FINANCE DOCKET NO. 11681

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD COMPANY REORGANIZATION

Submitted May 31, 1939. Decided December 14, 1939

Method or formula for segregation and allocation of the earnings and expenses of the New York, Susquehanna & Western Railroad Company, debtor, between and to its mortgage and leased-line divisions, recommended.

Ralph E. Cooper for debtor.

Ralph E. Lum for trustee of debtor.

H. A. Taylor, *Henry J. Friendly*, *Frederick E. Brown*, *M'Cready Sykes*, *J. Harlin O'Connell*, *Hovey C. Clark*, and *Raymond A. Coleman* for interveners.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS PORTER, MAHAFFIE, AND MILLER

BY DIVISION 4:

The New York, Susquehanna and Western Railroad Company, hereinafter called the debtor, on June 1, 1937, filed in the District Court of the United States for the District of New Jersey, in proceeding No. 26175, a petition stating that it was unable to meet its debts as they matured and that it desired to effect a plan of reorganization under the provisions of section 77 of the act of July 1, 1898, entitled "An Act to Establish a Uniform System of Bankruptcy Throughout the United States," as amended, and the court on the same day entered an order approving the petition as properly filed.

The court, by its order of May 9, 1938, entered on motion of the Central Hanover Bank & Trust Company, as trustee under the first mortgage of the Midland Railroad Company of New Jersey and as trustee under the first mortgage of the Paterson Extension Railroad Company, referred to this Commission, pursuant to section 77 (c) (10) of the Bankruptcy Act, as amended, for our recommendation, the matter of the method or formula of segregating and allocating the earnings and expenses of the debtor between and to the divisions and parts of the railroad or other property of the debtor which are separately subject to the liens of various mortgages or deed of trust or are separately subject to lease. Hearings have been held with respect to such method or formula, briefs have been filed, and the proceeding has been argued orally.

The mortgages executed by the debtor or predecessor companies purporting to constitute liens on property of the debtor are as follows:

1. The mortgage, dated April 1, 1880, of the Midland Railroad Company of New Jersey, hereinafter designated as the Midland, purporting to be a first lien on 70.69 miles of the debtor's railroad between West End, Jersey City, N. J., and the New York-New Jersey State line.

2. The mortgage, dated June 1, 1881, of the Paterson Extension Railroad Company, hereinafter designated as the Paterson Extension, purporting to constitute a first lien on 0.75 mile of the debtor's property between Broadway and Straight Street in the city of Paterson, N. J.

3. The first and refunding mortgage, dated January 1, 1887, purported to constitute a lien on the property subject to the liens of the mortgages of the Midland and the Paterson Extension, and is considered to constitute a first lien upon 48.56 miles of the debtor's line between Beaver Lake, N. J., and Stroudsburg, Pa., and upon five sections of trackage serving coal mines near Scranton, Pa., not connected with the debtor's other lines.

4. The second mortgage, dated February 1, 1887, purported to constitute a lien on the debtor's property subject to the lien of the first and refunding mortgage, the Paterson Extension mortgage, and the Midland mortgage. It is not considered as a first lien on any of the debtor's property.

5. The general mortgage, dated August 1, 1890, purported to constitute a lien on the property subject to the liens of the previous mortgages.

6. The terminal mortgage dated May 1, 1893, purported to constitute a first lien on 3.05 miles of the debtor's property between Little Ferry Junction and Edgewater, N. J.

The extent and priority of the liens of the various mortgages listed above have been in controversy in the court for a considerable time. In this controversy the court's findings of fact and conclusions of law were filed May 25, 1939, and a copy has been forwarded by the clerk of the court to this Commission and included in the docket in this proceeding. In regard to the extent and priority of the liens of the various mortgages the court decided as follows:

(*a*) The terminal mortgage is a valid and subsisting first lien on the Edgewater Terminal properties, consisting of the parcels of property covering the main line right of way of the former Hudson River Railroad and Terminal Company from Little Ferry Junction to Edgewater and the debtor's terminal property at Edgewater, the parcels being listed in the court's order.

(*b*) The terminal mortgage is a valid and subsisting first lien upon Little Ferry yard, consisting of the parcels of property, listed in the court's order, lying west of the main line right of way of the former Midland Railroad Company of New Jersey, except those which are included in the main line right of way of the former Hudson River Railroad and Terminal Company.

(*c*) The general mortgage is a valid and subsisting equitable lien on the Edgewater Terminal properties, (as described in (*a*)), to the extent of $294,152.73 subject only to the first lien thereon of the Terminal Mortgage.

(*d*) The Midland, the first and refunding, and the second mortgages and the general mortgage for the balance remaining after deducting the amount of the equitable lien of the general mortgage are valid and subsisting liens in the order named, junior to the equitable lien of the general mortgage, on the property described in (*a*).

(*e*) The Midland, the first and refunding, the second and the general mortgages are valid and subsisting liens, with priorities in the order named on the Little Ferry yard as described in (*b*).

(*f*) The Passaic and New York Mortgage is the only valid and subsisting mortgage lien on the property of the Passaic and New York Railroad.

(*g*) None of the mortgages is a valid and subsisting lien upon any property owned or held by The Lodi Branch Railroad Company, The Hackensack & Lodi Railroad Company the Erie Terminals Railroad Company, or the Susquehanna Connecting Railway, or upon the capital stock or any interest of the debtor in those companies, or upon the earnings of the properties of any of those companies, or upon the debtor's interest in traffic and operating agreements.

(*h*) The first and refunding, the second and the general mortgages are valid and subsisting first, second, and third liens, respectively, and are the only mortgage liens on the mine branches in Pennsylvania.

(*i*) The Paterson Extension, the first and refunding, the second and the general mortgages are valid and subsisting first, second, third and fourth liens, respectively, and are the only liens, on the property of the former Paterson Extension Railroad Company.

(*j*) The General Mortgage is a valid and subsisting first lien on 15 lots in the City of Passaic, N. J.

(*k*) All questions with reference to the priority of the mortgages upon the rolling stock owned by the debtor is reserved for future determination.

Several appeals to the United States Circuit Court of Appeals were filed on June 23, 1939, in respect of the district court's order relating to the extent and priority of the liens of various mortgages. The principles of the formula which we will recommend should be applicable even though the appeals should result in conclusions different from those reached by the district court, although it might be necessary to modify the designation of districts or divisions of the property to conform with the final determination of the controversy.

The lines of railroad used by the debtor under leases or on a rental basis are The Passaic & New York Railroad Company, extending 3.05 miles from Passaic Junction to Passaic, N. J.; the Hackensack & Lodi Railroad Company, 1.41 miles, and the Lodi Branch Railroad Company, 0.32 mile, the track of these two companies constituting a branch from Hackensack to Lodi, N. J.; and 1.29 miles of the Erie Terminals Railroad Company extending along the Hudson River both north and south of the debtor's property at Edgewater.

