

## INDIVIDUAL HIGHLIGHTS

SEPTA's Capital Improvements p. 2

New Yorkers Get More Service p. 3

Statement of RUN's Board p. 4

In Boston, V is for Victory p. 5

Empire Corridor and High Speed Rail, Sold-Out Trains p. 9

The State of Ohio Rail Service p. 10

Cleveland's Red Line Progress p. 10

A Tale of Two Trains p. 12

Change Comes to Boston p. 15

## WILL THE SUPREME COURT KILL AMTRAK'S LONG-DISTANCE TRAIN NETWORK?

*Commentary by David Peter Alan*

The U.S. Supreme Court announced last June that it would review the case concerning rules that had given Amtrak trains priority over freight trains on railroads owned by freight-carrying companies. The Court will hear the case during its upcoming term, which begins in October. The Circuit Court for the District of Columbia (D.C. Cir.) had invalidated those rules a year ago, as an unconstitutional delegation of governmental power to Amtrak, which the circuit court held was a private corporation. The court granted the petition for a writ of certiorari in the case of *Department of Transportation, et al. v. Association of American Railroads*, Docket No. 13-1080.

The rules in question ("Standards and Metrics") had been promulgated by the Federal Railroad Administration (FRA), an agency within the U.S. Department of Transportation (DOT), under Sections 207 and 213 of the Passenger Rail Investment & Improvement Act of 2008 (PRIIA). They were published on the FRA's website, www.fra.gov, on May 12, 2010. Those rules gave Amtrak trains priority when they run on non-Amtrak railroads, and called for penalties to be assessed against those railroads if they delayed Amtrak trains. The Surface Transportation Board (STB) was given enforcement authority. The AAR, representing the "freight" railroads, sued to have those rules declared invalid. The District Court upheld the rules, 865 F. Supp.2d 22 (D.D.C. 2012), but the D.C. Circuit

reversed and invalidated them, 721 F.3d 666 (D.C. Cir. 2013).

Writing for the three-judge panel of the D.C. Circuit, Judge Janice Rogers Brown began her opinion with the following hypothetical:

*Imagine a scenario in which Congress has given to General Motors the power to coauthor, alongside the Department of Transportation, regulations that will govern all automobile manufacturers. And if the two should happen to disagree on what form those regulations will take, then neither will have the ultimate say. Instead, an unspecified arbitrator will make the call.*

In the next paragraph, Judge Brown extended her argument to a parallel statutory scheme in which Amtrak, rather than General Motors (GM), wielded such joint regulatory authority. (Continued on page 6)

## LAC MEGANTIC AND THE PROPOSED ELIMINATION OF TWO-PERSON CREWS: A RECIPE FOR DISASTER?

*By Richard Rudolph, Chair, Rail Users' Network*

The recent release of Canada's Transportation Safety Board (TSB) Investigation of the Lac-Megantic runaway train disaster provides the impetus for commenting on BNSF's efforts to operate trains on certain routes with only an engineer in the cab. BNSF has reached a tentative Crew

Consist Agreement with the International Association of Sheet Metal, Air, Rail and Transportation Workers Union. (SMART). The agreement, if ratified, would allow freight trains equipped with Positive Train Control to operate as early as next year with a lone engineer in the cab without an onboard conductor between specific territories in the Midwest and Pacific Northwest.

PTC equipped trains would be monitored for safety compliance by a "Master Conductor" working from a fixed or mobile location other than the locomotive cab.

Positive Train Control can eliminate the vast majority of human errors that cause trains to collide or derail, but it would not have prevented the disaster at Lac Megantic.

(Continued on page 5)

# SEPTA PROGRAMMED CAPITAL IMPROVEMENTS AND LONG RANGE PLANNING

By *Chuck Bode*

Mr. Byron Comati, SEPTA Director of Strategic Planning, gave an update on SEPTA Programmed Capital Improvements and Long Range Planning at the RUN Conference May 2nd. He described the convoluted history of SEPTA from numerous private companies, most of which failed to make proper investments needed to maintain a state of good repair. SEPTA has had a similar history of financial inadequacy of varying degrees, culminating in several years with only half the needed capital funds. This caused SEPTA to issue a plan to close a large part of the system over the next few years. Interestingly, the state's highways were also in deep trouble, with many bridges deteriorating to the point that closure was being considered.

