr. TIMM. Thank you, Congressman.

Thank you very much, Mr. Chairman, and members of the subcommittee.

I appear together with my colleagues from the Civil Aeronautics Board and I would like to take this opportunity to introduce them today. The senior member of the Civil Aeronautics Board, who has served longer than anyone in history, and recently reappointed, the Honorable G. Joseph Minetti. On his left is the Honorable Lee West, of Oklahoma, recently reappointed to the Board.

I am delighted, and I know they are too, to accept your invitation to meet with you today. It gives us the opportunity to talk about the problems of regulating civil aviation with people who have an understanding of those problems and their root causes. We have been looking forward to this discussion so that we at the Board can learn the feelings of not only this subcommittee but of the public that you represent, concerning the Board's performance during these challenging times. And I can assure you that the Board will draw upon your knowledge and experience for advice and counsel.

Of paramount interest to you all, I am sure, is the outlook for the airline industry and the consumer in this year of the fuel shortage, 1974, and in particular what steps the CAB and the industry it regulates are taking to lessen the adverse effect of that shortage.

I will make no bones about it. The national energy shortage confronts air transportation with very grave problems. Air service which we have become accustomed to is being reduced. At the same time that service is being reduced, the costs relating to that service are increasing. In 1972, air carriers paid an average of 11.5 cents a gallon for aviation fuel. As of December 1973, the average cost per gallon for aviation fuel used in domestic operations by the U.S. carriers had increased to approximately 14.3 cents per gallon, an increase of 24.6 percent.

By the end of this year we are presently projecting that the cost of aviation fuel will be approximately 100 percent over the 1972 figure annualized. The impact of such a cost increase upon the industry and the traveling public will be substantial. As a rule of thumb, you can

figure that for every 1-penny increase in the price of fuel the cost to the certificated carriers goes up by approximately \$100 million. Historically, fuel costs have accounted for approximately 12 percent of the carriers' operating costs. We estimate that this figure will increase to 20 percent within the next year.

Moreover, reductions in service do not yield proportionate reductions in costs. A recent analysis by our staff indicates that a 10-percent reduction in service will only result in a 3-percent savings in cost in the short term. Airlines may curtail flights but they still must pay for the airplanes, ground facilities, and terminal leases.

And with the ceiling placed on the amount of fuel a carrier can consume, there arises the problem of what the carrier can do with its excess planes, not to mention those new aircraft for which delivery has already been contracted. As of February 1, 1974, the airline industry has had to ground 96 airplanes having a total estimated book value of \$280 million.

To give you some idea of the impact that grounding a piece of equipment has economically, I would like for you to look with me at a DC-10 as though it were a factory. The factory costs approximately \$20 million. Operating 10 hours a day at a 55-percent load factor, it will produce approximately \$15 million a year in revenues. One does not shut down a factory of that size anywhere in this country without having repercussions in service, unemployment and corporate economics. Yet, due to the unavailability of fuel, 96 such factories of varying sizes have had to be shut down. Our latest estimates show that about 16,500 employees out of a total workforce of 300,000 have been furloughed mainly because of service reductions stemming from the fuel situation.

These shutdowns and resulting service reductions have not been brought about by the air carriers. On the contrary, they have been forced upon this industry by the Federal Government and the shortage of fuel. Normal operations for the airline industry in the first quarter of 1974 would have required approximately 622,000 barrels of aviation fuel a day. Under the Federal energy regulations published on December 27, 1973, the airline industry was allocated 522,500 barrels of aviation fuel per day.

Let me quickly point out that this is what the carriers were allocated; it is not a guarantee by the Federal Energy Office that the carriers will actually get that amount of fuel. As a matter of fact, as a result of a meeting held at our offices on February 1, with a representative of the Federal Energy Office, we have learned that unless the Federal Energy Office orders a change in the refinery mix, the carriers will only have available to them approximately 483,000 barrels of aviation fuel a day in the first quarter of 1974. In short, the airline industry has had its daily consumption of fuel cut back by 139,000 barrels a day or 5,838,000 gallons a day. Of this shortage, approximately 20,000 barrels a day or 840,000 gallons a day can be made up through the use of a fully implemented Federal Aviation Administration program of lower cruise speeds, one-engine taxiing, and so forth. The rest of the fuel savings comes out of reductions in service.

From all of this, one thing becomes certain: Insuring adequate service on a market-by-market basis while preserving the viability of

the air transportation system in the face of the substantial fuel deficiency is an extremely complex problem.

I am not going to do anything to understate the threat to air service posed by the fuel crisis. That threat is real and the CAB, Congress and the public will be better able to deal with it if they are fully advised of its true dimensions. I know that if the public understands the dimensions of the problem they will accept in good spirit those sacrifices along with all the others they are being asked to face.

I also believe, however, that before the public accepts such sacrifices of air service they want to be assured that the method by which air services are being reduced is on the whole a fair one. They want to be assured that cuts are made with direct regard to the character of the specific markets or to the overall viability of the national air transportation system. They want to be able to rest confident in the knowledge that the fuel crisis is not being exploited by anyone as a convenient excuse for achieving ends unrelated to that crisis.

If for any reason the American people get the idea that the burdens of this crisis are not being fairly distributed, the unity and national resolve indispensable to meet that crisis will evaporate. Thus, if actions taken by the Board are not to worsen the crisis, they must be demonstrably equitable. We believe that the standards for equitably distributing those burdens as they relate to air service should be the same standards used to distribute equitably the benefits of such service; namely, the standards of public convenience and necessity.

In the context of service reductions, we have taken the view that two principles are essential to the issue of what service reductions are truly in the public interest, neither of which principles can be considered apart from the other. They are: (1) essential services on a market-by-market basis must be preserved; and (2) the national air transportation system as a whole must remain viable. It is these two considerations which must come together and be applied against the standard of public convenience and necessity to determine which cutbacks are necessary and which are intolerable.

At the Board, we are doing everything within our existing power to assure that the American people continue to receive essential air services during this energy emergency. Just as importantly, we are doing all that we can to assure that when the emergency is over the American people will still have a viable, well-balanced air transportation system.

As fuel shortages became acute at the close of calendar 1973, the Board's automated data banks and computer facilities were employed to study the implications and potential effects on air carriers and specific markets. Passenger traffic and capacity data were related with standard aircraft-type fuel consumption formulae to develop estimates of single-plane reductions that could be absorbed, by markets and by carrier, before critical air transportation shortages would begin. The ready availability of detailed, automated information and usable computer resources, in conjunction with the expertise of the Board's staff, were and continue to be a primary tool for this timely Board reaction to an impending crisis.

Plans are being developed for monitoring future fuel conservation programs, as they relate to the certificated air carriers. This includes extensive use of automation to assure prompt and accurate Board evaluation and projection of the impact on air carrier operations.

Flight schedule changes, to be filed in automated form, and carrier requests for increased fuel allocations, will initiate computation of historic traffic data, fuel burn formulas, and future air travel projections. This will allow the Board to evaluate quickly the changes in service and competition, to determine the extent to which those changes are consistent with the public convenience and necessity, and to provide a basis for making recommendations to the Federal Energy Office on carriers' needs and requests for increased fuel allocations.

Gentlemen, the name of the aviation game right now is fuel. My staff and I are in constant contact with the Federal Energy Office, attempting to aid in the solution of the fuel problems as they relate to the air transportation system.

The biggest single problem at the present time is trying to get the carriers the allocation level assigned to them. This problem was recently worsened by the Federal Energy Office's program of reallocating crude among suppliers. This single regulatory action will decrease the daily available supply of aviation fuel by 30,000 barrels.

To give you an idea of the severity of this example, United Airlines instead of getting 95 percent of its 1972 base will only get 83 to 86 percent of its base for February and March. United is not the only carrier affected by this crude reallocation shortfall. It is now February 7 and the Federal Energy Office has not taken any action to restore this shortfall or to assure that the suppliers produce sufficient aviation fuel to meet the carriers' allocated needs.

We will continue to cooperate with the Federal Energy Office in every way we can to solve these problems. However, the ultimate decision is theirs. If they do nothing to assure that the airline industry gets its allocated level of fuel, then we can expect to see further reductions in service. You cannot schedule 100 flights if your fuel supplier tells you he will only give you fuel for 50.

In conclusion, until the Federal Energy Office takes action to require the suppliers to meet the allocation level assigned to the airlines industry, we will continue to be faced with very real uncertainties about the future of service.

Thank you, Mr. Chairman. My staff and I stand ready to answer any questions that you may have.

Mr. JARMAN. Well, thank you, Chairman Timm. I think it is an excellent statement dealing almost entirely with the grave and immediate problem that the airline industry faces, and that is the fuel problem. Frankly, this morning we intended to cover that important subject, but also a broader area of activities of the Board and recommendations of the Board. I know there will be a number of questions on the fuel problem, but I might at this time before we get into the specific questions ask this of you, whether the Board has any recommendations at this time for the Congress not only in the fuel area but also other proposed legislation that you feel this subcommittee and the full committee and the Congress should be considering. The question can touch generally on the problems first and then we will get into the specific questions.

Mr. TIMM. We have a legislative program that has been submitted to the Office of Management and Budget.

Mr. JARMAN. Are you in a position to comment on those and indicate what you feel the priorities are at this time?

Mr. TIMM. We have one that I would consider to be a priority item and that would be in the area of labor legislation affecting transportation. I have a summary of it which I will furnish to you, but it is basically a bill that would offer in our view some hopes for early settlements and settlements that would work in favor of the consumer in that they would tend to ward off airline strikes. It is not a new idea with us but we treat it now through consumer eyes and it is in effect the best final offer theory. Both sides at issue would finally reach a point where they would offer a best final offer. An impartial panel would select one offer or the other and that would be binding. We have thought about this over the last 2 or 3 years and it seems to us to be a reasonable answer, looking at it through consumer eyes.

[The following information was received for the record:]

PROPOSED LABOR LEGISLATION

93-1. TO PROVIDE MORE EFFECTIVE PROTECTION FOR AIR TRANSPORTATION CONSUMERS DURING AIRLINE LABOR-MANAGEMENT DISPUTES

Labor-management disputes involve controversies between those who make up the production side of the production/consumption equation. At times, however, such disputes may become so intense or prolonged that the consumer interests in the production/consumption equation become seriously threatened. At that point, it is essential to have an established procedure whereby the consumer's interests can be recognized and protected without discarding the orderly bargaining processes of labor and management. This proposed legislation establishes such a system. Under this system, whenever a determination is made that the air transportation consumer's interests are threatened, a procedure would be available to safeguard these interests and to bring the disruptive dispute to a fair and reasonable conclusion.

At the present time, labor disputes in the airline industry are handled under the provisions of the Railway Labor Act. Section 10 of the Act requires the National Mediation Board to notify the President when it concludes that a dispute, not settled by the mediation and arbitration procedures of the Act, threatens "to deprive any section of the country of essential transportation service." Upon such notification, the President may create an emergency board to investigate and report respecting the dispute. The Board must submit its report within 30 days from the date of creation, and for that period and 30 days after, no change, except by agreement, may be made by the parties in the conditions out of which the dispute arose. The parties are not required to accept the emergency board's recommendations, and if the sixty-day period ends without settlement, the President has no recourse other than to request special legislation from Congress.

The Board believes that the emergency dispute provisions of the Act are inadequate for dealing with labor disputes in the airline industry. It is the Board's opinion that rather than encouraging serious bargaining, the Act discourages it. Since the parties to a dispute know that an emergency board may be appointed, they tend to demand—and offer—respectively more and less than they are willing to accept. Furthermore, the parties are inclined to look upon the recommendation of an emergency board as a basis for further bargaining on their part since the recommendation is not binding on them.