There is a reciprocal trackage arrangement between the Erie Railroad Company, hereinafter called the Erie, and the debtor, under which the debtor may use, in connection with the operation of the property covered by the Midland mortgage, 14.15 miles of Erie track between Jersey City and West End and between Croxton and Passaic Junction. The Erie in turn may use that portion of the debtor's tracks covered by the Midland mortgage between West End and Passaic Junction.

The debtor and its trustee were directed by court orders to keep such records and accounts as will permit of a segregation and allocation of the earnings and expenses between and to the divisions and parts of the railroad and other property of the debtor which are separately subject to the liens of various mortgages or deeds of trust or are separately subject to lease and to prepare a formula from which such segregation and allocation may be made. The debtor prepared a formula, as directed, for the purpose of allocating earnings and expenses and submitted it to the court for its approval.

For the purpose of devising a method of allocating revenues and expenses to the various subdivisions of the debtor's property separately subject to the lien of various mortgages or separately subject to lease, an examiner of the Bureau of Finance prepared a proposed formula which was submitted to the parties for criticisms and suggestions. The examiner, with the assistance of an employee in our Bureau of Accounts and of the debtor's accounting department, made an application of the formula prepared by him, modified in certain minor respects, to the first 5 months of 1938.

The examiner's modified formula was presented for the record as a tentative formula. The debtor's formula was likewise presented for the record. Other incomplete formulas were suggested at the hearing by other parties.

In the development of a formula the examiner adopted the same districts or subdivisions of the debtor's property as were used by the debtor in the construction of its formula. The districts used by the examiner are as follows, except that trackage rights over 14.15 miles of the Erie's lines which were included by him in the Midland district are omitted here:

		Miles
1. Midland district, West End, Jersey City to New York State line		70.69
2. First-and-refunding district, Beaver Lake, N. J., to Stroudsburg, Pa		48.56
3. Terminal district:		
3a. Little Ferry Junction to Edgewater, N. J	3.05	
3b. Erie Terminals Railroad Company, Edgewater	1.29	
		4.34
(3a and 3b to be segregated after allocation jointly)		
4. Passaic and New York district, Passaic Junction to Passaic, N. J		3.05

		Miles
5. Paterson Extension district, Broadway to Straight Street, Paterson, N. J.		.75
6. Hackensack & Lodi and Lodi Branch district:		
6a. Hackensack to Lodi, N. J.	1.41	
6b. Lodi Junction to Lodi, N. J.	.32	
		1.73

7. Revenues and expenses, including those incident to trackage-right operations, not allocated to the above-designated districts to be treated as "unallocated".

Passenger traffic on the debtor's system is confined to that part of the line between Jersey City and stations on the Midland district. The principal points at which the debtor interchanges freight with other railroads are Croxton and Passaic Junction, both junctions with the Erie on the Midland district, and its principal movements of freight are between those points and its terminals at Edgewater, which include that part of the properties of the Erie Terminals Railroad which is operated by the debtor as part of its terminal facilities at that point. With the exception of some switching, the Terminal district originates or terminates the traffic that is handled on that district. The following table shows the tons of freight originated, received from connections, terminated, and delivered to connections on the debtor's line and the percentage of those tons applicable to the various mortgage or leased-line districts in the 5 months ended May 31, 1938.

	Originated	Received from connections	Terminated	Delivered to connections
Tons in 5 months	198,604	1,529,430	1,223,648	499,386
Midland district percent	44.65	87.71	28.14	96.48
First-and-refunding district percent	1.00	9.94	0.96	3.05
Terminal district [1] percent	52.36	0.04	66.39	
Passaic & New York district percent	1.88	2.31	3.67	0.47
Hackensack & Lodi and Lodi Branch district percent	0.05		0.52	
Paterson Extension district percent	0.06		0.32	

[1] Including Erie Terminals Railroad.

Our function, as we construe the order of reference and the language of section 77 (c) (10), is to recommend to the court a formula that will permit the allocation of revenues and expenses of the debtor to the various mortgaged and leased-line divisions of the property operated as an integral part of the debtor's system on a basis which gives due consideration to the transportation services rendered on the respective divisions. Our recommendations herein merely express our opinion of a fair allocation and are in no wise intended to express any views with respect to the use of the results obtained from the application of the formula or the weight to be given such results.

PROPOSED FORMULAS

The formula presented by the debtor and that presented by the examiner each sets out somewhat similar means for allocating the revenues and expenses of the debtor to the several divisions of the property, and the application of each of them over a test period produces substantially the same results. Both recognize the mileage-prorate basis for divisions of revenues between districts, and both divide the revenues from traffic moving over the Terminal and other districts by establishing a constructive-mileage allowance for the Terminal district based on the relation between the cost per loaded car on the Terminal district and the cost per loaded-car mile on other districts. The debtor's formula then divides the revenue derived from a particular haul on the basis of the relation between the actual miles traveled on the other districts and the constructive-mileage allowance of the Terminal district, allocating, however, a minimum of 25 percent of the revenue to any district which originates, terminates, or interchanges the traffic. The examiner's formula develops a separate mileage allowance for origination, termination, or interchange on districts other than the Terminal as to freight revenue from traffic handled over two or more districts but provides a minimum of 25 percent of the revenue to a district which originates or terminates the traffic. The close results of the application of the two formulas was explained by the fact that there is only a small amount of traffic on the property except traffic which is either local to a district or joint between the Midland and the Terminal

Another difference between the formula proposed by the debtor and that proposed by the examiner is that in the debtor's method for development of a constructive-mileage allowance traffic expenses and taxes are included, while in the examiner's formula these expenses are not included. Freight revenue for traffic local to a district is allocated directly to it by both formulas. Likewise both allocate passenger traffic, which is confined to the Midland district, directly to it. The provisions of the formulas are necessarily numerous, and only the general features can be described herein.

The New York Life Insurance Company, the Prudential Insurance Company, and the Mutual Benefit Life Insurance Company, hereinafter referred to as the insurance companies, and the Central Hanover Bank & Trust Company, hereinafter called the Bank, each presented witnesses who described the formulas presented by the debtor and the examiner as being unfair in the treatment of the Terminal district and who advocated treating the Terminal district as a terminal of the Midland district. They proposed that the revenues from traffic over the Terminal district be assigned to the

Midland district and in return the Midland district would assume the expenses of the Terminal district and in addition pay it a rental.

A witness in behalf of the insurance companies proposed that the property be divided into two districts, namely, (1) the first-and-refunding district, which includes the same property as is included in the district of that name in the debtor's and examiner's formulas; and (2) all other property. The witness in behalf of the Bank suggested that the Midland and Terminal districts be treated as a single district and that the net earnings be distributed on the basis of valuation. Another witness for the insurance companies presented exhibits showing operating ratios, rate of return, revenue per car, net railway operating income developed from the application of the debtor's and examiner's proposed formulas, and exhibits showing the effect on constructive mileage of a 25-percent reduction in road-haul expenses on freight traffic on districts other than the Terminal. The witness suggested no basis for such reduction. Computations based upon assumption of 25-percent reduction in road-haul expenses and no reduction in other expenses are conjectural and could have but negligible value. When revenues are allocated on a mileage-prorate basis, which includes a terminal allowance in mileage, it follows that a change in conditions such as that assumed by the witness will change the allocation of revenues. The witness did not carry the assumption through the formula and show its final results, but computations based on the data of record indicate that, while the assumed savings in road-haul expense would allocate more revenue to the Terminal district than would otherwise be allocated to it, the other districts would benefit by a greater amount because the reduction in freight revenue which would be allocated to them would be small compared with the assumed savings in road-haul expense.

