

(4) in the fourth column, a compilation of the first three columns into a *pro forma* income statement.⁶

The adjustments are to be supported by a statement explaining the basis used in determining the estimated changes in revenues, expenses, and net income appearing in the *third* column. Additionally, if the major financial advantages to be derived from the proposed transaction will not occur within 3 years after consummation, then applicant shall furnish additional information to reflect the number of years within which the financial advantages will be realized. The basis for all such data furnished shall be fully explained and supported.

(c) Sources and application of funds (exhibit 18). Transferor's and transferee's statement of sources and application of funds for the current year, and a forecast⁷ of sources and application of funds for each carrier (if a merger or consolidation, the surviving or resulting corporation) for the year following consummation of the proposed transaction, and the years necessary to effectuate the operating plan.⁸ The form and content of these statements should be constructed in accordance with the schedule: "State-

⁶Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* column should show transferee's actual income statement on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustment necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* income statement.

The transferor shall file an income statement similar to the one filed by the transferee, with the second column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferor or transferee is affected, a similar statement shall be filed for each.

All adjustments to these income statements shall be supported in footnotes to the appropriate income statements.

⁷The forecast should reflect only changes anticipated to result from the proposed transaction. Forecasts are not required to reflect general economic conditions unrelated to the proposed transaction.

⁸The *pro forma* balance sheets (exhibit 16), *pro forma* income statements (exhibit 17), and sources and application of funds (exhibit 18) shall cover the same years.

ment of Changes in Financial Position" required in the most recently filed Annual Report R-1 for Class I railroads.

(d) Property encumbrance (exhibit 19). If any of the property covered by the application is encumbered and applicant has agreed to assume obligation or liability in respect thereof, submit:

(1) A description of the property encumbered.

(2) Amount of encumbrance and full description thereof, including maturity, interest rate, and other terms and conditions.

(3) Amount of encumbrance assumed or to be assumed by applicant.

(e) The Board will incorporate by reference the current balance sheets and income statements of Class I railroads which are on file with the Board. Class II and Class III railroads, and non-carrier entities shall submit balance sheets (exhibit 20) and income statements (exhibit 21) covering a period ending within 6 months before the application is filed.

[47 FR 9844, Mar. 8, 1982. Redesignated at 47 FR 49592, Nov. 1, 1982, and amended at 58 FR 63104, Nov. 30, 1993; 62 FR 9717, Mar. 4, 1997; 64 FR 53269, Oct. 1, 1999]

§ 1180.10 Service assurance plans.

For *major* transactions: Applicants must submit a Service Assurance Plan, which, in concert with the operating plan requirements, identifies the precise steps to be taken by applicants to ensure that projected service levels would be attainable and that key elements of the operating plan would improve service. The plan shall describe with reasonable precision how operating plan efficiencies would translate into present and future benefits for the shipping public. The plan must also describe any potential area of service degradation that might result due to operational changes and how instances of degraded service might be mitigated. Like the Operating Plan on which it is based, the Service Assurance Plan must be a full-system plan encompassing:

(a) *Integration of operations.* Based on the operating plan, and using appropriate benchmarks, applicants must develop a Service Assurance Plan describing how the proposed transaction would result in improved service levels and how and where service might be degraded. This description should be a precise route level review, but not a shipper-by-shipper review. Nonetheless, the plan should be sufficient for individual shippers to evaluate the projected improvements and changes, and respond to the potential areas of service degradation for their customary traffic routings. The plan should inform Class II and III railroads and other connecting railroads of the operational changes or changes in service terms that might affect their operations, including operations involving major gateways.

(b) *Coordination of freight and passenger operations.* If Amtrak or commuter services are operated over the lines of applicant carriers, applicants must describe definitively how they would continue to facilitate these operations so as to fulfill existing performance agreements for those services. Whether or not the passenger services are operated over lines of applicants or applicants' operations are on the lines of passenger agencies, applicants must establish operating protocols ensuring effective communications with Amtrak and/or regional rail passenger operators to minimize any potential transaction-related negative impacts.

(c) *Yard and terminal operations.* The operational fluidity of yards and terminals is key to the successful implementation of a transaction and effective service to shippers. Applicants must describe how the operations of principal classification yards and major terminals would be changed or revised and how these revisions would affect service to customers. As part of this analysis, applicants must furnish dwell time benchmarks for each facility described in this paragraph, and estimate what the expected dwell time would be after the revised operations are implemented. Also required will be a discussion of on-time performance for the principal yards and terminals in the same terms as required for dwell time.