Labor disputes that bring an airline's operations to a halt often cause real hardship for some members of the public, and seriously inconvenience many. Moreover the need for providing more effective means for the settlement of labor disputes in the airline industry is made even more acute by the fuel crisis, for at least two reasons. First, the shortage of automobile gasoline means that travellers who would otherwise have travelled by car will be increasingly relying on air service. Second, reductions in the availability of aviation fuel will mean that each of the various airlines will be operating at considerably higher load factors. Thus prospective passengers unable to use an airline because of a labor dispute are all too likely to find that alternative air transportation is not available.

Because the emergency strike provisions of the Railway Labor Act are not adequate for settling labor disputes in the airline industry, the draft bill would provide the President with additional authority for dealing with such disputes. The bill would add a new section to title XI of the Federal Aviation Act providing

that if an airline dispute were not settled within thirty days after the submission of a report by an emergency board established by the President under the Railway Labor Act, the President would be empowered to require the parties to submit two final offers to the Secretary of Labor within three days. The parties would be required to continue to bargain over these proposals for a period of five days. If no agreement resulted from the bargaining, a final-offer selector panel of three neutral members would be appointed by the parties or, if the parties were unable to agree on its membership, by the President. The panel, after holding hearings, would have to choose one of the final offers, in the exact form that it was presented, as the final and binding settlement. The panel's selection could be voided by the courts if found to be arbitrary and capricious.

The final offer selection procedure would encourage the parties to draw their respective positions closer together rather than pull further apart. The parties would compete to make the most reasonable and most realistic final offer—one which would have the best chance to win the panel's endorsement. This procedure would have the virtue of providing finality without containing those aspects of compulsory arbitration that are inconsistent with free collective bargaining.

If the President chose not to invoke the "final offer selection" procedure, or if either the House or Congress rejected his selection of the procedure as permitted by the bill, he could submit the dispute to Congress for special legislation as he can do under present law.

Legislation to implement this proposal has been submitted to OMB.

Mr. JARMAN. Has this proposal as yet been introduced in the Congress in the form of a bill by anyone?

Mr. TIMM. No, sir. We have just this week sent the latest legislative package, as we are required, to the Budget Office and we have not heard back on this.

Mr. JARMAN. But on this particular recommendation for strike settlements, is your recommendation an updating of bills that have been introduced in a prior Congress?

Mr. TIMM. Yes, sir. Originally it was introduced to cover a much broader spectrum than airlines, in fact it was an all-encompassing transportation bill submitted by Senator Packwood, and I have been in touch with him over the last year about it. I believe it might have been also submitted in the House, but I am not certain about that.

Mr. JARMAN. Mr. Kuykendall.

Mr. KUYKENDALL. Mr. Timm, it is good to have the members of the Board and staff with us.

Do you remember what this Board used to do before the energy crisis?

Mr. TIMM. Pardon?

Mr. KUYKENDALL. You have a gentleman working for you named Mr. Harry J. Zink, I believe. Now he put out a letter on January 16, 1974, to all your employees. Now you have got economists, they are certainly not policemen, and investigators. You have lawyers that at least part of them are not investigators. I would respectfully suggest that the last burden in the world that you would want placed on your employees is that of being an investigator. That is all I am going to say about that letter.

Mr. TIMM. Do you want me to comment?

Mr. KUYKENDALL. No, sir, I just want you to change it.

Mr. TIMM. I think I could put that in its proper context for you if you—

Mr. KUYKENDALL. If you will yield just a moment.

Mr. TIMM. Yes, sir.

Mr. KUYKENDALL. I would expect every member of your Board, every employee, every Member of this Congress to report an irregularity, certainly, but I don't want them assigned the job of doing

it. That is all I am saying. I would expect it to be done. I do it, and members of my staff do it, members of this committee do it because they feel they owe it to the public.

I am saying that making that an unofficial assignment is a bad precedent.

We have been getting truthful, but because of context, distorted publicity on your allowing discontinuance of service to towns. Here is a copy of one right here from the Associated Press that was in the Washington Post a couple days ago, January 12. It has a list of eight cities in which you cut out service. But do we have any towns where you cut off all the service?

Mr. TIMM. No, sir. I think if you would like a——

Mr. KUYKENDALL. Can we break it down a little bit something like this?

Mr. TIMM. All right.

Mr. KUYKENDALL. At what percentage of the service to a town would you consider cutting it off?

Mr. TIMM. Yes, we would have it, Congressman. Mr. Caldwell of our Bureau of Operating Rights can do that for you.

Mr. KUYKENDALL. Yes.

Mr. CALDWELL. Congressman, we have acted on 19 requests to suspend service in 19 cities and there were 11 foreign points also for a total of 30 points. Of that, we have granted authority to suspend at all 11 foreign points and 10 of the domestic points. In doing this, only four cities lost certificated service. They were Lafayette, Ind.; Watertown, Plattsburg, and Saranac Lake, N. Y.

Mr. KUYKENDALL. This means they lost the certificated service?

Mr. CALDWELL. Certificated service—yes. Three of these cities are being served by air taxi, those being Watertown, Plattsburg and Saranac Lake.

With respect to the cities which lost certificated air services it is important to note that the communities involved either concurred in or did not oppose the suspension of the certificated carrier.

Mr. KUYKENDALL. Do you have the authority to prevent the elimination of a flight?

Mr. CALDWELL. Of a flight?

Mr. KUYKENDALL. Of a flight.

Mr. CALDWELL. No, sir, only if by the elimination of that flight the carrier would be in violation of its certificate, and then we would take action.

Mr. KUYKENDALL. Now the criteria here. You have been interpreted as saying that you consider the elimination of a flight itself as having something to do with scheduling. I know in activities in this subcommittee we certainly do not intend that frequency and scheduling to be one and the same thing. I would feel that in this duty of the certificate, the public service and necessity—that is the part you are speaking of, correct?

Mr. CALDWELL. Yes, sir.

Mr. KUYKENDALL. Do you consider this a very broad authority?

Mr. CALDWELL. We don't consider it to be very broad authority over scheduling, no.

Mr. KUYKENDALL. No, I don't think you have any scheduling authority, but I am talking about discontinuances.

Mr. TIMM. Discontinuances, of course, because the suspension and the deletion process is a standard and official process that we go through, and this is what you are talking about, the termination of service.

Mr. KUYKENDALL. The reduction of service means the discontinuance of a flight. There is no other way to reduce service unless you go from a 707 to a DC-9, or from a 747 to a 707. So generally speaking when we are talking about reduction of service, we are talking about taking a flight off of a total schedule. Is that right?

Mr. TIMM. I understand what you are saying.

Mr. KUYKENDALL. When you speak of reduction of service are you generally speaking of taking off a flight?

Mr. TIMM. Generally, yes.

Mr. KUYKENDALL. Is there another way? I really would like to know.

Mr. CALDWELL. You could decrease the service by going from multiservice to nonstop.

Mr. KUYKENDALL. Thank you for that. I don't think you have any authority over the actual schedule.

Mr. TIMM. I might quote a little bit of law. The Federal Aviation Act specifically uses the term "No type of certificate shall restrict the right of an air carrier to add to or change schedules."

Mr. KUYKENDALL. What factors would you look at in reducing service to a busy point? Now we know what you have to do at a point where you just close down, you either furnish the air taxi service or you have to replace it. I think what you do there is fairly clear to us, but what do you do about reducing service to a busy point?

Mr. TIMM. We don't think that we have any authority over the frequency of service either, and our procedure would be to try as best we could without having any overview of schedules. Only a 10-day filing period is required to make any change in schedule.

Mr. KUYKENDALL. As a matter of clarification, if the XYZ airline had 30 flights a day between here and the metropolitan city of Y, do they have to apply to discontinue 12 of those flights?

Mr. TIMM. Do they have to what?

Mr. KUYKENDALL. Do they have to ask your permission to discontinue 12 flights at all?

Mr. TIMM. No, sir, they just have to notify they are going to do it and then do it.

Mr. KUYKENDALL. If you determined that the public service and convenience was affected by that reduction, what would your action be?

Mr. TIMM. The adequacy provision in the law would come into play in which the community or interested parties would file a petition.

Mr. KUYKENDALL. There has to be a plaintiff?

Mr. TIMM. Pardon?

Mr. KUYKENDALL. There has to be a plaintiff. You cannot initiate action?

Mr. TIMM. We could, although we have never done this, we could perhaps go to the show cause route, but it would have to be based on some pretty dramatic service inadequacies, and we would be propelled immediately then into the adequacy of service investigatory process which by taking the show cause route might save a few days or a few

weeks, but we would have to seek the information, get it from the committees and then we would be back on that track.

Mr. KUYKENDALL. I think we are getting into a fairly basic point here. I know your colleagues over at the ICC sitting at that same table about a year ago we questioned whether or not they had authority to act on a certain thing without a plaintiff and the Board of seven split right down the middle on whether they did or not. I think in regulatory agencies this is probably a fairly sensitive thing as to whether you really do have the authority.

Mr. TIMM. I think we do have that authority.

Mr. KUYKENDALL. But do you feel that you need any more of a legislative mandate to move in these cases, particularly during a crisis like we have now?

Mr. TIMM. Yes, sir. We have testified not only before the Senate committee but the committee of the House on our belief that we need an overview authority on the whole scheduling process, which includes frequencies and adequacies.

Mr. KUYKENDALL. May I suggest in this field that you put some study to the fact and get together with this subcommittee. I don't believe we used the term "scheduling" in this subcommittee in the same context that you use it in your Board.

Mr. TIMM. I hope not.

Mr. KUYKENDALL. I think we better clear our semantics because if you start talking about putting the CAB saying whether the flight lands at 7:59 instead of 9:57, I don't agree with that but there are a lot of things I do agree to.

Mr. TIMM. In our testimony every time we met with your staff we stated as clearly as we could how we would use this authority and it was always on an overview basis. I guess one of the things that we do know is what we cannot do. We know that we cannot schedule equipment and crews, but we do know that if we have an opportunity to judge the impact on a market and a chance to say to the carriers, "Now unilaterally you have done this terrible damage to this market and this community, now we are directing you to go back unilaterally and knowing what you have done, correct it and solve this problem"—this is what we have said all the time consistently. We even offered to your staff to spell it out procedurally exactly how we at the staff would handle this and had hoped that you would write the procedure into law.

Mr. JARMAN. The Chair would be remiss this morning if he did not compliment and pay tribute to Mr. Minetti on reappointment and the period of longevity and seniority that he has on the Board and to welcome a fellow Oklahoman, Judge West, to the Board.

Mr. KUYKENDALL. Is that four terms, Mr. Minetti?

Mr. MINETTI. Four terms.

Mr. JARMAN. We look forward to working with you gentlemen.

Mr. Metcalfe.

Mr. METCALFE. Thank you very much, Mr. Chairman, for recognizing me.

I would like to compliment Chairman Timm on his very fine statement. Following your text I notice that you adequately and properly address yourself to the question of the conservation of fuel and the threat of a reduction of fuel. However, I raise the question about the

authority that my distinguished colleague, Mr. Kuykendall, had previously addressed himself to, and that is to your authority to function as the Civil Aeronautics Board.

Do you concede that you do now have the authority to provide transportation in the "public need and convenience area"?

Mr. TIMM. Do we consider that we have that authority?

Mr. METCALFE. Yes.

Mr. TIMM. We consider that the full foundation of the authority that we do have is based on convenience and necessity in a market.

Mr. METCALFE. Tying in the two, the need to conserve fuel with the public need and convenience, I once again address myself to the question of the elimination of the flights from Midway to O'Hare. You will recall that Mayor Daily and Commissioner Downs of Illinois met with you on September 25 at which time I had the opportunity and the privilege of making a statement to you. It seems to me that when we analyze the figures—and I am sure you have these figures, too—that the distribution of Chicago's resident air passenger market indicated that 1,761,560 people had access to O'Hare. If you compare the area of Midway; the numbers increase to 1,986,440. Now this is a difference of 224,880 persons, 224,880 are more accessible to Midway. Further, 80 percent of those persons who used Midway indicate that they would prefer Midway because of this accommodability. These figures are based on a survey conducted for the city of Chicago and submitted to the CAB by the city on September 25, 1973.

