

THE WHITE HOUSE
WASHINGTON

May 14, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM LYNN
FROM: JERRY H. JONES
SUBJECT: Railroad Revitalization Act



Your memorandum to the President of May 9 on the above subject has been reviewed and Option 2 -- include in the legislation a provision limiting the use of general rate increases to increased labor and fuel costs only -- was approved.

Please follow-up with the appropriate action.

Thank you.

cc: Don Rumsfeld
Jim Cannon
Rod Hills
Alan Greenspan
Jack Marsh
Max Friedersdorf

THE WHITE HOUSE
WASHINGTON



MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *JC*

SUBJECT:

RAILROAD REVITALIZATION ACT

Attached is a memo from Jim Lynn which seeks your decision on whether or not the Administration's railroad bill should contain antitrust immunity for discussion by railroad rate bureaus on general rate increases.

Bill Coleman wants to include such antitrust immunity for discussions of a general nature predicated on cost increases because of fuel and labor. Without such a provision, he feels that the railroads will totally oppose our legislation, thus seriously damaging its chances in Congress. Jim Lynn, Alan Greenspan and the Attorney General believe that the legislation you send up should not contain such antitrust immunity because effective deregulation should promote full competition, including rate competition. They further argue that Congress is likely to include such a provision anyway, and if we send a bill up without it initially, it will increase our chances to use it as a trade-off during the legislative process, thereby avoiding other weakening provisions.

Because the provision is likely to be included by Congress in any event, it really comes down to a legislative strategy call, and on this point Bill Coleman feels strongly that it should be in from the outset.

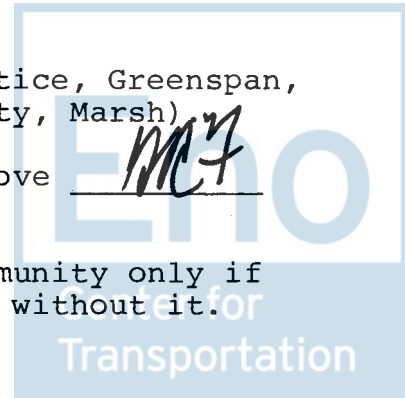
DECISION

- Include antitrust immunity for discussions by rate bureaus on general rate increases for labor and fuel costs (supported by Coleman, Friedersdorf, Cannon, Rod Hills).

Approve *JC* Disapprove _____

- No antitrust immunity (supported by Justice, Greenspan, Lynn, Council on Wage and Price Stability, Marsh)

Approve _____ Disapprove _____



Note: Bill Seidman supports the limited immunity only if we are likely to lose the whole bill without it.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAY 9 1975

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JAMES T. LYNN

SUBJECT:

RAILROAD REVITALIZATION ACT

Eno
Center for
Transportation

Issue

Before we can send the rail bill to Congress, the Department of Transportation has raised one final issue for decision. Should the rail regulatory reform bill (the Railroad Revitalization Act) propose the elimination of antitrust immunity for rate bureau discussions and agreements on general rate increases?

Background

In 1948, Congress passed the Reed-Bulwinkle Act amending the Interstate Commerce Act to permit carriers to form rate-setting groups known as rate bureaus to set rates and charges for transportation services. Rates set in this manner are filed with the ICC, and the underlying agreements are immunized from prosecution under the antitrust laws. This provision of the Interstate Commerce Act not only authorizes and immunizes voluntary rate agreements among carriers, but also enables several carriers to work together to impose cartel rates on other carriers.

In drafting the proposed regulatory reform legislation in the rail area, members of the Executive Branch Task Force (DOT, DOJ, CEA, CWPS, and OMB) agreed upon the need to substantially reduce antitrust immunity for those rate bureau activities which serve to restrict competition and discourage pricing flexibility and new service innovations. Accordingly, language was drafted which would outlaw specific anticompetitive activities, while preserving essential administrative services provided by the rate bureaus; e.g., the publication of rates, the collection of statistics, the arranging for the interchange of traffic over the lines of two or more carriers, etc.

The bill as currently written would immediately upon enactment prohibit discussion, agreements or voting on single-line rates, limit participation in discussions of joint line rates to carriers actually involved in the movement, and prohibit rate bureaus from taking action to suspend or protest rates. After three years, discussion and agreement on general rate increases (across the board percentage increases to compensate for inflation, higher fuel costs, etc.) would also be prohibited.

However, in recent discussions with the railroads and various interest groups, DOT has encountered strong objection to the prohibition of general rate increases. Accordingly, they would propose to amend the bill before it is submitted to permit general rate increases to cover increased costs of fuel and labor only.

Options:

Option 1: As agreed by the task force, include in the legislation a provision to outlaw general rate increases beginning three years after enactment of the bill.

Pro: Where increases in costs occur, individual railroads will have flexibility under the new legislation to increase their prices without need to resort to cartel type action. This approach is in keeping with overall Administration policy of eliminating anticompetitive activities. It maintains a standard approach toward all price-fixing activities of the rate bureaus and is consistent with the position we expect to take in truck and air regulatory reform proposals. Elimination of this provision might make the Administration's proposal appear rather anemic. Including the proposal provides room to negotiate and compromise with the Committees and interest groups later if necessary.

Con: Such a provision will be vigorously opposed by the industry. (DOT maintains that by including it, we will lose railroad support for the legislation.) In addition, it could be viewed as an unreasonable policy considering the current financial difficulties facing the railroads. If Congress does not allow the proposed pricing flexibility, the elimination of general rate increases could cause major financial problems to the industry.