A constructive-mileage allowance for terminal service is developed in both formulas, and in each the common expenses assigned to passenger service are eliminated from consideration in developing the mileage allowance for freight service. The insurance companies object to this treatment on the ground that there is no reason why the Terminal district, on which no passenger operation is performed, should not share in the burden of passenger operation, which is confined to the Midland district. They also suggest that possibility of forfeiture of the debtor's charter and the restraint of public regulatory bodies have prevented the debtor from abandoning passenger operations on the Midland district and assign that as a reason for devising some method whereby mortgage districts other than the Midland should share in the passenger-traffic losses incurred on that district. They assert that under the debtor's and examiner's formulas the Terminal district is better off than if there were no passenger operation because not all common expenses assigned to passenger service could be eliminated if the passenger service were eliminated.

We think that a formula for the segregation of earnings and expenses to the various subdivisions of a property should be a method by which the revenues received for the various transportation services may be fairly apportioned to the subdivisions of the property involved in the various transportation services, and a method for apportioning the expenses incident to the respective services to the subdivisions involved. It is not the function of a formula such as we are asked to devise to provide adjustments such as the insurance companies propose. If passenger service is performed on but a single district, the revenues received in connection with that service should be allocated under the formula to that district and all expenses, including common expenses apportioned to that service, should also be assigned to that district.

The traffic handled between Little Ferry yard and Edgewater is handled by yard crews as a yard operation, and ton-miles, car-miles, or train-miles are not reported for the movement. Regardless of this method of operation substantially all loaded cars are hauled approximately 3 miles between the junction of the Midland and Terminal districts at Little Ferry yard and the coal unloader at Edgewater, or the tracks owned by the Erie Terminals Railroad extending along the Hudson River both north and south of the property covered by the Terminal mortgage, and in addition are hauled on the Midland district approximately 8 miles. Thus, a substantial portion of the actual haul is over property covered by the Terminal mortgage.

The Terminal district (including Erie Terminals Railroad) originated 52.36 percent of the tonnage originated on the entire system and terminated 66.39 percent of the tonnage terminated on the system, in the 5-month period January to May 1938. In the same period all other districts originated or terminated 17,541 cars, and performed 46,873 interchange operations, if 3,023 carloads of coal which were stored at Coalburgh (Passaic Junction) and reloaded be considered as originated instead of an interchange operation.

The examiner excluded traffic expenses from his formula for the constructive-mileage allowances, because the proper basis for assignment of traffic expenses is in proportion to the revenues of the respective districts, and such expenses should not be included in a computation for the purpose of allocating revenues. He excluded taxes on the ground that certain taxes vary with revenues or expenses and that property taxes are in the nature of a fixed charge having no relationship to earnings.

The insurance companies on brief state that the revenues per car assigned to the Terminal by the proposed formulas are out of line with the rates received for comparable switching movements, comparing average revenue per car of $24.59 under the debtor's formula and $24.73 under the examiner's formula with the $6.93 switching tariff in the Terminal district. The switching tariff does not cover transportation services over the coal dock, the operation of Little Ferry yard, the haul between Little Ferry yard and the switching district, or the additional free time before demurrage on cars loaded with tidewater coal, the cost of which is all or largely included in the Terminal district's expenses. These items of expense would make up a large proportion of the difference between the switching tariff and the above-stated average revenues.

Most of the traffic handled in the Terminal district comes on or leaves the debtor's line at Passaic Junction or Croxton, involving 8 miles of haul on the Midland district. Computations made from the data of record show that for such movements under the examiner's formula the revenue per car-mile assigned to the Midland is materially greater on the traffic joint with the Terminal than are the revenues per car-mile on traffic which does not touch the Terminal. On traffic joint with the Terminal district that district performs one terminal operation, which is either an origination or a termination, with the cost assigned to the Terminal, and the cost of only one terminal operation, usually an interchange operation, is assigned to other districts, whereas on the traffic that does not touch the Terminal district the costs of two terminal operations must be assigned to the other districts. It is evident that freight traffic joint with the Terminal district with revenues divided under the examiner's formula is more profitable to the Midland district than the freight traffic which is not joint with the Terminal district.

The debtor's divisions on traffic interchanged with the Erie cover the entire movement over the debtor's line, involving terminal costs as well as the line-haul costs. The proposed formulas allocate the debtor's divisions to the districts involved in the movement on a basis which gives consideration to the cost of handling the traffic on the various districts. In a test for fairness the amounts so allocated to respective districts should be compared with each other rather than with the revenues derived from the movement of other traffic on the districts.

On brief the insurance companies state that if either the debtor's or the examiner's formula is to be recommended certain details of language and application should be changed as follows:

1. That if it is necessary to segregate the earnings of the property of the Erie Terminals Railroad Company from those of the property covered by the Terminal mortgage, its revenues and expenses should

be combined with those of the Midland district and a reasonable rate of return on the valuation of the Erie Terminals property should be charged to the Midland district and credited to the Erie Terminals Railroad Company for the use of its property.

2. That the rate of 5 percent a year on investment suggested by the formulas of the debtor and the examiner to be charged to one mortgage division and credited to another or to unassignable income for the use of the equipment and facilities is too high in the light of current cost of money.

3. That a more precise and more equitable method should be devised for distributing the expense pertaining to the use of Little Ferry yard than on the basis of the cars handled for the respective mortgage districts as used in the formulas of the debtor and the examiner. The suggestion is made, by way of example, that a car moving over the Midland district through the yard to the Terminal district should be counted as one car against the Midland district and one car against the Terminal district and that a car moving over the Midland from a point north of the yard to a point south of the yard should be counted as one-half car in and one-half car out, but that if switched in the yard the count would be one car in and one car out.

4. That in the application of that part of the proposed formulas which allocate car hire on the basis of the number of serviceable cars on each district at particular times during fixed periods the debtor improperly allocated the cars located at Little Ferry yard by treating as Terminal cars those which were en route to or had been received from the Terminal. The request is made that the same method be used with respect to the apportionment of cars counted at that yard as is requested in regard to the allocation of expenses at that yard.

5. That common expenses assigned to passenger operation, which could not be saved if passenger operations should be abandoned, should be considered in determining constructive mileage for allocation of freight revenues.

6. That in determining constructive-mileage allowance hire of freight cars should be divided by assigning the hire of cars going over the coal dock to coal-dock expense and the other car hire to the other expenses.

7. That in determining constructive-mileage allowance the number of cars switched in the Terminal should be included in the number of loaded cars considered as handled by the Terminal.

8. That the same minimum allowance should apply for interchange operations on districts other than the Terminal as for origination or termination.