There is presently going on in this building a hearing in which there are six Governors present. My Governor, because of the energy crisis and because of the threat to the truckers, was unable to get here because he has called out the National Guard in order to protect them. Had Midway facilities been available to him, he could have been present at this particular important meeting that they have.

Now this study also reveals that 12,000 hours of delay time was involved in flights going in and out of Midway as I had testified before you and your Commission earlier.

I would ask this question. With these figures in mind, do you really believe that the public need and convenience is being met by continuing to shift from Midway to O'Hare, especially now that we have the threat of an energy cutback? As I recall your figures you said that United is subject to a reduction to 86 percent of its present allocation of fuel, and yet we are consuming more fuel by eliminating those flights going into Midway, depriving the people of that particular community of services.

May I have a reaction from you, Mr. Chairman.

Mr. TIMM. Congressman, I know how concerned you and the Illinois delegation and the Chicago community are about the cutbacks at Midway. I guess it was early last year when we began to meet with the carriers in using, I guess, the State Department's good offices to try to convince the carriers to try to stimulate more traffic there. I think we had perhaps three or four formal meetings on what I will call the Midway situation because a number of carriers, one in particular, had asked to be relieved of the responsibility of flying there, and it terminated flying there.

All I can say is that except for two carriers—and I stand to be corrected if I am wrong on that one—only two carriers are actually

certificated specifically at Midway. The other carriers were certificated many, many years ago by the Board—I suspect it would be at least 10 or more years ago by the Board to readjust Chicago. So we don't believe that we have authority.

In meeting with your delegation in my office I was quite firm in my belief that we do not have that authority within the Board because you are at the heart of scheduling in this instance.

I might say just because it might be of some interest—and these are figures that we put together over the last couple of days on Illinois—over 100 departures have been eliminated at the Chicago airports at Midway and O'Hare, and departures downstate or other cities in the State have been reduced by only seven. So the major reduction has been at O'Hare, and then percentagewise the major reduction by far is at Midway.

Mr. METCALFE. As a regulatory agency—and I hope you won't take offense at this statement—it seems to me that the tail is wagging the dog, because here the carrier is coming in and telling our august body, the CAB, what they can and what they cannot do, and that we are not living up to our charge of meeting the public convenience and necessity when we agree to eliminate those flights.

You made a statement which I would like to quote from on page 5 in which you say, "We are doing all that we can to assure that when the emergency is over the American people will still have a viable, well-balanced air transportation system."

If the crisis continues and we don't make Midway a viable community service for the large number of people that it serves, then it certainly won't be a viable transportation system. So I am suggesting to you that I think in the interests of what you came here for of fuel conservation when you look at the figure of the amount of gasoline that is spent in stackup time in Chicago we could save a lot of fuel by rerouting those flights into Midway. We would save 12,000 gallons of fuel lost in hours of delay time over a short period of time, that we would help in this energy problem that we presently have today. I think we need to be consistent. I know the rationale of the Board is that Chicago has O'Hare Field and therefore, we can eliminate these flights and service to the people in the general Chicago area.

I raise a question with you, Mr. Chairman. Following that line of thinking, then it is conceivable that any day we may decide that you have said it is OK to close National Airport and let the people of Washington go to Dulles because that is serving the general area, then how far do we go after that until we no longer are a viable agency serving the public?

Mr. TIMM. I think I understand your question, and I know your concern. Specifically except for those two carriers certificated at Midway we do not feel that we, as a regulatory agency specifically prohibited by our congressional mandate, have authority to deal with the specific problem you describe about Midway, and we know we don't have any authority over the National Airport situation which you use as an illustration because it is owned by the Federal Government, and all of the carriers that are in there are specifically certificated.

Mr. METCALFE. Let's go to the city of New York, and then let's take La Guardia Field, and then use the international field there,

Kennedy Airport. Would it not follow logically that you could do the same thing there along the same lines? In other words, I am still questioning—and I am happy that the members of the Board are here because the Illinois delegation feels very strongly about it, as does the mayor of the city of Chicago, as does our commissioner of aviation—that this was an unjust decision and an acquiescence to the wish of a carrier to deny services to the people. You know that I use Midway frequently. I used to use it, and I point it out to you in your testimony the inconvenience of it and how it has completely altered my particular schedule. I leave you with that thought because I still think that you are not fulfilling your charge as a public trust when we permit a carrier to dictate to our Civil Aeronautics Board.

Mr. Chairman, my distinguished colleague, Morgan Murphy, has introduced a bill, H.R. 12413. This bill states that no air carrier shall discontinue services in whole or in part unless such action is found to be in the public interest and after we have had public hearings. So I hope that this subcommittee will be able to address itself shortly to this legislation.

I have no further questions. Thank you very kindly.

Thank you, Chairman Timm.

Mr. JARMAN. At this point, Mr. Chairman, let me raise one question for comments from the Board before I recognize other members of the subcommittee.

When we get your comments on the General Services Administration proposal for a worldwide air shuttle system, and my understanding is this is about to be implemented by the Defense Department, in correspondence with the Administrator of GSA, a letter from him to me in December referred to the survey of civilian agency travel requirements that develop traffic forecasts indicating an average of 900 passengers a month who would utilize a charter system from Washington to major points in Europe. This forecast economically justified the establishment of initial flights to Europe. Therefore, on November 7, 1973, we requested that the Secretary of Defense assume the responsibility for initiating and operating a charter system that would combine civil air international traffic with defense traffic for the Department of Defense. Defense has taken steps to initiate the first charter flights to major European cities, and we will continue to work closely with them in developing civil agency international air travel requirements to expand the European charter flights to encompass other overseas areas whenever justified by traffic volume and potential savings to Government.

A concern that some of us have on this is the tremendous impact that it could have upon the scheduled carriers of the country, particularly as you emphasized earlier in your statement at a time when air carriers are suffering fuel shortages and an economic recession, or some aspects of an economic recession. We question the justification at this time particularly for forcing the certificated airlines to operate a special contract shuttle operation in view of the critical fuel shortage throughout the world and the cutback of scheduled and contract operation by scheduled airlines.

As I say, I have raised this issue with GSA. Some of us in this committee are giving consideration to the need for the justification for and the possibility of holding hearings on this subject, and we would like to have the Board's reaction to this proposed plan.

Mr. TIMM. We have been asked only at this point by GSA at least to give them the use that we as an agency would make of such a service. We have not been asked as the Civil Aeronautics Board to give our "professional" opinion on it. It may well be—

Mr. JARMAN. May I interpose there that this committee looks to you gentlemen on the CAB for analysis of any proposals that affect the airline services of the carriers of our Nation, and so we are asking you.

Mr. TIMM. We probably ought to furnish you with this in a more thoughtful way than I can attempting to speak for the Board.

I am advised by counsel we have to rule on a facet of it later. So if you like us to furnish you in the next week or so with our views on it, I would be glad to start that process. We do have I know some early thoughts on it. We just had never been taken to the next step and now we have been.

Mr. JARMAN. I think it would be helpful to the committee in our own analysis of this proposal.

Mr. TIMM. Thank you. We will do that.

[The following information was received for the record:]

POSITION OF CAB ON A GSA PROPOSAL TO EXPAND MILITARY CHARTER OPERATIONS TO INCLUDE EMPLOYEES OF THE CIVIL AGENCIES

The Board has recently become aware of a plan to establish so-called government "air shuttle" services on certain overseas air routes. As we understand it, the plan contemplates that the Department of Defense will charter aircraft from civil air carriers on behalf of the Federal Government in general.

From a short term, economic standpoint, the Board is quite concerned about various aspects of the proposal. The international scheduled services of the U.S. flag carriers, on which substantial volumes of official military and civilian travel are carried, are under heavy economic pressure today. This is particularly true on the principal transatlantic and transpacific routes. In the Atlantic area, jet fuel costs in the current calendar quarter are 270 percent of the price paid per gallon as recently as the second quarter of 1973. (36 cents vs. 13 cents.) In the Pacific, the situation is nearly as bad, fuel costs being 215 percent of the level in the second quarter last year. (28 cents vs. 13 cents.) It is estimated that the carriers' transatlantic revenues must *increase by 21 percent overall* just to keep even with the fuel cost increases sustained so far. In the Pacific, the needed overall revenue increase is 13 percent. Moreover, there is absolutely no basis to assume that fuel prices have hit their peak and that there will be no further rises.

The carriers are, of course, attempting to increase their fares and rates to recover as much as they can of the higher costs of jet fuel. Their ability to do so is not unlimited, since large price increases will discourage air travel to the point of being self-defeating. Neither are unlimited service reductions the easy answer. Quite apart from the detriment to the public from sweeping schedule reductions, carriers cannot reduce expenses proportionately, at least in the short term. The loss of additional revenues from scheduled services inherent in the charter plan will compound the difficulties of maintaining a viable scheduled service in this difficult period. We would add that both Pan American and TWA have stated publicly that some form of Federal subsidy may be necessary to sustain international scheduled services deemed to be in the public interest.

We would expect that under the charter arrangement fairly significant volumes of official government traffic would be diverted to foreign airlines for transportation from the foreign "charter terminal" to the ultimate destination. This will stem from the much greater level of foreign carrier service in those markets as compared with U.S. flag carrier services and, in some situations, from local governmental requirements. Such diversion would adversely affect the U.S. balance of payments.

Finally, we would question that the cost implications have been fully explored. In the first place, reduced revenues earned by the U.S. carriers mean lower Federal income taxes will be paid by them. Secondly, the scheduled carriers may not main-

tain the present "category Z" fares for such military traffic as may need to continue to use the scheduled services. Such traffic would then have to move at higher fares. Thirdly, the fares for intra-European or intra-Asian travel are usually quite high, whether the service is performed by U.S. or foreign carriers. These relatively high costs will tend to offset the savings otherwise realized in the charter service.

The Board, of course, understands and fully supports all reasonable measures to economize on governmental expenditures. Our concern is that implementation at this point in time may prove very costly to a valuable national asset, our scheduled air transportation system. We would urge that all the ramifications of this proposed plan be carefully considered.

In this regard, the Board is studying the charter proposal for the purpose of presenting testimony before the Subcommittee on Treasury; U.S. Postal Service; General Government of the Senate Committee on Appropriations. This testimony, which is scheduled for March 20, will elaborate the Board's views on the charter proposal. I will be pleased to supply you with copies of the Board's testimony soon.

Mr. JARMAN. We have with us this morning our colleague from the full committee, Mr. Murphy of New York. Mr. Murphy, while not a member of this subcommittee, is interested in the matters before us today.

Mr. MURPHY. Thank you, Mr. Chairman.

I certainly appreciate the opportunity to participate in this hearing, and I would like to ask the Chair if he is going to have the FAA in as an adjunct to this particular hearing?

Mr. JARMAN. I respond to the gentleman that we had the FAA scheduled for yesterday morning and because of the full committee program we had to change that, but we will be hearing from the FAA as soon as possible.

Mr. MURPHY. I would also suggest that the Chair entertain having both the FAA and CAB appear together, because so many times these two agencies and this industry don't know where to go and at whose doorstep to lay the particular problem. It seems that when bureaucratic agencies are involved many of these problems fall between the agencies, and we cannot get a resolution of the problem. If that is possible, I would certainly recommend it.

I would like to welcome members of the CAB here.

Chairman Timm, we have met before, and not too many months ago.

My colleague from New York, Mr. Minetti. Four good terms deserves another, Joe, as you have heard so many times in the past.