The situation improved dramatically on Nov. 25, 2013, when Pennsylvania Act 89 was signed into law, providing capital funds for highway, port, aviation, bicycle, pedestrian, and public transportation infrastructure throughout the state. Highways receive about three-fourths of the funds, aviation, ports, bicycle and pedestrian facilities receive almost 10%, and public transportation gets the remainder. Of the public transportation share, SEPTA, the state's largest transit system, receives about 70%. The funding increases over a five-year phase-in period.

For fiscal years 2011 through 2014, SEPTA's Capital Budget was approximately \$300 million per year. For fiscal years 2015 through 2018, this becomes more than \$500 million per year. The plan to close much of the system has been discarded. The legislation also provides for inflation adjustments, a major shortcoming in prior legislation. Because of the inflation adjustment and the predictability of the funds, bonds can be issued if necessary.

SEPTA has begun a "Catching Up" program. It works to reduce the \$5 billion backlog in state of good repair projects. (Interestingly, another billion dollars of state of good repair projects becomes necessary during this "Catching Up" period, which means a total of \$6 billion needs to be addressed.) The program is modeled after the federal stimulus program which began four years ago.

***SEPTA's Capital Budget was \$300 million per year for fiscal years 2011 through 2014, but increases to more than \$500 million per year under Pennsylvania Act 89, signed into law last November.***

Key issues that caused the need for the closure plan are to be addressed immediately. These issues include the aging and unreliable rail vehicles, an "infrastructure crisis" on the Media-Elwyn line (including four large antique trestles), power substations (many of which are the original from initial electrification), and the poor track condition of all streetcar and light rail lines. For example, SEPTA claims the seven AEM-7 locomotives fail a total of more than 19 times a month (suggesting each locomotive fails about every two weeks.) From fiscal year 2007 to fiscal year 2013, SEPTA's trolley mean distance between failure decreased from 11,675 miles to 5,634 miles. The author hopes that some of the prior two issues can be addressed soon with additional repair parts and more thorough overhauls from some of the new funds. At the same time, design and engineering for longer-term projects will be advanced.

In addition to the crisis items, SEPTA has other "Early Action" projects including Levittown station on the Trenton line,

Exton station on the Thorndale line, 69th Street Terminal (served by four rail and several bus lines), and Margaret Orthodox station on the Frankford el—an almost modern station built just before ADA which must be rebuilt again to comply with ADA. Railroad station parking lots are high on the list, over half of the parking lots fill completely (some of the others lack any parking, for example Center City, or are in neighborhoods where safety is a concern.)

Among the longer-term projects to be designed are City Hall station, located under the world's tallest self supporting stone building, the Center City concourses, and real time information. Among the ongoing large projects is SEPTA's New Payment Technology, a \$150 million attempt to modernize fare collection from tokens to smart phones and cards. The restoration of rail service from Elwyn to Wawa is poised to begin construction; design is 100% complete. The EIS process is underway for a proposed branch of the NHSL to King of Prussia.

Riders have begun to see the work. The Norristown train line has been closed for many weekends for track repair. Media-Elwyn line riders will have bus service on weekends this fall as work begins on that line. Venango bus loop is being rebuilt. A real platform replaced the patch of asphalt that served as the inbound Bridesburg station on the Trenton line. SEPTA has also begun advertising, Twice an hour, SEPTA sponsors the sports report on KYW, Philadelphia's all-news radio station.

(This article includes information from Mr. Comati's presentation, SEPTA's Capital Budget Hearing and meeting, and rider observations.)

*Chuck Bode is RUN Membership Secretary and a member of the Tri-State Citizens' Council on Transportation, based in Philadelphia.*

# NYC GETS MORE SERVICE IMPROVEMENTS

By *Andrew Albert*

New York's transit riders continue to see more service improvements, as well as service restorations from the disastrous June, 2010 service cuts. These service improvements cut across virtually all of the MTA divisions: subway & bus, Long Island Rail Road, and Metro-North Commuter Railroad. While these are welcome developments, we have a long way to go before everything that was cut in those dark days of 2010 are restored. And with two more fare-hikes looming (albeit at 4% instead of 7.5%), restoring services and adding new ones lets MTA customers know their additional money is actually buying them something.