9. That constructive-mileage allowances should be determined on the basis of a full year's operations.

10. That expenses not normal should be normalized as far as practicable in determining a constructive-mileage allowance.

We shall consider these criticisms in the order stated.

1. The property of the Erie Terminals Railroad Company is not connected to the Midland property, since the property covered by the Terminal mortgage is between them. The Terminal district is the only portion of the debtor's property that connects with the Erie Terminals. The property is operated in connection with the movement of traffic over the property covered by the Terminal mortgage, title to the property is in another corporation, it is not subject to the lien of any of the debtor's mortgages, and it is used by the debtor under a rental agreement. We conclude that the revenues and expenses of the Erie Terminals Railroad should not be combined with those of the Midland district with a reasonable rate of return on the valuation of the property charged to the Midland district and credited to the Erie Terminals Railroad Company.

2. The interest rate on the debtor's outstanding bonds is 5 percent with the exception of the 4½-percent rate on the outstanding second-mortgage bonds, and equipment obligations bear an interest rate of 5½ percent. The charge of 5 percent for use of joint facilities and equipment is approximately equal to the average rates of interest found by the debtor on its interest-bearing obligations.

3. Determination of the use of Little Ferry yard as between the districts involved should be on a practical basis. It does not appear practical to ascertain the amount of use that is made of the yard in connection with every car passing through the yard, such as the amount of switching of a car on the time it remains in the yard. A car using the yard but not going to or coming from the Terminal district should be counted as a car for the Midland district. Where a loaded car uses the yard either coming from or destined to the Terminal district, it is handled for each district and should be counted as one-half for each district. The examiner's formula should be clarified so as to show that method.

4. Little Ferry yard is a classification and storage yard. Cars destined to the Edgewater terminals are classified, and some are stored until delivery at Edgewater is authorized. Cars loaded at the Edgewater terminals and destined for points, or for interchange, on other districts are delivered at the yard by yard crews and remain until picked up by line-haul trains. With hauls as short as those on the debtor's line the period of time involved in the line-haul movements is almost insignificant in comparison with the time at terminals, and under these circumstances ascertainment of the percentage

of the total cars on the system located on the respective districts appears to be a practical method to use in allocation of car hire. The cars in the yard awaiting movement to the Terminal should be treated as Terminal cars, those loaded at the Terminal and waiting in the yard for line-haul movement should be considered as Midland cars, while those not destined to or from the Terminal are, of course, Midland cars. Empty cars owned by the debtor but simply stored in the Little Ferry yard should not be included in the computations. This method gives better recognition to the element of time during which loaded cars are held at the yard because of the operating necessities of the movements than the use factor employed in the allocation of operating expenses at Little Ferry yard, and it is approved for use in the application of the formula approved herein.

5. A portion of the expenses in connection with passenger operations are direct and a portion are common between passenger and freight operations. The amount of such common expenses which could not be saved should passenger service be discontinued is too conjectural as to amount or as to assumption of future conditions to estimate until such event transpires. For the purpose of segregation and allocation of revenues and expenses to the various divisions of the operated property, each type of service should be charged with its portion of common expenses. On November 11, 1935, we approved revised rules governing the separation of railway operating expenses, taxes, equipment rents, and joint-facility rents between freight service and passenger service. These rules are used by carriers in their reports to the Commission.

6. From the evidence it appears that coal cars are detained longer than merchandise cars, with a consequent larger per diem on coal cars than on merchandise cars. In the constructive-mileage allowance for coal-dock expense in the proposed formulas no portion of the item of car hire is included with coal-dock expenses. The effect of the proposal of the insurance companies would be to increase the mileage allowance on cars over the coal dock and decrease the allowance for other cars. The debtor's divisions on coal are 78 cents a ton on coal over the coal dock and 52 cents on other coal. Since the difference in the debtor's duties in respect of these types of shipments involves a greater free time on coal cars over the coal dock as well as the operation of the dock, it is logical that the cost of freight-car hire on the cars handled over the coal dock be included with the cost of operation of the coal dock for the purpose of computing a constructive-mileage block. We approve the method of treatment proposed by the insurance companies.

7. An examination of the exhibits shows that in the application of the examiner's formula the number of cars used in developing mileage

allowance included cars switched. Since it is not practical to determine costs on each car and since determination of average cost is practical and is the method ordinarily used, the cars moved under a switching tariff should be included with those involving a line-haul movement.

8. It is a recognized fact that interchange operations are generally less expensive than originating or terminating operations. On districts other than the Terminal, interchange operations constitute a very large proportion of the total of originating, interchange, and terminating operations. Furthermore, the cost of interchange operations cannot be readily separated from the other terminal costs. For these reasons we approve the 25-percent minimum for a district originating or terminating traffic but do not approve the requested minimum for the performance of interchange operations.

9. There are no objections to using the results of operations for a full year in determining the constructive-mileage allowances under the formula. However, a shorter period might reflect normal cost relationships. We think that if results of the application of the formula are desired for a given period of a year or less, the same period should be used in a determination of the constructive-mileage allowances.

10. In a study of this type, expenses which appear not to be normal are usually investigated and adjustment made to reflect normal expenditures. Abnormal expenses should be adjusted so that results of application of the formula will show fair allocation of expenses, and the formula should provide that abnormal expenses be adjusted.

GENERAL CONCLUSIONS

The principal problem presented is in connection with prorating revenues and expenses from operations common to two or more divisions of the system and in the consideration to be given to terminal costs. In *New York, N. H. & H. R. Co. Reorganization*, 224 I. C. C. 723, we stated in regard to terminal costs (at page 731):

> There are no fixed rules generally in effect for the compensation of terminal lines for these higher costs, but they always are recognized, in some manner, in the division of interline-freight revenues between different roads. In some instances a minimum percentage of the rate is allotted to the terminal roads, the residual part being apportioned to the intermediate lines on the basis of mileage. In others a constructive-mileage block is added to the actual mileage of the terminal lines and the revenue is prorated on the basis of the sum of the actual and the constructive mileages.

The method used to compensate terminal railroads in division of interline-freight revenues is proper to apply in a study to allocate revenues to the different divisions of a single railroad property. We cannot accept the view that the Terminal district (including the Erie Terminals Railroad) should be treated as a adjunct to or an integral part of the Midland district for the purposes of segregation and allocation of revenues and expenses.

Movement of traffic on the property of the Erie Terminals Railroad is handled by yard crews in connection with the movement between the terminal and Little Ferry yard. Our views with respect to treating the Erie Terminals Railroad as an integral part of the Midland district operations are similar to those in regard to the property covered by the Terminal mortgage. The debtor on brief and argument stated that it is willing to have studies made covering the operations relating to handling of cars on the property of the Erie Terminals Railroad and to determine a constructive-mileage allowance as a basis of allocation of revenue to it. This, however, would require the keeping of many records not now kept with relation to this operation and even after made would be subject to the objection that the data so accumulated might not apply to a different period. Since all the data as now kept in the debtor's records apply to the entire operation on both properties, the refinement and the necessary expenses involved in the collection of the other records does not appear justifiable. We approve assignment of revenues to the Erie Terminals Railroad on the basis of comparable switching tariffs and allocation of operating expenses in connection therewith on the basis of the operating ratio of the joint district. Other items affecting income, such as taxes and rental received or paid in connection with the property, should also be assigned to the Erie Terminals Railroad.