(d) *Infrastructure improvements.* Applicants must identify potential infrastructure impediments (using volume/capacity line and terminal forecasts), formulate solutions to those impediments, and develop time frames for resolution. Applicants must also develop a capital improvement plan (to support the operating plan) for timely funding and completion of the improvements critical to transition of operations. They should also describe improvements related to future growth, and indicate the relationship of the improvements to service delivery.

(e) *Information technology systems.* Because the accurate and timely integration of applicants' information systems is vitally important to service, applicants must identify the process to be used for systems integration and training of involved personnel. This must include identification of the principal operations-related systems, operating areas affected, implementation schedules, the realtime operations data used to test the systems, and pre-implementation training requirements needed to achieve completion dates. If such systems will not be integrated and on line prior to implementation of the transaction, applicants must describe the interim systems to be used and the adequacy of those systems to ensure service delivery.

(f) *Customer service.* To achieve and maintain customer confidence in the transaction and to ensure the successful integration and consolidation of existing customer service functions, applicants must identify their plans for the staffing and training of personnel within or supporting the customer service centers. This discussion must include specific information on the planned steps to familiarize customers with any new processes and procedures that they may encounter in using the consolidated systems and/or changes in contact locations, telephone numbers, or communication mode.

(g) *Labor.* Applicants must furnish a plan for reaching necessary labor implementing agreements. Applicants must also provide evidence that sufficient qualified employees would be available at the proper locations to effect implementation.

(h) *Training.* Applicants must establish a plan for providing necessary training to employees involved with operations, train and engine service, operating rules, dispatching, payroll and timekeeping, field data entry, safety and hazardous material compliance, and contractor support functions (e.g., crew van service), as well as training for other employees in functions that would be affected by the acquisition.

(i) *Contingency plans for merger-related service disruptions.* To address potential disruptions of service that could occur, applicants must establish contingency plans. Those plans, based upon available resources and traffic flows and density, must identify potential areas of disruption and the risk of occurrence. Applicants must provide evidence that contingency plans would be in place to promptly restore adequate service levels. Applicants must also provide for the establishment of problem resolution teams and describe the specific procedures to be utilized for problem resolution.

(j) *Timetable.* Applicants must identify all major functional or system changes/consolidations that would occur and the time line for successful completion.

(k) *Benchmarking.* Specific benchmarking requirements may vary with the transaction. The minimum for benchmarking will be the 12 monthly periods immediately preceding the filing date of the notice of intent to file the application. Benchmarking is intended to provide an historic monthly baseline against which actual post-transaction levels of performance can be measured. Benchmarking data should be sufficiently detailed and encompassing to give a meaningful picture of operational performance for the newly merged system. Applicants will report in a matrix structure giving the historic monthly (benchmark) data and provide for the reporting of actual monthly data during the monitoring period. It is important that data reflect uniformly constructed measures of historic and post-transaction operations. Minimum benchmark data include:

(1) *Corridor performance benchmarking.* Benchmarks will consist of route level performance information including flow data for traffic moving on the ap-

plicants' systems. These data will encompass flows to and from major points. A major point could be a Bureau of Economic Analysis (BEA) statistical area, or it can be a railroad-created point based on an operational grouping of stations or interchanges, or it could be another similar construction. It will be necessary for applicants to define traffic points used to establish benchmarks for purposes of monitoring. A sufficient number of corridor flows must be reported so as to fully represent system flows, including interchanges with short lines and other Class I's, and internal traffic of the respective applicants before the transaction. In addition to identifying traffic flows by areas, they also must be identified by commodity sector (for example, merchandise, intermodal, automotive, unit coal, unit grain etc.). Data for each flow must include: traffic volume in carloads (units), miles (area to area), and elapsed time in hours. Only loaded traffic need be included.

(2) *Yard and terminal benchmarking.*

(i) *Terminal dwell.* Terminal dwell for major yards will be calculated in hours for cars handled, not including run-through and bypass trains or maintenance of way and bad order cars.

(ii) *On time originations by major yard.* On time originations are based on the departure of scheduled trains originating at a particular yard.

(3) *System benchmarking.*

(i) Cars on line.

(ii) Average train velocity, by train type.

(iii) Locomotive fleet size and applicable bad order ratios.

(iv) Passenger train performance for commuter and intercity passenger services.

[66 FR 32589, June 15, 2001]

§ 1180.11 Transnational and other informational requirements.

(a) For applicants whose systems include operations in Canada or Mexico, applicants must explain how cooperation with the Federal Railroad Administration would be maintained to address potential impacts on operations within the United States of operations or events elsewhere on their systems.

(b) All applicants must assess whether any restrictions or preferences under