Some of the highlights on the bus/subway system are: an extension of M line weekend service from Broadway/Myrtle Avenue in Brooklyn to Delancey/Essex Street in Manhattan. For sure, this has a lot to do with the booming scene in the Williamsburg section of Brooklyn. In addition, something I have been campaigning for—a weekend extension of J line service to Broad Street—will be introduced as soon as the Fulton Center complex opens, which is expected within a month or so. Previously, weekend J line trains terminated at Chambers Street, missing the largest transfer point in Lower Manhattan by one stop! More service additions are

additional G train service in the PM rush hours, even more L train service, again thanks to the booming Brooklyn neighborhoods of Williamsburg & Bushwick, and—in December or thereabouts—the #7 line extension to 34th St/11th Avenue will open.

There's good news on the bus side as well. Several weekend route restorations have taken place, again from the disastrous cuts in 2010. The 8th Street crosstown route has resumed weekend operation, as have several routes in Queens. The Bx24 bus has been extended to the Hutchinson Metro Center, giving Bronx residents access to a spanking-new shopping center. And the Q114 Limited bus will begin, giving Queens residents a faster ride between Jamaica and Far Rockaway, via the neighborhoods of South Jamaica, Rochdale Village, Springfield Gardens, Rosedale, and into Far Rockaway. And a brand-new bus line, the M12, has begun on Manhattan's far West Side, running from the Columbus Circle area to the West Village, via 11th Avenue southbound, and 12th Avenue northbound. This area has previously not had bus service, the closest being the M11 on 9th and 10th avenues.

Not to be outdone, the LIRR has also restored some services lost during 2010. Half-hourly weekend Port Washington branch service has resumed, after a disastrous loss of riders on one

of the busiest lines. Weekend service on the West Hempstead branch will be restored soon. And several of the "seasonal" trains on the Montauk branch will run later in the season next year. Metro-North has had a disastrous year, with several well-publicized derailments, one resulting in four fatalities, and the new President, Joseph Giuletti, has set about restoring the line's safety priorities, which will take precedent over on-time performance, as it should. Nevertheless, service has improved on several lines, with off-peak services now running on half-hour headways.

These service improvements will, no doubt, result in increased ridership, taking more cars off the roads, and helping the New York region clear up more congestion, and result in cleaner air. All of this service—and the infrastructure necessary to provide fast, frequent, safe service—requires a massive investment, something that the city, state, and federal governments must keep up, if we want to keep businesses and residents in the tri-state region. As this area is the economic engine of the United States, it's in everyone's best interests to provide the necessary investment to assure that the country's largest mass-transit system stays healthy, safe, and efficient.

*Andrew Albert is Vice-Chairman of RUN, the Chair of the NYC Transit Riders Council, and Riders' Representative on the MTA Board.*

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Please send comments, letters to editor or articles for possible publications to the Rail Users' Network at: RUN; 55 River Road, Steep Falls, ME 04085 or email to [rrudolph@fairpoint.net](mailto:rrudolph@fairpoint.net)

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# STATEMENT OF RUN'S BOARD TO THE PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

*The Pipeline and Hazardous Materials Safety Administration (PHMSA), which is part of the U.S. Department of Transportation, is seeking comments on its proposed rule making for the safe transportation of large quantities of flammable materials (crude oil and ethanol) by rail. This Notice of Proposed Rulemaking (NPRM) is based on an Advance Notice of Proposed Rulemaking (ANPRM) published last September, and reflects feedback from more than 152,000 commenters. The details of this comprehensive rule making proposal can be found in the Federal Register of August 1, 2014. Readers interested in sending in their own comments have until September 30, 2014 to do so. The Docket No. is PHMSA-2012-0082 (H251). Comments can be sent by mail to the Docket Management System, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Ave. SE., Washington, DC 20590.*

*The following is RUN's statement regarding the NPRM and the ANPRM which has been submitted to the Pipeline and Hazardous Materials Safety Administration:*

The Rail Users Network's mission is to advocate for improvement in passenger rail service, whether on Amtrak or on local and regional passenger railroads, as well as transit systems. In this context, RUN offers the following comments on selected proposals and issues raised in Docket No. PHMSA-2012-0082 (H251).

First, we believe that developing a future rail tank car that has thicker steel (9/16 inch), with an advanced braking system for unit trains of crude oil (high hazard flammable trains (HHFTs) with 20 cars of crude oil or more in any one train), and various protections against rollover and dislodged valves, is the correct course of action for the rail industry. This would

improve safety and minimize the risk of a major accident and fire. These cars would be able to travel at regular freight train speeds, limited by the class of track, with a maximum of at least 50 mph.