The insurance companies object to computation of a constructive-mileage allowance based on a terminal's individual costs and point to our discussion in the *New Haven case*, *supra*, regarding computation of constructive-mileage allowance on average costs. In that case it was urged that costs at some terminals were higher and that the use of system averages unduly favors a line where costs are below the average and discriminates against the line where costs are above the average. In this case, in view of the origination and termination operations without interchange operations, with a substantial portion of the haul on the terminal district including the Erie Terminals Railroad Company, and considering the ratio of interchange operations to originating and terminating operations on other portions of the debtor's property, we conclude that the difference in transportation service rendered justifies consideration of the Terminal district apart from the other terminals on the debtor's property.

Even though there is but little freight traffic joint on the divisions of the debtor's property except that joint between the Midland and

Terminal districts, we are of the opinion that other districts which originate, terminate, or interchange any joint freight traffic should receive compensation for those services in the form of a constructive-mileage block. The formula proposed by the examiner compensates the respective districts for these services, and we approve this feature of the examiner's formula.

Since the property formerly owned by the Erie Land & Improvement Company and used by the debtor has been transferred to the trustee of the debtor's property, the formula which we recommend will treat this as the debtor's property. Also, since the court has decided that the debtor's traffic and operating agreements are not subject to the lien of any mortgage, we shall not include the trackage over the Erie between Jersey City and Passaic Junction in the Midland district.

During the 5-month period January to May 1938, 1,877 cars of coal for termination on the Terminal district, 476 cars for termination on other districts, and 670 cars delivered to connections on other districts were taken from storage at Coalburgh. The record does not disclose the number of cars of coal that went into storage in the same period nor when and how the divisions were settled between the debtor and the Erie. Obviously, at the time the coal goes into storage it is not possible to foretell when it will leave and what portion would take the debtor's division applicable to tidewater coal and what portion would take other and lower divisions for the debtor. If more coal leaves storage during the period under investigation than is placed in storage and the divisions of the joint rates are partially accounted for at the time the coal goes into storage, the examiner's formula may result in an unfair showing as between various districts. The examiner's formula should be modified so as to provide that revenues derived from coal stored during transit shall be treated as accruing to the debtor at the time the coal leaves storage. This will insure a fair indication of the relative earnings of respective districts for the period to which the formula may be applied.

We approve and recommend to the court the method or formula proposed by the examiner, as modified herein, with respect to segregating and allocating the earnings and expenses of the debtor between and to the divisions and parts of the railroad or other property of the debtor which are separately subject to the liens of various mortgages or deed of trust or are separately subject to the lease.

An appropriate order will be entered.

MAHAFFIE, *Commissioner*, dissenting:

Pursuant to the order of reference by the court of jurisdiction, the majority recommend a formula for a segregation and allocation of the revenues and expenses between the divisions or parts of the railroad or other property of the debtor which are separately subject to the liens of various mortgages or deeds of trust or are separately subject to lease. The recommended formula provides that revenues from traffic moving over the Terminal and other districts shall be divided by the establishment of a constructive-mileage allowance for the Terminal district based on the relation between the cost per loaded car in that district and the cost per loaded-car mile in other districts.

As I read the decision of the majority, the recommended formula appears to be based on the theory that the allocation of revenues between mortgage divisions is closely analogous to the fixing of divisions between independent railroads, and since high terminal costs are often recognized and compensated through the use of constructive-mileage allowances in the fixing of such divisions, the provision in the recommended formula for the allowance of a constructive-mileage block to the Terminal district is justified by such practice. I am unable to concur in this conclusion.

The use of a constructive-mileage allowance for originating and terminating mortgage divisions performing a line haul is a fair method of allocating freight revenues between them. In such instances there are reciprocal opportunities for the averaging out of inequalities. In the present instance the situation is different. The Terminal district is in reality a facility and, in my opinion, should be treated as such. The problem of segregating the earnings of such an operation is analogous to that involved in fixing the rental to be paid an independent terminal company by joint users of the property. In actual railroad practice the payments to such a terminal are based not upon any division of gross revenues but upon the allowance to the terminal of operating expenses plus a return on the investment. To allocate revenues between a line haul and a terminal through the use of a constructive-mileage allowance is an attempt to make use of a device developed for a wholly different purpose.

It may be said that under the language of section 77 (c) (10) and the order of reference we have no alternative but to segregate and allocate the revenues of the debtor between its various mortgage divisions, including the Terminal district. In the first place, it will be observed that section 77 (c) (10) does not require that any particular "method or formula" of segregation be employed. The subsection directs such a segregation and allocation "as the necessities of the case may require." In the second place, it will be observed that what is required is an allocation of earnings and not revenues. In my opinion, the statute does not require that a division of revenues on the basis usual between roads performing line hauls should be used in every case. We recognized this in *New York, N. H. & H. R. Co. Reorganization*, 224 I. C. C. 723, where, in recommending a formula under section 77 (c) (10) we provided that joint terminals, instead of receiving a division of revenues as did the various line-haul districts, should be credited with interest upon their physical values, and that these charges, together with the net expenses of the terminals, should be shared by the using lines.

It should be observed further that, under the recommended formula, for the year ended May 31, 1938, the rate of return of the Terminal district (including Erie Terminals Railroad Company) was approximately 9 percent as compared with no return on the Midland district. The rate of return produced for the Terminal district scarcely can be said to be in line with the rate of return ordinarily paid to an independent terminal for the use of its property. Results so out of line with actualities render the formula of doubtful value for any actual use in the reorganization proceeding. Such a formula does not meet "the necessities of the case".

APPENDIX

Order entered at a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 14th day of December, A. D. 1939:

The Commission, by division 4, having under consideration the order of the court referring to us the matter of the method or formula of segregating and allocating the earnings and expenses of the New York, Susquehanna and Western Railroad Company, debtor, to the divisions and parts of the railroad or other property which are separately subject to the liens of various mortgages or deed of trust or are separately subject to lease, hearings having been held and briefs filed, and the division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That the following be, and it is hereby, declared to be the method or formula recommended by this Commission for a segregation and allocation of the revenues and expenses between the divisions or parts of the railroad or other property of the debtor which are separately subject to the liens of various mortgages or deed of trust or are separately subject to lease.

A. DISTRICTS TO WHICH REVENUES AND EXPENSES SHALL BE ALLOCATED

Revenues and expenses shall be segregated to the following mortgage and leased-line districts:

		Miles
1. Midland district, West End, Jersey City to New York State line		70.69
2. First-and-refunding district, Beaver Lake, N. J., to Stroudsburg, Pa		48.56
3. Terminal district:		
3a. Little Ferry Junction to Edgewater, N. J	3.05	
3b. Erie Terminals Railroad Co., Edgewater	1.29	
		4.34

(3a and 3b to be segregated after allocation jointly)

4. Passaic and New York district, Passaic Junction to Passaic, N. J------ 3.05
5. Paterson Extension district, Broadway to Straight Street, Paterson, N. J---------- .75
6. Hackensack & Lodi and Lodi Branch district:
   6a. Hackensack to Lodi, N. J---------- 1.41
   6b. Lodi Junction to Lodi, N. J---------- .32
   ―― 1.73
7. Revenues and expenses, including those incident to trackage-right operation, not allocated to the above-designated districts will be treated as "unallocated."