I read with interest your statement, Chairman Timm, with which I could not disagree with more in light of your testimony here only a few short months ago. We find the energy crisis being blamed and solely blamed for every ill that belongs to every industry and it is, I must say, a convenient cloak to pull over problems that if they surface do have a vexatious type of solution that is necessary for them.

Now I would like to quote from Chairman Timm's testimony here on May 16, 1973, when we were analyzing the problems of this industry, and it was in response to a question from Congressman Roy. He said:

It generally has to be assumed that if airline managements are interested in what they should be interested in as investor-owned companies making a profit, that they would provide as much frequency as they could possibly sustain profitably. I think this has been pretty well demonstrated. I know you are not satisfied with this demonstration in your mind perhaps today but normally the problem that is presented to me as often as the one you have presented is one of gross overscheduling. I in fact take the position that in a number of markets they are destroying themselves by overcompetition and by overscheduling.

Now would you say that these 96 planes that were grounded were grounded because of an energy crisis or because of overscheduling and the ability of the industry at this time to pull off these noncompetitive flights?

Mr. TIMM. That is a good question, and I think I have a good answer. I can categorically say that all 96 of them were pulled off of the markets because of fuel.

Mr. MURPHY. The Oil and Gas Journal reports that: "Over the last 4-week period jet fuel availability is up 6.15 percent. Over-availability is up over last year, and production is up 6.56 percent over last year."

Now where is the jet fuel?

Mr. TIMM. It is someplace in storage, unavailable for the airlines or they would be getting their 95-percent allocation, and the local carriers would be getting 100-percent allocation.

Mr. Murphy. Would you say that the cancellation of the shuttle from Newark, N.J., to Washington, D.C., was as a result of the energy crisis?

Mr. TIMM. Yes, sir.

Mr. MURPHY. Then why did we have this hearing in May when the curtailment of that shuttle was one of the basic problems and 3 years ago we had the same type hearing? Was it the energy crisis in May when we were still limiting importations on crude oil and other products, and 3 years ago when supposedly there was enough fuel to go for virtually any flight that was necessary in this country?

Mr. TIMM. In May, Congressman, although we seem to sort of rise on the energy crisis tide every morning, there was an energy shortage in its development stage. It began as a matter of fact well over a year ago with some cancellation of flights during the holiday season.

In the Newark market, without being privy to the thought processes of management, I can try to guess that they were trying to eliminate very high fuel absorbing aircraft, notably the Electra, which was used in that market. I think the question gets back to fuel at that stage.

Mr. MURPHY. I could not disagree with you more there.

Why was the 10 o'clock shuttle cut off from La Guardia to Washington?

Mr. TIMM. Why was it?

Mr. MURPHY. Why was it cut off or eliminated last month, this month?

Mr. TIMM. Well, you know you are probably asking me questions that management should answer because we have no scheduling authority as I have almost superrepetively told the Congress, so we are only informed through a reporting requirement. There is no requirement to explain in the scheduling field.

Mr. MURPHY. The reason for it was not to provide an adequate service, it was to consolidate shifts in that particular operation which was an economy move which goes right back to your May statement that it was overscheduling, not in this particular market to my mind but in too many markets, and not an energy problem.

Now there are 12 airlines that have been certificated to fly the Northeast corridor, but only Eastern and American provide any substantial service in this market. Is it true that CAB imposed no obligation on the airline to comply with the implied intent of its certificate; that is, to fly the route for which a certificate has been issued?

Mr. TIMM. I don't know the number of flights. I know there are seven airlines now that fly between the Washington, D.C. area and the New York area. At the time that you and I were having our colloquy last spring I think there were 26 flights a day leaving this area for New York, and I think now you are asking me about adequacy of service.

I have tried almost individually to a number of Congressman here to explain as well as I could that this is outside of our purview unless we either want to, on our own motion, institute an adequacy of service investigation, and the responsibility for providing data would fall on the shoulders of the community served to prosecute an adequacy of service investigation. Having done that, you have used up the authority you have given us in the matter of scheduling.

Mr. MURPHY. Does the FAA have any authority in scheduling?

Mr. TIMM. I don't know. I think not.

Mr. MURPHY. Mr. Chairman, I think the record should reflect that the FAA should be here and respond to that question, and I think it would probably serve our purpose to have both agencies here to respond to those questions. Scheduling is a function of the FAA, it is also a function of the CAB and both agencies have a responsibility toward it. The FAA is eliminating takeoffs and landings from airports throughout this country and administering slot restrictions. I certainly think we should find out what the effect is on scheduling and the economic impact that slot assignment has on the carriers authorized to serve those markets.

How frequently, Chairman Timm, does the CAB and the FAA meet to discuss problems that may evolve due to the issuance of a certificate to a carrier of the assignment of a slot by FAA?

Mr. TIMM. We do not meet with the FAA on this subject. It falls outside of our authority; we being an agency mandated by the Congress, they being an executive agency. We cooperate on matters that the Congress has demonstrated either by law or by specific committee direction to cooperate with that agency, but by and large they are separate and distinct functions and derive their authority from two different sources.

Mr. MURPHY. Isn't it true that up until a few years ago top staff people of CAB and FAA held informal meetings at least weekly, and that these meetings have now been discontinued? Do you think any useful purpose was served by those meetings?

Mr. TIMM. I don't have any personal knowledge of any of the high level meetings you discuss, but I am informed that on an occasional informal luncheon basis the chairman of the CAB at one time and the FAA Administrator met to discuss topics of general interest over a period of a year and they were abandoned after that time.

Mr. Minetti, who has served well and so long, tells me that he cannot remember any kind of a formal arrangement like this.

Mr. MURPHY. How about informal?

Mr. TIMM. Nor informally, he tells me.

Mr. MURPHY. It conflicts with information that I have received. I would like to congratulate the CAB on the fact that it is now identified at least by its release of January 10 as the agency for the traveling public to inform due to service inadequacy or other problems that they receive, and that your complaints are up over 50 percent. We discussed in our May meeting that the traveling public writes to

everybody except the CAB registering their complaints, and, of course, flight irregularities, reservation and baggage problems were the greatest number of complaints.

I am sorry that Congressman Kuykendall is not here because I have to disagree with him too, as I think it is a legitimate mission for you to have Board employees who travel by air report to you in the agency on their observations, of course in these areas involved. I certainly think that it is not snooping to make a report on the adequacy of service and safety of service that is the responsibility of the Board.

Mr. TIMM. I might say we thought it did extend a rather thin line.

Mr. MURPHY. I might repeat that for him right now. He has got a pretty good snooper in here telling him when he is being talked about.

Some months ago the Bureau of Operating Rights instituted a study of on-time schedules. I have been told that letters were addressed to all the major carriers and that they have responded. Have these replies ever been made public and what has happened to the study?

Mr. CALDWELL. Well, Congressman, we furnished replies we got from the carriers in that instance. We continue to evaluate the performance monthly now and to the extent that there appears to be a potential violation we write to the carrier to determine whether or not in fact they are conforming to part 234 of the Board's Economic Regulations. We have also with respect to service between New York and Washington had occasion to have the Bureau of Enforcement audit American and Eastern reports to us to determine that they were in fact true and correct, and that audit I am informed did show that.

Mr. MURPHY. Why did the CAB change their compliance reports, substituting a rule that would only require block to block time plus 15 minutes as sufficient time to comply with the public schedules?

Mr. CALDWELL. Sir, I am not sure it was changed. There has been no change as far as I know in the rule. It has always been on a block time basis plus 15 minutes. The reporting that we get from the carriers is on an arrival time plus 15 minutes, and the published reports that we put out are on an arrival plus 15 minutes.

Mr. MURPHY. Chairman Timm, we appreciate your coming. I don't think that the energy crisis can be used as a coverall for many industry problems. I think there are many representatives in this room of the major carriers in this country. They freely and clearly admit that their industry has been in difficulties over the past 5 years particularly, that their problems don't particularly stem from an energy crisis, that they do stem, as you stated to us in May, from overscheduling and many other changes that are taking place in the industry. That government should certainly change its attitudes. That perhaps the pricing structure for service has to be changed or reevaluated.

This committee reported the Airport and Airways Development Act just enacted in the recent Congress. Its purpose was to insure that the Nation had the proper and adequate facilities for the industry to use, and the virtually billions of dollars of public funds that go into this certainly demand that the industry be properly regulated in the public interest.

I think that we cannot let a situation that is hopefully temporary cloud many of the underlying management and policy questions that have brought us to the level of inadequate service that we experience

in the New York to Washington carrier, that we experience out of Chicago, and which is a national problem.

Mr. METCALFE [presiding]. Does that complete your questioning?

Mr. MURPHY. Yes.

Mr. METCALFE. Thank you very much, Congressman.

I now recognize legal counsel for the subcommittee, William Dixon.

Mr. DIXON. Thank you, Mr. Chairman.

Chairman Timm, you have already said that you would be happy to furnish some material to questions that have been raised. I think for the record there are a lot of subjects that we won't be able to reach this morning, and we could submit with a letter from Chairman Jarman a list of interrogatories or questions and put them all in the same place in the record. You can respond in writing to those [see p. 27].

One or two I might mention that have not been touched on yet, I don't know if there will be time for the members to go into these.

First, the surcharges for security measures. As you know, there has been a good bit of communication about some carriers getting windfalls and some are not getting enough money for this, and some airport operators are satisfied and some are not. You have a proceeding on that subject now do you not?

Mr. TIMM. Would you like me to respond?

Mr. DIXON. Yes, sir, and give us some estimate as to when you might have a sifting and sorting of the surcharges, and be able to identify where the money is going and where it should be going.

Mr. TIMM. I think I could probably respond by reminding you and my colleagues that when we moved into this security program it was done pretty swiftly and we immediately realized that we must monitor and reevaluate it. We have been doing that since shortly after it began to function.

I guess I must rule out the substantive discussion of it, but I would like to ask Mr. Sherer to describe the stage and status of that.

Mr. SHERER. The investigative procedure is at the stage where all of the parties have filed direct exhibits before the administrative law judge. Rebuttal exhibits are due in just a few days, and the hearing date is just following that. There is some indication from the reported data of the carriers that the collections are in excess of the payments they have made. The airports are parties to this proceeding. There is some revelation that airports are not completely being reimbursed for their costs, and in fact that some have not reached a final agreement with the air carriers.

These questions have to be resolved and resolved fairly quickly as to the proper amount of security charge and the proper payments to the airports.

Mr. DIXON. Thank you very much. We will follow up with a letter and questions. After we conclude this morning if you want one of the members of your staff to go over with me informally what some of these are I would be glad to give you the subjects we have in mind.

Mr. TIMM. Be happy to do that.

Mr. DIXON. Thank you, Mr. Chairman.

Mr. METCALFE. The Chair now recognizes Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman.

I was very interested in your comments on page 4 with regard to the manner in which you are going to apply the problems of the fuel crisis to what was previously a problem of over and underscheduling.

I remember in particular that you had an interest in the fuel allocation bill that came through to have given the CAB the authority to control a certain amount of scheduling. Isn't that right?

Mr. TIMM. To have an overview of the impact on a market as a result of unilateral scheduling.

Mr. ADAMS. Unilateral scheduling, correct.

Now as I understand it, and our understanding was at that time the airlines do have the power of unilateral scheduling and the CAB does not have power over individual schedules both because of their multiplicity and the individual scheduling of crews, equipment and so on. So at the present time the power of the CAB is simply to determine adequacy of service into a particular market overall, isn't that correct?

Mr. TIMM. We believe that is the extent of our authority, yes.

Mr. ADAMS. Now I am concerned by your testimony this morning where you indicated that you were leaving adequacy of service to the complaint process and to the production of evidence by the individual market served. Does not the Board have authority on its own motion to determine adequacy of service into a particular market?