Option 2: Include in the legislation a provision limiting the use of general rate increases to increased labor and fuel costs only.

Pro: Such a position would improve chances of obtaining industry support for the bill. It might be viewed as a more reasonable approach in light of the financial problems of the railroads. In addition, it leaves some mechanism in place to permit accelerated price increases should Congress fail to approve the proposed pricing flexibility.

Con: Such an approach continues to sanction price-fixing activities. It could be viewed as being in conflict with the bill's increased pricing flexibility since permitting collusive price-fixing even on this limited scale, could negate the competitive

benefits otherwise gained. In addition, most general rate increases now are requested in the name of rising fuel or labor costs; thus, while this approach appears to limit the use of general rate increases, in effect it merely preserves the status quo. Furthermore, this approach essentially puts labor negotiations on a cost-plus basis and could be viewed as encouraging indexing of labor and fuel prices.

Center for
Transportation

Decision

Option 1: _____ (Supported by: Justice, CEA, CWPS, OMB)

Option 2: _____ (Supported by: DOT)

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 10, 1975

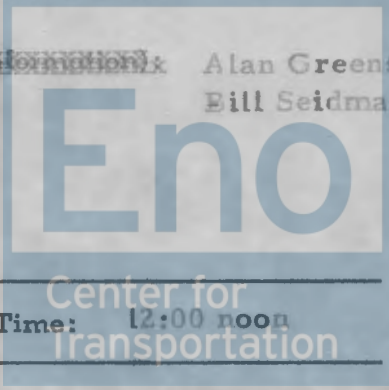
Time: 10:00 a.m.

FOR ACTION:

Bob Hartmann
Jack Marsh
Phil Buchen
Max Friedersdorf
Jim Cannon

~~cc (for information):~~

Alan Greenspan
Bill Seidman



FROM THE STAFF SECRETARY

DUE: Date: Monday, May 12, 1975

Time: 12:00 noon

SUBJECT:

Lynn memo (5/9/75)
re: Railroad Revitalization Act.

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

5/12 Per John Davis ok for Greenspan
4p Marsh } haven't seen yet
Hartmann }
by Marsh hasn't commented
Hartmann - no opinion
5/13 11:30a Marsh still hasn't commented

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones
Staff Secretary

THE WHITE HOUSE
WASHINGTON

May 12, 1975



MEMORANDUM FOR:

JERRY JONES

FROM:

MAX L. FRIEDERSDORF

SUBJECT:

Lynn Memo 5/9/75
Railroad Revitalization Act

The Office of Legislative Affairs ~~concur~~s with subject memo.

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2

THE WHITE HOUSE

WASHINGTON

May 12, 1975



MEMORANDUM FOR:

JERRY JONES

FROM:

RODERICK HILLS

SUBJECT:

Lynn Memo (5/9/75)
re Railroad Revitalization Act

All interested parties apparently agree that Option 1 (supported by Justice CEA, CWPS and OMB) will be vigorously fought by the railroad industry and that Congress will clearly agree with the industry's position. DOT feels its Option 2 is a more flexible alternative which will maintain its credibility with the industry for the bill as a whole.

So stated, the dispute between Option 1 and Option 2 is one purely of legislative strategy. Since DOT strongly supports Option 2, its Option 2 should be accepted unless the President's legislative advisers feel to the contrary. It is our understanding that Max Friedersdorf, however, favors Option 2. The position of the Counsel's office is that on matters of legislative strategy that are not contrary to major Administration policy, the views of the Department should prevail.

Date: May 10, 1975

Time: 10:00 a.m.

FOR ACTION: Bob Hartmann
Jack Marsh
Phil Buchen
Max Friedersdorf
Jim Cannon

~~XXXXXXXXXXXXXXXXXXXX~~ Alan Greenspan
✓ Bill Seidman

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REMARKS:

If we believe that competition is the answer, then option 1 is the answer. If we ^{will} lose the whole works because of choosing option 1, then I would change to option 2

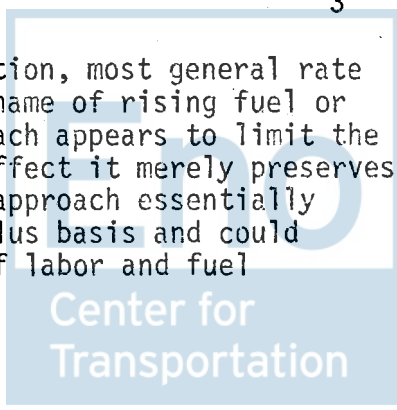
JWS

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Jerry H. Jones
Staff Secretary

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Decision

Option 1: plus (Supported by: Justice, CEA, CWPS, OMB)

Option 2: _____ (Supported by: DOT)

Date: May 10, 1975

Time: 10:00 a.m.

due: 5/12 noon

FOR ACTION: Bob Hartmann
~~Jack Marsh~~
Phil Buchen
Max Friedersdorf
Jim Cannon

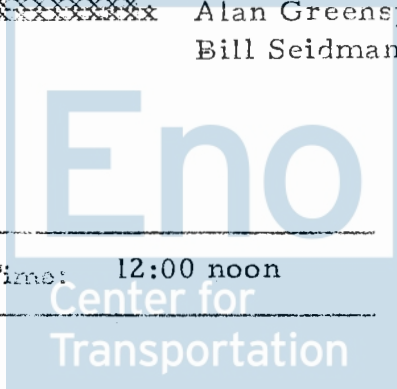
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Bill Seidman

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REMARKS:

ep hen #
gmr

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Jerry H. Jones
Staff Secretary