The Erie Terminals Railroad is not specifically covered by mortgage. Due to the difficulty in segregating revenues or expenses between this property and the property covered by the terminal mortgage, both will first be considered as a joint district. Afterwards there will be allocated to the Erie Terminals Railroad Company from the joint district revenues based on comparable switching tariff rate and operating expenses based on the operating ratio of the joint district. Other income items, such as taxes and rentals received or paid in connection with the property, should be assigned to the Erie Terminals Railroad.

The Hackensack & Lodi Railroad Company and the Lodi Branch Railroad Company are severally subject to lease but are not specifically covered by mortgage. As operated they constitute a single branch line. Due to the difficulty of segregating revenues and expenses they will be treated as a joint district. If, however, segregation should be determined to be necessary, such segregation and allocation shall be on the same basis as herein provided for other districts.

The yard at Undercliff Junction (Little Ferry yard) is used jointly by the Midland and Terminal districts. The expenses will be segregated for this yard and apportioned to the two districts on the basis of the number of cars handled for the respective districts, counting a car handled for both districts as one-half car for each district.

Revenues or expenses not pertaining to these districts will be segregated as unallocated to districts.

B. OPERATING REVENUES

Account 101, Freight. Freight revenue from traffic local to a district will be allocated directly to it.

Revenue on traffic moving over two or more districts will be allocated on the basis of adjusted mileage over each district. Mileage over districts other than the Terminal will be adjusted by adding the mileage allowance determined by the terminal formula for origination, termination, and interchange, and the adjusted mileage for the Terminal district will be the mileage determined by the terminal formula. In recognition of origination or termination a minimum of 25 percent of the revenue will be allocated to originating or terminating districts.

Revenue from the tariff allowance for lighterage will be deducted before prorating and allocated to the district involved. Payments to the Erie Railroad for lighterage will be allocated directly to the district involved.

All revenue on coal stored during transit shall be treated as accruing to the debtor at the time the coal leaves storage.

Miscellaneous additions to and deductions from freight revenue, such as overcharge claims, diversions, and other adjustments, will be prorated on the basis of freight revenue assigned to each district.

Account	
102. Passenger.	Assign to Midland district.
103. Excess baggage.	
106. Mail.	
107. Express.	
108. Other passenger train.	
134. Parcel room.	
136. Storage of baggage.	

109. Milk. Revenue from milk moving locally on a district is assigned directly. Revenue from milk moving over more than one district will be apportioned on same basis as freight revenues.

110. Switching.	Assign directly to the district involved except that demurrage on coal cars destined for the Terminal district but held at Little Ferry yard will be assigned to the Terminal district.
116. Water transfer, other.	
133. Station, train, and boat privileges.	
135. Storage freight.	
137. Demurrage.	
138. Telegraph and telephone.	
142. Rents of buildings and other property.	
143. Miscellaneous.	

C. TERMINAL FORMULA FOR MILEAGE ALLOWANCES

The purpose of this formula is to develop a constructive-mileage allowance for the Terminal mortgage district, including Erie Terminals Railroad, and a constructive-mileage allowance for originating and terminating traffic, including interchange to or from connections, at other points for use in apportioning freight revenues between the several districts severally subject to mortgage or operated under lease. Due to the difficulty of segregating costs of interchange to or from connections from the cost of origination or termination, average cost per car for interchange, originations, and terminations will be used to determine constructive mileage for such service on all districts except the Terminal district. The allowances shall be determined by the relationship of the cost per loaded car for the Terminal district, and the cost per car applicable to origination or termination, including interchange to or from connections, at other locations, to the cost per loaded car-mile on districts other than the Terminal district. Cars moved under switching tariffs shall be included in determining the cost per loaded car for the terminals.

The expenses at Little Ferry yard, used jointly by the Terminal and Midland districts, shall be segregated and apportioned to the districts on the basis of cars handled for the respective districts, counting a car handled for both districts as one-half car for each district.

Terminal district expenses shall be subdivided between expenses for coal-dock operation and other expenses, the revenues from the coal-trimming charges assessed being deducted from coal-dock operation expense to arrive at net expense applicable to the movement.

To develop the constructive-mileage allowances, the railway operating expenses (exclusive of traffic expenses) in the months under investigation will be used to determine the cost per loaded car, including cars switched, for the Terminal district, the average cost per car for origination or termination (including interchange from or to connections at other points), and the cost per loaded-car mile over other districts. The expenses related solely to freight service and common expenses apportioned to freight service shall be apportioned to Terminal district, coal-dock expense, expense at Little Ferry yard, other terminal expense, and freight road-haul expense, with the Little Ferry yard expense reallocated on car basis indicated above.

Expenses which on investigation are found to be not normal shall be adjusted to reflect normal conditions.

The apportionment of the various expenses, by I. C. C. primary accounts, shall be as follows:

MAINTENANCE OF WAY AND STRUCTURES

Account	
202. Roadway maintenance. 208. Bridges, trestles, and culverts. 212. Ties. 214. Rail. 216. Other track material. 218. Ballast. 220. Track laying and surfacing. 221. Fences, snow sheds, and signs.	Apportion on basis of equated track mileage assigning the expenses apportioned to running tracks to freight road-haul expenses and that apportioned to yard and way switching tracks to terminals according to location.
206. Tunnels and subways. Assign to Terminal district.	
227. Station and office buildings. Assign to terminals according to location.	
229. Roadway buildings. 269. Roadway machines. 271. Small tools and supplies.	Apportion on basis of accounts 202 to 221, inclusive.
231. Water stations. 232. Fuel stations.	Apportion between terminals and freight road-haul expenses on basis of accounts 382 and 394 (yard and road fuel), excluding charges for gasoline.
235. Shops and enginehouses. Apportion shops on basis of account 308 and enginehouses on basis of accounts 388 and 400.	
241. Wharves and docks. 243. Coal and ore wharves.	Assign to Terminal district.
247. Telegraph and telephone lines. Apportion on the basis of accounts 201, 301, 371, and 372.	
249. Signals and interlockers. Assign direct, supervision, and general charges on basis of direct allocation.	
257. Power transmission systems. 265. Miscellaneous structures. 272. Removing snow, ice, and sand. 273. Public improvements, maintenance. 278. Maintaining joint tracks, yards, and other facilities. Dr. 279. Maintaining joint tracks, yards, and other facilities. Cr. 281. Right-of-way expenses.	Assign direct, according to location.
201. Superintendence. 276. Stationery and printing. 277. Other expenses. 274. Injuries to persons. 275. Insurance.	Apportion on basis of accounts 202 to 273, exclusive of account 247.