Mr. TIMM. Really, I think maybe before you came here—

Mr. ADAMS. I heard your colloquy with Mr. Murphy and so on.

Mr. TIMM. Part of that, Mr. Adams, I was asked whether we did have authority to order a show cause hearing, and we believe we do have that authority. My further comment on it was that eventually the burden would have to fall largely on developing the material through the communities and we could shorten the process by a show cause if we chose to go that way.

I would like to ask my senior colleague a question. Have we ever used a show cause authority on the adequacy-of-service question?

Mr. MINETTI. I don't recall any.

Mr. ADAMS. To my knowledge you have not, and that brings me to page 5 of your statement because I think what the committee is interested in knowing is the manner in which you are going to respond to the fuel shortage and to the allocation among the various airlines.

Now you have indicated at the bottom of page 5 that you now have automated data banks and computer facilities and later in your statement you indicated that you are now requiring filing of automated schedules and schedule changes so that you have in your computer bank the number, frequency and I assume the time of scheduling into various markets; isn't that correct?

Mr. CALDWELL. We currently have on file the schedules in hard copy form. What the statement refers to is a program that is underway to require a method of filing with the Board that could be readily available to computer readouts. Today we merely have the schedule in the carrier's file with us. We have historical data after the fact, so to speak, of what the results of each of those schedules were.

Mr. ADAMS. All right. Now the reason that I asked that is that if this data is then available to you in computer form, you can, through use of your computer facilities, determine on an almost immediate basis adequacy of scheduling, which means adequacy of service into any particular market in the United States; isn't that correct?

By adequacy I don't mean a value judgment on adequacy, but you have factual information as to what is moving in and out of particular markets.

Mr. TIMM. Yes, sir. Leaving out the judgmental part of it.

Mr. ADAMS. Leaving out the judgmental part, you have the capacity to determine what is happening in a particular market so far as scheduling is concerned.

Now we have previously discussed, and I don't want to again put any words in your mouth, but I want to know what your present policy as a board is on this. With regard to the fuel crisis you are going to try to operate a certain number of flights in a spectrum between say one where service presently was there, there was one flight a day in and out. That was the bottom level, you felt you could not touch those because if there were no flights a day to a scheduled point, the service was obviously inadequate. I believe you had a percentage of 72-percent load factor on top, that if the planes flying in and out were carrying more than 72 percent it meant that you needed that amount of equipment or scheduling in there in order to adequately serve the market. Is that correct?

Mr. TIMM. Use the 72 percent as a cutoff point on our computer program and again it was judgmental. That would describe the point where we would not believe service was adequate.

Mr. ADAMS. All right. Now between those two points you have now had some period of time to use your data banks and your computers with a lessening of service in between the two extremes. How much fuel can you reduce as overall fuel consumption for the airline industry toward meeting the shortfall? You indicate here the industry is getting 483,000 barrels per day in the first quarter of 1974; they had been allocated 522,500 barrels. They would have required for normal operations 622,000 barrels, which indicates to me a shortfall of somewhere around 139,000 barrels. How close do you come to doing that without basically changing the pattern of air service which you have indicated would be adequate?

Mr. TIMM. I think I recall one of your first questions. Inherently in the total question was how much more service reductions should happen? Did you say it that way?

We believe that no more service reduction should happen, and we think that because of the failure of the Federal Energy Office to force the suppliers and the refineries to have the mix that would guarantee the allocation, we think falling below that will be disastrous.

Mr. ADAMS. In other words, you believe that you have an overall program and that you have bottomed out on what would be service reductions without cutting into your adequacy of service requirements as of now?

Mr. TIMM. Yes, sir. We have made the point as well as we could with the Federal Energy Office that if they continued to go toward the goal of the 25-percent reduction over 1974 needs and we tried to demonstrate this in what I consider to be an excellent economic study, that it would very likely have a devastating effect on the air transport system. Working with them, using our fuel consumption figures, using what material we had, we were able to convince that office that they could go up another 10 percent to the 95-percent level for the trunks and clear to 100 percent for the local service airlines.

We would be able to demonstrate this just on what we consider to be our field, the economic field, that they were flirting dangerously close to the brink of being destructive of the whole air transport system if we fell below the 95-percent allocation.

Mr. ADAMS. Now the reason I ask you this is that we have just completed a series of hearings involving the trucking industry and they had conducted an investigation on whether or not—and this is in your statement too—all allocations were being matched by supply.

Now are allocations being matched by supply in the airline industry?

Mr. TIMM. No, sir, not on an industrywide basis, or on a carrier basis. I think that probably in some specific markets under some pressures and some direction by the Federal Energy Office that they do on the short term rise to meet the allocation, but generally there is a shortfall of roughly 39,500 barrels as was demonstrated.

Mr. ADAMS. What explanation does the oil industry give to you or to the Federal Energy Office for the oil industry as to why they are not meeting their allocations with supply, or is it being met at a higher price?

Mr. TIMM. Well, I think they have a number of answers to that, none of them really responsive to our concerns.

The recent allocation program of allocating crude to the independent refineries is one that creates a 30,000-barrel shortfall, and they can point directly to that and say, "Because of that action we are short that many barrels."

As for the supplier, from what I can gather he just simply tells an airline that, "I am sorry, I know it is 95 percent. I only have 72 percent available. That is all you can have."

They come back to our office and through Mr. Sherer, who is our energy coordinator, we work with the Federal Energy Office, and many times they are able to convince the supplier that he indeed can find the balance of that. Our concern is that it get to where it should go from our point of view. We really don't go into where he gets the supply.

Mr. ADAMS. Has there been a variation in price as the supply has been increased?

Mr. TIMM. The crude price triggers a raise, but outside that—

Mr. ADAMS. I am talking about the jet fuel price.

Mr. TIMM. It has gone up considerably, especially as contracts expire, and the contracts by companies expire at different times all over through their station areas.

Mr. ADAMS. Do you have any statistics now on how many contracts are open or how many airlines are being required to buy in effect on a variable price market or where the contracts have been declared to be over as being abrogated by force majeure, that the force majeure clause is applying?

My feeling about this, and it has gone through every industry, is that the oil companies are playing along with cries of the administration of wolf, wolf, shortage. Then they let the price go up, and when the price goes up enough, the product appears.

I just want to know if that is happening in the airline industry. It is either happening or it isn't. Say it is or it is not and we won't say bad things about them. If it is happening, then I think that we should be dealing with that problem in a very severe fashion.

As you know, we have enough energy bills floating around here to satisfy everybody, or nobody.

Mr. SHERER. On the matters of contracts that have opened since the allocation program began in October, the contracts of Alaska Airlines, Frontier, and Trans-World in the domestic service with one

supplier, understanding that airlines have more than one contractual supplier for different locations, expired December 31 or on or about that date. My understanding is that that particular oil company has refused to reach any agreement on a fixed price contract or a fixed price subject to escalation. In at least two of those instances they are willingly supplying at or near the allocation level, but on a quotation basis delivery by delivery.

Mr. ADAMS. Truck by truck.

Mr. TIMM. Yes, sir.

Mr. ADAMS. It is an old game.

Mr. SHERER. The rest of the industry who have continuing contracts have a firmness in price, but it is increased. Each time the domestic basic crude price is allowed to increase 25 cents a barrel they get a passthrough increase in their contract for jet fuel which relates to approximately 2.2 cents per dollar of domestic crude increase. Now there have been some companies confronted by the oil companies almost demanding that they reopen the price provisions in their existing current contracts on the theory that perhaps the allocation program and the 1973 Petroleum Allocation Act rendered those contracts no longer valid.

Mr. ADAMS. Force majeure.

Mr. SHERER. To my knowledge no one has conceded that that was the case.

Mr. ADAMS. Mr. Chairman, I just have one last question and that is when does your next fare increase to the consumers come along in order to pay for the jet fuel?

Mr. TIMM. We have a filing before us—

Mr. ADAMS. I assumed you would.

Mr. TIMM. That is under—

Mr. ADAMS. It seems to me that everything goes back to the oil companies now no matter where we are, either trucks or trains or planes or where it is. I just want to confirm it. I don't want to make any false or wild charges against what has happened. When is it?

Mr. TIMM. That is a difficult question to answer in itself on the timeliness of it because there is a filing before us, as a matter of fact there are two of them, and they have two different points of view in the way they were filed. One was as a part of a general fare increase, and the other is strictly as passthrough that would be triggered at a certain level by the fuel cost more on a surcharge basis. I notice the date is March 1 in which that would take effect if the board did not take any action on the former request for an increase. We will take action on this subject within the next 2 or 3 weeks.

Mr. ADAMS. Thank you, Mr. Chairman. I hope it is on a surcharge basis, so that if we ever get to the oil companies we will at least be able to find where the charge is.

Thank you, Mr. Chairman.

Mr. TIMM. If I could, I would like to make one comment that has not been made because there are two categories of fuel. So-called bonded fuel used by the international carriers has escalated much more rapidly describing just the situation you did on a day-by-day basis from an increase of 60 to 500 percent. We are finding for the first time now decreases in service because the cost economics will not allow a carrier to carry—even at a maximum he would fail to make a profit and, therefore, maximizing—I am talking about cargo—

his flying time at the charges available. This is the first tip of the iceberg on reduction in service because of cost.

Mr. ADAMS. Mr. Timm, when you have got the same oil being produced at basically the same price, and it is a scarce commodity and you think that the administration is going to ration this by price, you cannot have any other result other than what you are getting now and that is why so many of us are so desperately opposed to it.

Thank you, Mr. Chairman.

Mr. JARMAN. Mr. Chairman, in August of last year, the Bureau of International Affairs released a rather lengthy report on foreign countries discriminating against the U.S. air carriers. In our hearing this morning could you comment as to form and extent of that kind of discrimination and what is being done?

Mr. TIMM. This was a project done by our Bureau of International Affairs, headed by Mr. Charles Butler, and since it was such a special assignment I think I would have him, if he would, just come up here and tell you how we went about that and the follow on.

Mr. JARMAN. We will be glad to hear Mr. Butler.

My understanding is that it was a survey based on a study of the 53 countries.

Mr. BUTLER. I thank you, Mr. Chairman.

This was an initial survey we did to find out what kind of disabilities our airlines encountered in competing for traffic in foreign markets. We sought information from embassies and from our own files. We held interviews with individual airlines on a confidential basis in order that they would feel free to give us information. I can't go into what we produced in the study, in specifics because we did keep part of it on a classified basis in order that we would be in a position to proceed to take on in negotiations particular problems on a case-by-case basis. We have prepared and are going to be submitting to the Board in the next 2 weeks a recommended program of action which will deal with some of the individual problems that were uncovered by the survey.

We are also doing an update on the survey and hopefully will produce in the spring a new edition containing additional information that we have found.

I think in summary we have found that our carriers in many instances must compete for the national traffic of a foreign country under severe disabilities. They are limited in many ways from being able on an equal basis or on an equal footing to try to market the national origin traffic in competition with the national carrier. Many of these disabilities are as a result of direct government action on the part of the foreign government. They may result from the structure of the national ownership of the airline, interrelationship with domestic services, with surface transport services, reservation of traffic by national regulation or a national policy. They may result from currency restrictions, or inability to sell to local traffic markets because of sales disabilities such as in Eastern Europe or some other countries.

We are preparing to try on a number of fronts subject to approval of the Board, to correct some of these inequities. Some of these are subject to negotiation.

As soon as we take the initiative with the foreign country in negotiation, some of these issues may be subject to correction in that fashion. Problems such as user charges, compensating for the reservation of certain traffic by the foreign government's policies are of this type. We may be able to offset some of this disability through negotia-

tion. For some of them we may require the assistance of executive agencies; for example, currency conversion and remittance. We think the Department of the Treasury will be of help to us and we will seek their assistance.