MAINTENANCE OF EQUIPMENT

Account

302. Shop machinery. Apportion on basis of accounts 308 to 326.
308. Steam locomotives, repairs. Road, apportion to other terminals and freight road-haul expense on the basis of train-switching locomotive-miles and total road locomotive-miles: Yard, apportion to Little Ferry yard and Terminal district on basis of locomotive-miles in each.
314. Freight-train cars, repairs. Apportioned on basis of number of serviceable cars in each district determined from a study of actual location of railroad-owned cars for the period under investigation, assigning 65 percent of the repairs on districts other than Terminal district to other terminals and 35 percent to freight road-haul expense.
323. Floating equipment, repairs. Assign to Terminal district.
326. Work equipment, repairs. Apportion on basis of account 201.
328. Miscellaneous equipment, repairs. Apportion on basis of accounts 201, 301, and 371.

329. Equipment, retirements. 331. Equipment, depreciation.	Apportion on the basis of the repairs account for each type of equipment.
336. Maintaining joint equipment. Dr. 337. Maintaining joint equipment. Cr.	Assign direct.
301. Superintendence. 332. Injuries to persons. 333. Insurance. 334. Stationery and printing. 335. Other expenses.	Apportion on basis of accounts 302 to 326, inclusive.

TRANSPORTATION EXPENSES

372. Dispatching trains. Assign to freight road-haul expense.
373. Station employees. Assign to terminal according to location.
374. Weighing, inspection, and demurrage bureaus. Apportion on basis of account 373, freight.
375. Coal and ore wharves. Assign to Terminal district.

376. Station supplies and expenses. 378. Yard conductors and brakemen. 379. Yard switch and signal tenders. 380. Yard enginemen.	Assign to terminals according to location.
377. Yardmasters and yard clerks. 382. Yard switching fuel. 385. Water for yard locomotives. 386. Lubricants for yard locomotives. 387. Other supplies for yard locomotives. 388. Enginehouse expense, yard. 389. Yard supplies and expense.	Apportion to terminals on the basis of yard locomotive-miles.
390. Operating joint yards and terminals. Dr. 391. Operating joint yards and terminals. Cr.	Assign to terminals according to location.
392. Train enginemen. 393. Train motormen. 401. Trainmen. 402. Train supplies.	Assign direct where possible; where not assigned direct apportion to terminals and road-haul expense on basis of train-switching hours and total train hours.

Account	
394. Train fuel. 397. Water for train locomotives. 398. Lubricants for train locomotives. 399. Other supplies for train locomotives. 400. Enginehouse expense, train.	Apportion to other terminals and freight road-haul expense, assigning to terminals on the ratio of train-switching locomotive-miles to total locomotive-miles.
404. Signal and interlocker operation. 405. Crossing protection. 406. Drawbridge operation.	Assign strictly according to location.
407. Telephone and telegraph operation.	Apportion on basis of accounts 201, 301, 371, and 372.
408. Operating floating equipment.	Assign to Terminal district.
412. Operating joint tracks and facilities. Dr. 413. Operating joint tracks and facilities. Cr. 415. Clearing wrecks. 416. Damage to property.	Assign direct according to location.
371. Superintendence. 410. Stationery and printing. 411. Other expenses. 414. Insurance. 418. Loss and damage. Freight. 420. Injuries to persons.	Apportion on basis of accounts 372 to 406, 408, 415, and 416, excluding accounts 390 and 391.

GENERAL EXPENSE

Apportion on basis of maintenance of way, maintenance of equipment, and transportation expenses.

HIRE OF FREIGHT CARS

Private-line car payments on a mileage basis to be apportioned on basis of miles of such cars on each district, assigning 65 percent of the portion on districts other than the Terminal district to other terminals and 35 percent to freight road-haul expense.

Net payments for railroad-owned cars to be apportioned on the basis of number of serviceable cars in each district determined by a study of the actual location of railroad-owned cars on the system for the period under investigation, assigning 65 percent of the amount apportioned to districts other than the terminal to other terminals and 35 percent to freight road-haul expense.

Net payment for rent of freight locomotives to be apportioned to Little Ferry yard and Terminal district in the ratio of yard-switching miles on each to total freight locomotive-miles, to other terminals in the ratio of train switching to total freight locomotive-miles and to freight road-haul expenses in the ratio of principal, helper, and light locomotives to total freight locomotive-miles.

Hire of freight cars in the Terminal district shall be divided between "Coal dock expense" and "Excluding coal dock expense" in proportion to the car hire actually paid on the cars handled over the coal dock and on tne other cars moving over the terminal district.

D. ALLOCATION OF OPERATION EXPENSES TO VARIOUS DISTRICTS

Expenses if found to be abnormal shall be adjusted to reflect normal expenses.

I. MAINTENANCE OF WAY AND STRUCTURES

Account	
201. Superintendence. 276. Stationery and printing. 277. Other expenses.	Apportion on the basis of assignment to districts of accounts 202 to 273, exclusive of account 247.
202. Roadway maintenance. 206. Tunnels and subways. 208. Bridges, trestles, and culverts. 212. Ties. 214. Rail. 216. Other track material. 218. Ballast. 220. Track laying and surfacing. 221. Fences, snowsheds, and signs. 227. Station and office buildings.	Assign direct to the district involved.
229. Roadway buildings. 269. Roadway machines. 271. Small tools and supplies.	Apportion on the basis of accounts 202 to 221, inclusive.
231. Water stations. 233. Fuel stations.	Apportion on the basis of accounts 382 and 394, excluding charges for gasoline.

235. Shops and enginehouses. Apportion shops on the basis of account 308 and enginehouses on the basis of accounts 388 and 400.

241. Wharves and docks. 243. Coal and ore wharves.	Assign to Terminal district.

247. Telegraph and telephone lines. Apportion on the basis of accounts 201, 301, 371, and 372.

249. Signals and interlockers. Assign direct as far as possible; supervision and general charges on the basis of direct assignment.

257. Power transmission systems. 265. Miscellaneous structures. 272. Removing snow, ice, and sand. 273. Public improvements, maintenance. 278. Maintaining joint tracks, yards, and other facilities. Dr. 279. Maintaining joint tracks, yards, and other facilities. Cr. 281. Right-of-way expenses.	Assign direct according to location.
274. Injuries to persons. 275. Insurance.	Assign direct as far as possible; apportion unassignable charges on basis of account 201.

II. MAINTENANCE OF EQUIPMENT

302. Shop machinery. Apportion on basis of accounts 308 to 326.

308. Steam locomotive, repairs. Repair portion of rent paid Erie Railroad for locomotives will be assigned to the individual train and apportioned to

Account

districts on the basis of time worked on each district. Estimated cost of repairs each day for owned locomotives will be similarly apportioned and shown as a credit to "Unallocated". The repair portion of the rent from locomotives owned and the actual cost of repairs to owned locomotives will be reported as "unallocated". Yard locomotive repairs will be apportioned between Little Ferry yard and Terminal district on the basis of yard locomotive-miles for each class of locomotive.