Since the type of restrictions that we uncovered cover such a broad spectrum, there are many different ways that one has to approach these problems. They are not going to be corrected overnight. This initiative that was begun by Chairman Timm is one where we are going to have to take on the problems one at a time. We will try to correct them through the assistance of the Department of State and other appropriate executive agencies.

Thank you.

Mr. JARMAN. Well, our committee will be very much interested in any details that you develop and can give to us and any recommendations as to anything effective that the Congress can do to try and get equitable treatment for our own carriers in this international market.

There are so many instances of handicaps and discrimination and inequities certainly under which they have to labor in trying to get a share of the market that I think it needs the best effort of all of us.

[The following letter was received for the record:]

CIVIL AERONAUTICS BOARD,
Washington, D.C., March 7, 1974.

HON. JOHN JARMAN,
Chairman, Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR CHAIRMAN JARMAN: During hearings before your Subcommittee on February 7, 1974, you expressed a great deal of interest in the restrictive practices study that the Board had completed last August and asked about additional legislative authority that might be required to put U.S. carriers on an equal competitive footing with foreign carriers in foreign countries.

The Board staff is now preparing an updated edition of this study and we plan to have it completed by late spring. We will send you a copy as soon as it is available. We appreciate the offer of assistance for additional legislative authority, but as best we can determine today, most of the problems appear to be susceptible of solution through negotiation or by application of normal regulatory procedures. It may well be, however, at some time in the future after consultation with other agencies, we may determine a need for additional legislative authority and will promptly advise you should that be the case.

Please be assured that we in the Board are as anxious as you are to remove the competitive shackles that now encumber our carriers in many parts of the world. I have placed a very high priority on this project.

Sincerely,

ROBERT D. TIMM,
Chairman.

Mr. Kuykendall.

Mr. KUYKENDALL. I have one more area I would like to develop.

Mr. Timm, I think for the sake of the record and an understanding that we should go a little bit more deeply into this matter of the reallocation of crude from the refinery and the effect it is having on the industry, so let's kind of take it step by step.

Let me clarify a couple of points just for the record and then I will ask you a couple of questions.

The reallocation of crude is based upon the fact that if the Federal Energy Office is given allowable refinery capacity based on the previous year, and if he happens to have through his own devices or good luck or wisdom or whatever some additional crude available, he has to sell that crude to another refinery. Is that not correct?

Mr. TIMM. Yes, that is in the regulations.

Mr. KUYKENDALL. All right. Now if he sells that crude to another refinery, the chances are that it is probably to a less sophisticated refinery. Would you not think that that would generally be true?

Mr. TIMM. Generally true, yes.

Mr. KUYKENDALL. Is it not true that through the years the more sophisticated of the refineries has been the primary source of aviation fuel?

Mr. TIMM. Yes, sir.

Mr. KUYKENDALL. So instead of getting an absolute proportionate diversion we get a vastly disproportionate diversion away from the aviation industry by this reallocation, is that correct?

Mr. TIMM. Correct.

Mr. KUYKENDALL. What in the world are we going to ask the FEO to do correct this? Have you figured it out yet?

Mr. TIMM. We have been urging them to use the power they have to change the refinery mix.

Mr. KUYKENDALL. Does the less sophisticated refinery have the ability to do it?

Mr. TIMM. I am not talking about that refinery, I am talking about the refinery that has to give up an allocation from whatever he has left.

Mr. KUYKENDALL. In other words, he actually may be asked to produce a slightly higher percentage of aviation fuel than he did a year ago out of the available crude, is that correct?

Mr. TIMM. Yes, sir.

Mr. KUYKENDALL. Is there any other way to do it?

Mr. TIMM. We now start everything. "In B.C. for the crisis."

Mr. KUYKENDALL. Most of my friends in aviation have said if we could get the 95 percent and in the case of the small ones the 100 percent, they could live with it. It would seem to me that possibly this committee could be of help to you in somehow putting the crisis in proportion to the Federal Energy Office about a very, very sophisticated and seemingly obscure problem. It is clear in your report the fact that when you divert you divert to a guy that can't make aviation fuel.

Mr. TIMM. Or has no desire to.

Mr. KUYKENDALL. And no connection with the person who buys aviation fuel.

Mr. TIMM. We believe that some of those refineries probably never did run at a high capacity as a refinery and might have only refined just one single product very likely and that would not be aviation fuel, it would be one of the last items that they would make.

Mr. KUYKENDALL. This is almost as obscure in the minds of some people, this fact which can dislocate the entire aviation industry, as the present shortage of baling wire.

I yield back the balance of my time.

Mr. JARMAN. Mr. Metcalfe.

Mr. METCALFE. No, thank you, Mr. Chairman.

Mr. JARMAN. Gentlemen, we appreciate very much your being with us and helping make the record on some of the problems in this area.

Mr. TIMM. Thank you. We will meet with your staff to prepare the written material that you would like to have for your committee.

Mr. JARMAN. Thank you very much, Mr. Chairman.

The hearing will stand adjourned.

Mr. TIMM. Thank you.

[The following questions and answers were subsequently received for the record:]

QUESTIONS SUBMITTED BY CHAIRMAN JOHN JARMAN AND CAB'S ANSWERS

Question 1. The fuel shortage has increased applications by the carriers for capacity agreements. How many such agreements have been approved by the Board since January 1973? What is the current Board policy on allowing such agreements? What sort of communications between carriers does the Board allow as far as schedule reduction discussions are concerned?

Response: (a) The Board has approved 19 capacity reduction agreements. Seventeen are primarily related to the fuel shortage; and two are primarily related to the economy of airline operations (see Appendix).

(b) The Board has granted applications for the approval of agreements founded on fuel shortage considerations, and has indicated that it considers such agreements to be desirable to equitably distribute capacity short falls and to save jet fuel if the affected markets receive an appropriate quality and quantity of air service. All fuel shortage agreements are short term in nature, and will expire in 1974. Agreements that are based primarily on economic considerations are the subject of the *Capacity Reduction Agreements Investigation*, Docket 22908, wherein the Board will explore, after full evidentiary hearings, the legal, economic and environmental consequences of such agreements.

(c) The Board permits carriers to file individually or jointly applications for permission to enter into discussions looking toward the conclusion of a capacity agreement. Grant of permission is by order of the Board, and any agreement actually concluded becomes effective only upon express Board approval.

CAPACITY REDUCTION AGREEMENTS APPROVED SINCE JAN. 1, 1973

Applicant	Docket/ agreement No.	Disposition	Expiration date
American/TWA/United.....	22908 CAB 23703	Order 73-7-147, July 27, 1973—Agreement approved on interim basis. (New York/Newark-Los Angeles, New York/Newark-San Francisco, Washington/Baltimore-Los Angeles, Chicago-San Francisco.) Sets for hearing.	Mar. 15, 1974
American/Eastern/PAA.....	22908 CAB 23672	Order 73-8-59, Aug. 10, 1973—Agreement approved on interim basis. (New York/Newark-San Juan.) Sets for hearing.	Apr. 1, 1974
American/Continental, et al.....	25595 CAB 23989	Order 74-1-21, Jan. 3, 1974—Board approved agreement—Chicago-Los Angeles markets. (By subsequent letter, applicants have rescinded agreement.)	
American/TWA/United.....	25990 CAB 24010	Order 73-10-110, Oct. 31, 1973—Board approved agreement in 20 markets as follows: New York-Chicago, Philadelphia-Los Angeles, Detroit-Los Angeles, Hartford-Los Angeles, Boston-Los Angeles, Cleveland-Los Angeles.	Apr. 28, 1974
	CAB 24011	New York-Phoenix; Chicago-Phoenix; New York-Cincinnati; New York-Dayton.	
	CAB 24012	Chicago-San Diego; Washington-San Diego.....	
	CAB 24013	Boston-San Francisco; Philadelphia-San Francisco; Washington/Baltimore-San Francisco; New York-Denver; New York-Las Vegas; Chicago-Las Vegas; Philadelphia-Chicago; Washington/Baltimore-Denver.	
TWA/United/Western.....	25990 CAB 24073	Order 73-11-147, Oct. 30, 1973—Board approved agreement, Denver-San Francisco market.	Apr. 28, 1974
United/Western.....	25990 CAB 24074	Order 74-1-104, Jan. 21, 1974—Board approved agreement in San Francisco-Seattle, San Francisco-Portland markets.	Apr. 28, 1974
Eastern/Pen American.....	25990 CAB 24108	Order 74-2-5, Feb. 1, 1974—Board approved agreement, Miami-San Juan/St. Thomas/St. Croix markets.	Apr. 28, 1974
BOAC/Pen American/TWA.....	26057 CAB 24109	Order 74-1-111, Jan. 23, 1974—Board approved frequency reductions in Philadelphia-London markets, dismisses in Boston-London markets.	Apr. 27, 1974
BOAC/Trans World.....	26057/26075 CAB 24110	Order 73-12-109, Dec. 28, 1974—Board approved agreement in Chicago-London market.	Apr. 27, 1974
United/Frontier.....	25990 CAB 24114	Order 74-1-41, Jan. 4, 1974—Board approved agreement in Denver-Las Vegas, Denver-Omaha markets.	Apr. 28, 1974
Trans World/Frontier.....	25990 CAB 24115	Order 73-12-88, Dec. 20, 1973—Board approved agreement in Denver-St. Louis and Las Vegas-Albuquerque markets.	May 31, 1974
American/Eastern/PAA.....	25990 CAB 24124	Order 74-2-38, Feb. 12, 1974—Board approved agreement in New York/Newark-San Juan market.	June 14, 1974
Hughes Airwest/United.....	25990 CAB 24135	Order 74-1-120, Jan. 24, 1974—Board approved agreement in San Francisco-Medford, San Francisco-Eugene markets.	Apr. 28, 1974
Pan American/TWA/BCA/BOAC.....	26057/26075 CAB 24141	Order 74-1-34, Jan. 4, 1974—Board approved agreement in New York-London market.	Apr. 27, 1974
Pen American/Alitalia/TWA.....	26057/26075 CAB 24164	Order 74-2-34, Feb. 21, 1974—Board approved agreement in United States and Italy markets.	Mar. 31, 1974
National/BOAC.....	26057/26075 CAB 24180	Order 74-2-93, Feb. 22, 1974—Board approved agreement in the Miami-London market.	Mar. 31, 1974

Question 2. The "no show" problem is the airlines' counterpart to the problem of the bumped passenger. What can be done to reduce no shows and to curtail the airlines' practice of overbooking certain flights? What, if any, proposals have been made to deal with these problems?

Response: The Board has, for many years, been concerned about no show and related problems, as well as overbooking. All of these problems may have been exacerbated by the schedule cut-backs related to the current fuel shortage. In light of these developments, the Board recently instituted the *Emergency Reservations Practices Investigation*, Docket 26253, to investigate the situation and determine whether new tariff rules and/or Board Regulations should be adopted. The parties to that proceeding have made a number of suggestions ranging from the continuation of current procedures to the imposition of an industrywide no show control program embracing ticketing time limits and no show penalties equal to the full price of the ticket. As the *Investigation* is now pending, we are not in a position to speculate on the outcome. However, the scope of the proceeding is sufficiently broad to cover the areas of carrier reservations practices, overbooking, and the level of denied boarding compensation, as well as the no show problem.

Question 3. What is the current status of subsidy payments to commercial airlines? Which carriers are getting subsidies and how much are paid to each recipient in 1973? What is the present Board policy on subsidies and would it be possible for trunk carriers, in light of the energy crisis or for other reasons, to receive subsidies?

Response: Subsidy payments are currently being made to two groups of air carriers, the Local Service and the Alaskan.

For fiscal 1973, the following subsidy payments were made to each carrier:

	<i>Amount (thousands)</i>
Alaskan group:	
Alaska Airlines.....	\$2, 154
Kodiak-Western Alaska.....	154
Wien Consolidated.....	2, 062
Subtotal.....	<u>4, 370</u>
Local service group:	
Allegheny.....	2, 765
Frontier.....	12, 929
Hughes Airwest.....	10, 557
North Central.....	8, 160
Ozark.....	4, 439
Piedmont.....	6, 665
Southern.....	6, 776
Texas International.....	7, 915
Subtotal.....	<u>60, 206</u>
Grand total.....	<u>64, 576</u>

By its terms, Section 406 does not preclude applications for subsidy by trunk carriers. Among other problems, however, Section 406 would be a cumbersome means to providing relief from rapid rises in fuel costs. Under well established policies and judicial interpretations, a Section 406 proceeding would require the Board to inquire into an airline's total costs, not just its fuel costs. The Board would have to inquire into the honesty, efficiency, and economies of the airline's management. And the Board would need to examine the airline's total operations, not just certain services (such an international operations). All these are controversial matters and often cannot be finally resolved without lengthy hearings.

No U.S. airline has suggested that its domestic operations should be subsidized. Several have voiced the view, however, that their international operations need Federal aid because of the higher fuel costs for those operations. Apart from its reservations about using Section 406, the Board is willing to accept, in principle, the concept of some governmental assistance to U.S. international carriers as a short-term, emergency measure if no other alternatives prove feasible.

Question 4. What is the current status of the Mutual Aid Agreement, and to what extent did it come into play in 1973? What is the Board position on the Mutual Aid Agreement?

Response: The Mutual Aid Agreement was last approved by the Board by Order 73-2-110, February 27, 1973, for a five-year period. The Air Line Pilots Association and the Air Line Dispatchers' Association, with the Aircraft Mechanic's Fraternal Association intervening, have appealed from the Board's decision. The case was argued before the Court of Appeals for the District of Columbia on February 27, 1974.

As detailed in the table attached hereto as an appendix, the total payments by participating carriers under the Agreement for the calendar year 1973 amounted to \$48,493,000, representing payments by 13 air carriers to four air carriers experiencing a strike.

The Board concluded, in Order 73-2-110, with two members concurring in part and dissenting in part, that the Mutual Aid Agreement as amended in 1969 to increase the level of payments was not adverse to the public interest and should be approved for a period of five years. The two concurring and dissenting members found that the Agreement, as it existed prior to the 1969 amendments, was not adverse to the public interest, but they would have disapproved the increased level of payments. All members concurred in approval of the 1971 amendments which permitted the participation of the local service carriers, subject to a condition that mutual aid payments would not be taken into account in computing subsidy payments.

In approving the Agreement the Board concluded that the Agreement ". . . represents a legitimate resort by the carriers to economic self help, in a manner that is in no way inconsistent with the national labor policy." The plan provides a carrier with "substantial protection from financially crippling strike losses, at a cost which is reasonable." Since "the Agreement does not so alter the bargaining balance as to lift from the carriers heavy economic incentives to settle work disputes and hence does not remove the pressures essential for collective bargaining in good faith," the Board concluded that it was not contrary to the public interest.

On September 26, 1973, the Board released a staff study entitled "Trends in Airline Compensation 1962-1972," which traces changes in average annual compensation rates for various categories of nonairline employees and compares these to the experienced compensation rates of trunk and local service carriers. Throughout this period the Airline Mutual Aid Pact was in use. Has the existence of the Pact slowed down the earnings growth of the airline employees? The study is attached hereto and these are some of the major findings:

- (1) The average airline employee is much more highly paid than the average industrial worker and the disparity is increasing.
- (2) Air carrier average employee compensation has risen over the past 10 years at a substantially faster rate than the cost of living.
- (3) Although local service carriers' compensation levels remain lower than those of trunk carriers, the gap between them is narrowing.
- (4) Revenues have increased sufficiently to keep the compensation cost per dollar of revenue within a fairly narrow range over the 10-year period.

PAYMENTS MADE AND RECEIVED UNDER MUTUAL AID AGREEMENT IN 1973

[Thousands]

	Payments made to—				Total payments
	Hughes Air West	Eastern Airlines	Ozark	TWA	
Payments made by:					
American		\$100	\$1,260	\$9,530	\$10,890
Braniff		24	422	400	846
Continental				2,024	2,024
Eastern			141	3,804	3,945
Frontier	2	5	102		109
North Central		5	124		129
Northwest		22	242		264
Ozark		4			4
PAA		79	995	9,269	10,343
Piedmont		5	51		56
TWA		21	242		263
United	29	293	2,746	16,271	19,339
Western	40	18	223		281
Total payments made to	71	576	6,548	41,298	48,493

Source: Carrier form 41 reports to the CAB and docket 9977.

Question 5. What changes in domestic and international passenger fares have been permitted by the Board in 1973 and 1974? In each case what was the reason for permitting the fare change? Upon his appointment Chairman Timm said that 12% rate of return for air carriers is desirable. Is this still possible and how much more will fares have to be raised to achieve this rate of return?

Response:

Domestic Passenger Fares (48 States)

Effective December 1, 1973, the Board permitted a general passenger fare increase of five percent applicable to all domestic trunkline and regional carriers operating within the 48 contiguous states and the District of Columbia. In permitting that increase the Board concluded that it was necessary to offset known cost increases (act of productivity) and to enable the carriers to earn the 12 percent rate of return on investment (on an adjusted basis), found in the *Domestic Passenger Fare Investigation*.

Investigation

Eastern and Frontier, by tariff revisions marked to become effective March 1, proposed general passenger fare increases of 6.0 and 1.8 percent, respectively. In support thereof, Eastern cited a fuel cost increase of 59.47 percent on the basis of actual and contracted costs on January 1, 1974, as compared with the year ended June 30, 1973. Frontier (using a fuel surcharge rule rather than an increase in published fares) supported its increase on the basis of an alleged 16.4 percent fuel cost increase experienced by the trunks, and Pan American in November 1973 over 1972. In view of the fact that current data (through January 1974) concerning fuel increases has become available to the Board only within the past week, the Board decided to suspend and investigate these proposals pending a more thorough evaluation of the current fuel cost situation.

During the past three weeks, five additional carriers have filed tariff revisions requesting general passenger fare increases. Southern, Continental, and TWA have requested a six percent passenger fare increase effective either March 15 or April 1, and American and United have proposed a fuel surcharge of four percent effective March 24 and April 1, respectively. In justification thereof, fuel cost increases ranging from 40.5 to 57.7 percent are cited.

Mainland-Hawaii Fares

Effective September 1, 1973, the Board permitted carriers operating in the mainland-Hawaii market to increase both regular and promotional fares. Regular fare increases approximated eight percent, while round-trip promotional fares were generally increased \$10.00 for midweek travel and \$40.00 for weekend travel. There was little if any question that pre-September 1 fare levels were inadequate since no carrier had come close to achieving a fair return in recent years. The greater emphasis on promotional fare increases was a step toward correcting the disproportionate use of reduced promotional fares which had developed in this market.

Braniff, Continental, Pan American, and Western have proposed to increase all mainland-Hawaii fares on April 15 by \$10 from west coast gateway points and \$15 from interior mainland point. The increases approximate 8 to 10 percent over present fares. The carriers cite fuel cost increases of 79.5 percent in the case of Braniff, 25.8 percent for Continental, and 63.9 percent for Pan American. United, the dominant carrier in the market, has not filed to match.

Mainland-Puerto Rico/Virgin Islands Fares

All three carriers serving this market (American, Eastern, and Pan American) proposed an across-the-board fare increase of 10 percent effective February 22. In justification thereof, the carriers cited fuel cost increases of 16.2, 56.2, and 69.8 percent, respectively. The Board concluded by Order 74-2-83, February 20, 1974, that the carriers' proposals were not accompanied with adequate explanation or supporting data and should be rejected. In summary, the Board stated: "We believe it necessary for the carriers to furnish detailed information not only with respect to specific increased costs but equally with respect to those measures which have resulted in offsetting decreases in overall operating cost."

48-States-Alaska and Intra-Alaska Fares

The Board permitted two intra-Alaska fare increases in the past year—the first, amounting to five percent, became effective on June 1, 1973, for Alaska, and August 13, 1973, for Wien. A second increase of 5.5 percent was permitted effective December 1, 1973, for both Alaska and Wien.

Alaska was permitted two fare increases of 5 and 5.5 percent on the same dates in noncompetitive States-Alaska markets. Fares in competitive markets (Seattle-Anchorage/Fairbanks) were increased five percent on September 1, 1973, and 5.5 percent March 1, 1974.

Alaska Airlines and Northwest have been permitted to increase rates 6.5 and 7.5 percent, respectively, except certain rates in long-haul markets which appeared to exceed costs of service. The increases became effective March 1.

The primary justification for the increases was rapidly escalating costs, and the need to improve Alaska Airlines' earning position which has been extremely substandard in recent years.

International Fares and Rates

The Board approved an IATA agreement for effectiveness April 15, 1973, which surcharged U.S.-originating transatlantic fares by six percent to compensate for the effect of the February 1973 devaluation of the dollar. The Board also approved a 5 percent increase in South Pacific and Western Hemisphere fares which went into effect during the first half of 1973, and an increase of approximately 8 percent in North Atlantic fares effective January 1974. In each case it was adequately demonstrated that the resulting additional revenue would not produce excessive profits. Devaluation-related surcharges of 3 percent and 5 percent, respectively, were approved for North/Central and South Pacific routes.

The Board has approved an IATA agreement which, effective January 1, increased worldwide passenger fares by approximately 6 percent. Approval was based on the fact that December 1973 fuel costs were in the range of 18 cents per gallon, as compared to an average cost of 12.5 cents per gallon during the year ended September 1973.

Effective March 1, 1974, the IATA carriers were permitted to impose an additional surcharge of 7 percent on passenger fares applicable on the mid-Atlantic route from San Juan/Virgin Islands to Europe and points in Asia. An agreement which would impose a similar surcharge on North/Central and South Pacific fares is now pending before the Board.

Achievement of a 12 Percent Return on Investment

It is still possible for the airlines to achieve a 12 percent rate of return on their investment. In fact, although their actual rate of return as reported to the Board is now approximately one half that amount, as adjusted to reflect the Board's various ratemaking standards it is very close to 12 percent. However, in view of the many uncertainties at the present time, it is not possible to say when the industry can be expected to reach an actual 12 percent return, or what fare adjustment would be required to give them that opportunity. The most immediate uncertainty, of course, is the national fuel shortage, which has severely disrupted planned operations and will have a direct impact on the cost of their services. The ultimate magnitude of this factor alone is not yet known. Airline profitability also tends to fluctuate with the general trend of the national economy, which is always difficult to predict and is also aggravated by the fuel crisis. Ultimately, the question of whether or not a 12 percent rate of return is achievable within the next several years will turn on the degree to which costs escalate and the traveling public is willing to absorb these costs through increased fares. There is considerable dialogue within the industry today on whether we are approaching the point where significant fare increases on top of the recent five percent fare increase may not drive traffic away and have an adverse effect upon profitability.

Question 6. CAB recently announced that it is conducting a study of the interests that banks and other financial institutions have in air carriers. What will be studied in this report and when will it be finished?

Response: The Board is aware that financial institutions, such as banks, insurance companies, and brokerage and investment companies, have relationships with airlines that may permit some of those institutions to influence to some

extent the decisions of airline managements. Those relationships include the holding of substantial amounts of an airline stock, being a substantial airline creditor, leasing equipment to airlines, and having interlocking relationships with airlines whereby officers and directors of those institutions are also airline officers or directors. The purpose of the *Institutional Control of Air Carriers Investigation* is to inquire into: (1) the nature and extent of the influence, if any, that such institutions have on airline managements as a result of such relationships; (2) whether such influence, if any, constitutes control of an airline within the meaning of Section 408 of the Federal Aviation Act (which requires Board approval of any acquisition of control of an air carrier) or is of significance for purposes of Section 409 of the Act (which requires prior Board approval of certain kinds of interlocking relationships); and (3) what action, if any, such influence, if any, warrants, by way of further adjudicatory proceedings, new Board regulations, or statutory amendment.