314. Freight-train cars, repairs. Apportion on basis of average number of serviceable cars on each district.
317. Passenger-train cars, repairs. Apportion milk-car repairs on basis of use. Assign all other repairs direct.
323. Floating equipment, repairs. Assign to Terminal district.
326. Work equipment, repairs. Assign direct when possible; other expenses apportioned on basis of account 201.
328. Miscellaneous equipment, repairs. Apportion on basis of accounts 201, 301, and 371.

329. Equipment, retirements. 331. Equipment, depreciation.	Apportion on the basis of the appropriate repair account for each type of equipment.
336. Maintaining joint equipment. Dr. 337. Maintaining joint equipment. Cr.	Assign direct.
301. Superintendence. 332. Injuries to persons. 333. Insurance. 334. Stationery and printing. 335. Other expenses.	Direct freight expenses apportioned on the basis of freight expense for all other maintenance of equipment accounts exclusive of depreciation, retirements, and joint facility. Direct passenger expenses assigned to Midland district. Common expenses apportioned on basis of all other maintenance of equipment accounts excluding depreciation, retirements, and joint facility.

III. TRAFFIC EXPENSES

Common expenses will be apportioned between freight and passenger on the basis of the directly assigned expenses other than advertising expense. Freight expenses will be apportioned to districts on the basis of account 101 and passenger expenses assigned to the Midland district.

IV. TRANSPORTATION EXPENSES

Account

372. Dispatching trains. Apportion on basis of train hours on each district including train-switching hours.
373. Station employees. Assign direct.
374. Weighing, inspection, and demurrage bureaus. Apportion on basis of account 373.
375. Coal and ore wharves. Assign to Terminal district.

376. Station supplies and expense. 378. Yard conductors and brakemen. 379. Yard switch and signal tenders. 380. Yard enginemen.	Assign direct.

Account	
377. Yardmaster and yard clerks. 382. Yard switching fuel. 385. Water for yard locomotives. 386. Lubricants for yard locomotives. 388. Enginehouse expenses, yard. 389. Yard supplies and expenses.	Apportion on basis of yard locomotive-miles.
390. Operating joint yards and terminals. Dr. 391. Operating joint yards and terminals. Cr.	Assign direct.
392. Train enginemen. 393. Train motormen. 394. Train fuel. 401. Trainmen.	Assign direct where possible. On runs over two or more districts apportion on basis of time worked by train crew in each district.
398. Lubricants for train locomotives. 399. Other supplies for train locomotives. 400. Enginehouse expenses, train.	Apportion on locomotive-miles in each district. (Direct freight expense apportioned on freight locomotive-miles only).

397. Water for train locomotives. Apportion on basis of 394, exclusive of gasoline.

402. Train supplies and expenses. Passenger expenses assigned direct. Freight expenses apportioned on basis of car-miles.

404. Signal and interlocker protection. 405. Crossing protection. 406. Drawbridge operation. 408. Operating floating equipment.	Assign direct.

407. Telegraph and telephone operation. Apportioned on basis of accounts 201, 301, 371, and 372.

412. Operating joint tracks and facilities. Dr. 413. Operating joint tracks and facilities. Cr. 415. Clearing wrecks. 416. Damage to property.	Assign direct to district.
371. Superindence. 410. Stationery and printing. 411. Other expenses. 414. Insurance. 418. Loss and damage to freight. 420. Injuries to persons.	Assign account 420 direct where possible and apportion balance as common expenses. Direct passenger expense assigned to Midland district. Direct freight expenses, apportion on basis of freight expenses for accounts 372 to 389, 392 to 408, 415, and 416. Common expenses, apportion on basis of all expenses for accounts 372 to 389, 392 to 408, 415, and 416.

V. GENERAL EXPENSE

Direct freight expenses, apportion on basis of freight expenses for maintenance of way, maintenance of equipment, traffic, and transportation expenses. Direct passenger expenses, assign to Midland district. Common expenses, apportion on basis of all expenses for maintenance of way, maintenance of equipment, traffic, and transportation.

VI. TRANSPORTATION FOR INVESTMENT—CREDIT

Assign all credits direct.

Account

E. ALLOCATION OF OTHER ITEMS

532. Railway tax accruals. Real estate taxes, assign direct. Equipment taxes, apportion on basis of repairs for similar class. Social security and railroad retirement taxes, apportion on basis of total charges to operating expenses.

504. Rent from locomotives. 507. Rent from work equipment. 514. Income from funded securities.	Credit to "Unallocated."
508. Joint facility rent income. 510. Miscellaneous rent income. 511. Miscellaneous nonoperating physical property. 515. Income from unfunded securities and accounts. 519. Miscellaneous income.	Assign direct.

536. Hire of freight cars. Private-line car payments on a mileage basis, apportion on basis of car-miles. Net payment for railroad-owned cars, apportion on basis of average number of serviceable cars in each district, determined by study for the period under investigation. In Little Ferry yard cars destined to the Terminal district shall be treated as Terminal cars, and cars loaded at terminal and waiting in yard for line-haul movement shall be treated as Midland cars.

537. Rent for locomotives. Assign to train and apportion to districts on basis of locomotive-miles. Yard locomotives apportioned to Little Ferry yard and Terminal district on basis of yard locomotive-miles.

538. Rent for passenger-train cars. Apportion rent on milk cars on basis of use and assign other rent direct.

539. Rent for floating equipment. Assign to Terminal district.

540. Rent for work equipment. Apportion on basis of account 201.

541. Joint-facility rents. 543. Miscellaneous rents. 544. Miscellaneous tax accruals. 549. Maintenance of investment organization. 551. Miscellaneous income charges.	Assign direct.

FIXED CHARGES

542. Rent for leased road and equipment. 546. Interest on funded debt. 547. Interest on unfunded debt.	Rent on Erie Terminals Railroad assigned to Erie Terminals, rent on Passaic and New York to that district, interest on Midland bonds to Midland district, interest on terminal bonds to Terminal district, interest on first refunding bonds to the First and refunding district, interest on the Paterson Extension bonds to Paterson Extension district, and interest on second-mortgage and general-mortgage bonds, on equipment trusts, and interest on unfunded debt to "Unallocated".

F. ALLOCATION OF ADDITIONAL RENTAL ITEMS

Little Ferry yard.—Portions of this yard, which is used jointly by the Midland and Terminal districts, are subject to lien of each mortgage. Rental based on 5 percent of the investment as of December 31, 1937, will be distributed as follows:

On the portion of the yard covered by the Midland mortgage the rental will be assessed to Terminal mortgage on use factor developed for apportioning the expenses of the yard and credited to the Midland district.

On the portion of the yard covered by the Terminal mortgage, rental will be assessed to the Midland district on basis of the use factor and credited to the Terminal district.

Locomotives.—Interest at 5 percent on depreciated investment as of the date of the study will be credited to "Unallocated" and assessed to the mortgage districts by assigning to individual trains and apportioning to districts on basis of time worked by the train crew in each district.

Freight-train cars.—Interest at 5 percent on depreciated investment as of the date of the study will be credited to "Unallocated" and assessed to mortgage districts on basis of number of serviceable cars on each as determined for hire of freight cars.