The case promises to be a complex and difficult one. The initial round of information gathering alone is expected to be arduous and time consuming. Nonetheless the Board is giving the case high priority and hopes to complete it by the end of 1975.

Question 7. What is the current status of discount fares for youths, senior citizens, military personnel and handicapped individuals? Why has the Board considered some of these rates discriminatory and yet allowed reduced fares for certain cross country routes and for bookings that are made in advance of flight time such as the so-called "Demand Scheduling" system?

Response: Discount fares for the military have long been a part of the fare structure and continue to be.

In response to youth fares, in its opinions in the *Discount Fares Phase of the Domestic Passenger-Fare Investigation*, the Board concluded, among other things, that the youth fares under consideration there were unreasonable in level and unjustly discriminatory in nature and accordingly ordered them to be phased out in several stages, with cancellation effective June 1, 1974. In Order 73-11-131, November 28, 1973, the Board took comparable action in respect to youth fares in foreign air transportation, in that case disapproving an IATA agreement that provided for such fares.

As for senior citizen discount fares, such fares are only available in Hawaii and because they, like youth fares, are available only to a limited class of persons, the Board has also ordered an investigation of the legality of these fares under the Federal Aviation Act.

No certificated air carrier offers discount fares for the handicapped (apart from providing for the free carriage of seeing eye dogs for the blind).

The Board determined that the youth fares under consideration in the *Domestic Passenger-Fare Investigation* were unlawful because they were so low as to burden normal-fare paying passengers, were *prima facie* discriminatory by reason of being available only to a limited class of persons, and this discrimination was not justified by anything of which the Board could take cognizance.

Discount fares such as "Discover America," on the other hand, are not limited to any class of persons, and are profitable to the airlines on a short run basis. It might be noted, however, that while the Board has not ordered Discover America fares to be cancelled, it has ordered that they be limited to eighteen month periods and has taken steps to ensure that in the event that the costs for carrying Discover America passengers are higher than the revenues such passengers bring in, it will be the carriers' shareholders, and not normal fare paying passengers, that pay the bill.

The demand schedule system as originally introduced was terminated with the advent of the fuel crisis. Another approach to demand scheduling is now pending before the Board as a result of tariff filings by several carriers.

Question 8(a). What changes if any have been made since January 1973 in rules and regulations relating to charter operations?

Response: The following is a descriptive list of rule changes, in chronological sequence, made since January 1973 with respect to charter operations:

1. Miscellaneous interpretative and technical amendments to Travel Group Charter (TGC) rules, largely of a clarifying nature (SPR-66, 3/6/73).

2. Amendment to Inclusive Tour Charter (ITC) rules, so as to modify the minimum 3-stop requirement, as applied to air/sea cruises (SPR-67, 3/13/73).

3. Technical amendments to TGC rules, prescribing form for filing participants' lists and otherwise tightening the requirement that carriers identify enplaning TGC passengers (SPR-68, 4/24/73).

4. Amendment requiring "no-smoking" areas to be provided on charter flights as well as scheduled flights operated by U.S. certificated carriers (ER-800, 5/7/73).

5. Technical amendment authorizing operators of Overseas Military Personnel charters to have same right as other entrepreneurial operators to utilize unused charter space for free or reduced transportation of employees, officers and directors (SPR-69, 5/23/73).

6. Amendments authorizing U.S. route carriers and foreign route carriers to operate ITC's, a class of charters hitherto authorized only for U.S. supplemental and foreign charter carriers (ER-806, ER-807, and SPR-70, 7/17/73).

7. Amendments requiring all U.S. carriers and all foreign carriers (with respect to U.S.-originating charters) to provide security arrangements for charter customers' advance payments (ER-809 through ER-812, 7/16/73).

8. Technical amendment of direct air carriers' authority to charter aircraft to foreign air freight forwarders having Section 402 permit authority to charter such space (ER-815 through ER-817, 8/20/73).

9. Technical amendment to TGC rules, allowing rise in charter tariff fare to be an additional contingency causing increase of TGC pro rata price, but only to an amount not exceeding the prescribed maximum price (SPR-73, 1/7/74).

Question 8(b). What is the Board's position on liberalization of the requirements for inclusive tour charters as contemplated in legislation such as H.R. 8570?

Response: The Board opposes legislation, such as H.R. 8570, that would specifically authorize one-stop ITC operations. The Board believes that one-stop ITC's, which would be tantamount to point-to-point service, could too easily have serious and undue effects on the availability of convenient, reasonably priced scheduled air transportation, and that the persons who one-stop ITC legislation would be intended to benefit—U.S. vacationers—already have available to them a number of kinds of attractive and low cost air transportation (including night coach and promotional fares applicable to scheduled flights, pro-rata charters, TGC's, and rapidly increasing numbers of ITC's operated under the Board's present rules).

The Board's views on this subject are discussed more fully in testimony on S. 1739, a bill identical to H.R. 8570: *Hearings before a Subcommittee of the Committee on Commerce, United States Senate, on S. 455 and S. 1739, at 119 (93d Cong., 1973).*

Question 9. What is the procedure for adding a point to an air carrier's certificate? How long does such a procedure take? What can be done to expedite the period of time required to complete the necessary proceedings? What objection, if any, would there be to the imposition of a date certain by which such proceeding would have to be completed?

Response: Under the provisions of the Federal Aviation Act, the addition of new points to an air carrier's certificate is ordinarily the result of a formal public proceeding in which applications by carriers seeking to provide comparable service are comparatively considered. Depending upon the number of points and number of applicants involved, as well as the status of the Board's docket, proceedings may run from as short as a few months to as long as a few years. The time involved stems principally from the statutory requirements with respect to notice and hearing.

The Board has employed the show cause technique (a nonhearing procedure) to expedite the addition of new points in a limited number of cases. However, the hearing requirement established by section 401 of the Act ordinarily prevents resort to this technique where objections raise material issues of fact. The Board has also used other of its statutory powers (*e.g.*, its exemption power under section 416 and its power to issue special operating authorizations under section 417) to enable carriers to provide new service but these powers are limited by statute to special or unusual situations.

The Board has developed certain expedited procedures (*i.e.*, the required filing of exhibits along with an application, abolition of the prehearing conference, and shorter time periods for briefs) in a narrow range of cases involving the removal of operating restrictions with respect to points already on a carrier's route. Also,

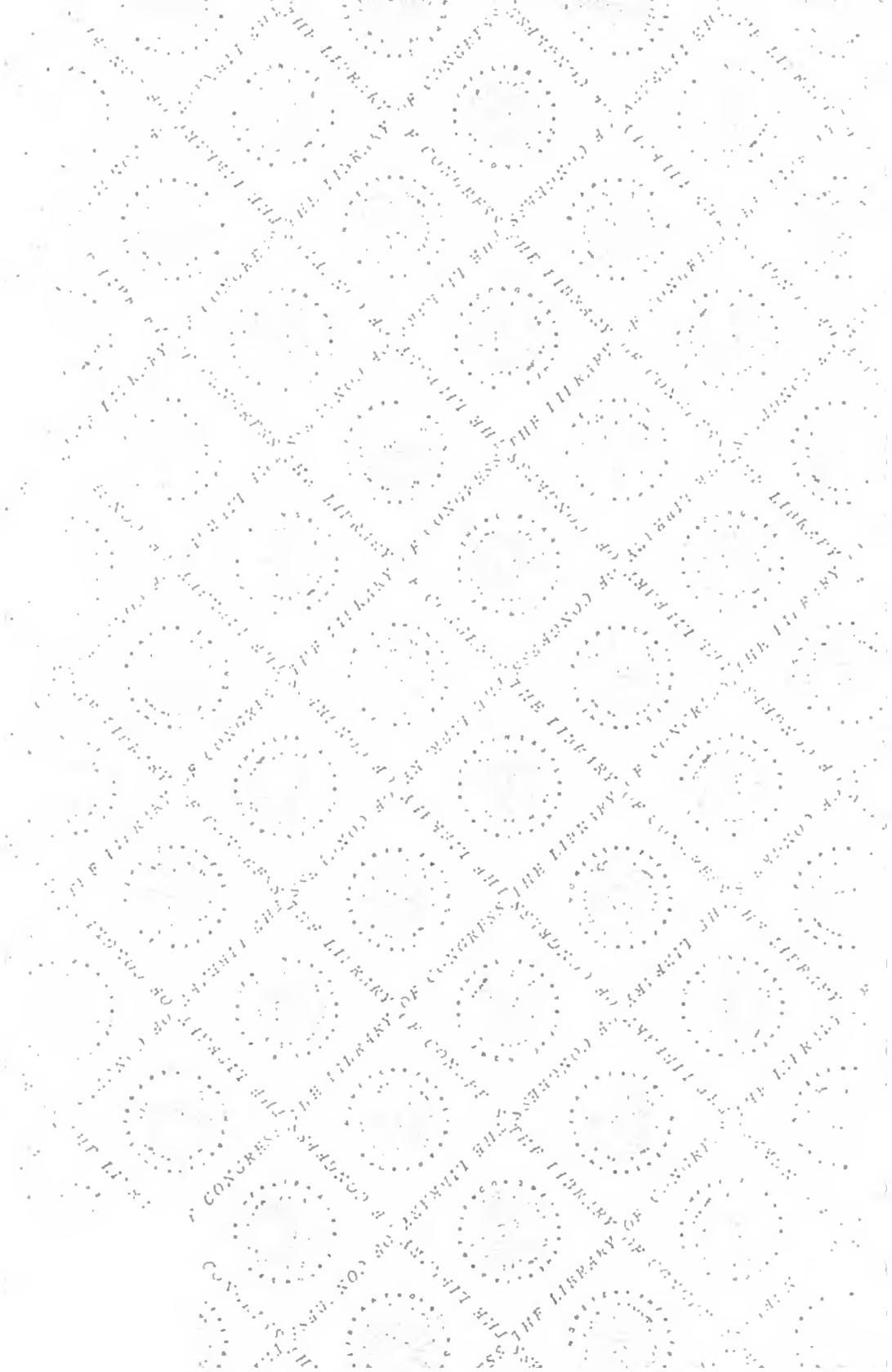
in one recent case the Board substituted the filing of affidavits for a full evidentiary hearing. And, finally, the Board has on numerous occasions specifically instructed its administrative law judges and other staff members to proceed with particular cases on an expected basis. While all of these approaches have been considered for cases involving the addition of new points, the statutory requirement for a hearing, and the frequent need to develop and analyze complex economic data (including data relating to competitive applications), often render these approaches less practical in cases involving service to new points.

The Board attempts to conduct all its business in an expeditious fashion. Moreover, the Board has been generally responsive to any genuine need for reaching a particular decision by a specific date. (The Board has, as necessary, established dates for final action on an in-house basis.) However, we believe that the establishment of a general rule requiring that proceedings be completed within a period of specified length would not be practicable. Such period would always be subject to the requirement that proceedings be conducted in a fair and reasonable manner, that interested parties be accorded a fair opportunity to present their case, and that the Board have sufficient time for the deliberative process, including the issuance of decisions setting forth findings, conclusions, and reasons in accordance with the requirements of law.

[Whereupon, at 12:01 p.m., the subcommittee adjourned.]

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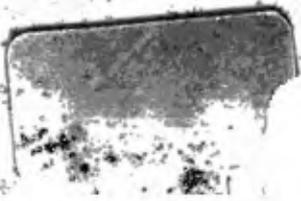


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