Developing a tank car for the future transport of crude oil with a maximum speed of less than 50 mph would increase freight train congestion on major rail corridors that have crude oil trains, mixed freight traffic, intermodal trains, and passenger trains. The larger speed differential of trains traveling in the same direction increases congestion and results in lower average speeds for higher speed trains, for example intermodal trains, commuter and Amtrak trains.

RUN opposes a special, lower speed limit for high-hazard flammable trains in urban areas or near or within cities of 100,000 people or in dozens of areas designated by the Department of Homeland Security. Crude oil trains must be able to be operated safely. Regulating and limiting speeds of certain freight trains with a certain number of oil rail tank cars just in certain geographical areas is unnecessary and would result in more complex regulations and more freight and passenger rail (both commuter rail and Amtrak) congestion in the metropolitan areas of this country. The one exception could be in the Washington, DC area.

Any speed limit below 40mph for these new rail tank cars would result in increased congestion and would delay other freight and passenger trains. Our rail network of Class I railroads, which operate the major intercity rail corridors, have been eliminating tracks for decades.

There exists no excess capacity in most rail corridors, especially in corridors that are also used for intercity passenger rail service.

Further, we hold that the DOT-111 tank cars should be eliminated or retrofitted over a several year period. The elimination of DOT-111 tank cars within a shorter period of time would result in a severe shortage of equipment and impair the industry's ability to move crude oil.

The recent derailments of DOT-111 tank cars were the result of improper procedures of rail employees, not of a train operating at 45mph instead of 35mph. In addition, there should be rules for the physical security of HHFT trains that are left stationary in a non-freight yard area for a given period of time. Potentially, the "end of train" device could have increased functionality to limit speed or have camera ability for crude oil trains. In conclusion, RUN believes that future tank cars should be made as safe as possible, but without speed restrictions that would harm the movement of rail freight, and delay commuter and Amtrak trains.

This statement was authorized at a regular meeting of the Board of Directors of the Rail Users' Network, Inc. on August 23, 2014 in New York City. RUN is a not-for-profit corporation. Its members are rail and transit users, as well as advocates for better rail service nationwide. RUN's mission is the expansion and improvement of the rail and rail transit network in the United States and Canada, so the public can enjoy enhanced opportunities to travel by train. Our members represent many states, including Maine, which is the home state of the Board's Chair.



## THE PROPOSED ELIMINATION OF TWO-PERSON CREWS: A RECIPE FOR DISASTER?

*(Continued from page1)*

The TSB has concluded the tragedy “was not caused by one single person, action or organization.” The report findings include 16 risk factors among which are leaving trains unattended and the implementation of single person train operations. Given these findings, it is behooving to review what the engineer did that night before leaving the train unattended.

According to the TSB, the engineer of the Montreal, Maine & Atlantic Railway train which was bound for Saint John, New Brunswick applied hand brakes on all five locomotives and two of the 72 Class III tank cars before shutting down all but the lead locomotive. “Railway rules require hand brakes alone be capable of holding a train and this must be verified by a test. That night, however, the locomotive air brakes were left on during the test, meaning the train was being held by a combination of hand brakes and air brakes. This gave the false impression that the hand

brakes alone would hold the train.” The engineer then contacted the rail traffic controller in Farnham, Quebec, to advise that the train was secure and also contacted the rail traffic controller in Bangor, Maine who controlled movements for the crews east of Lac-Megantic. The engineer mentioned that the lead locomotive had experienced mechanical difficulties during the trip, and that excessive black and white smoke was coming from the engine’s smoke stack. Believing the train was secured, it was agreed to leave the train as it was and to deal with the problem in the morning.

We will never know whether a two-person crew might have made a difference, but it is certainly worth speculating that an on-board conductor would have helped set hand brakes on additional tank cars and might have called attention to the mistake that the engineer made when he conducted the hand brake test with the locomotive air brakes left on. This second person may have also offered a different opinion regarding whether it was safe to

leave the train, given the apparent lead engine difficulties.

While many in the rail industry argue that there is no evidence that a two-person rule would improve the safety record of railroads, the Federal Railroad Administration (FRA) under Joe Szabo’s leadership thinks otherwise. The FRA has announced its intention to issue a proposed rule requiring two-person train crews on crude oil trains and establishing minimum crew size standards for most main line freight and passenger rail operations. The FRA also intends to advance a rulemaking on train securement and recommend a rulemaking on the movement of hazardous materials. The FRA rulings may be ultimately derailed by the Office of Management and Budget, which is responsible for determining whether proposed new regulations are justifiable. Nevertheless, the Rail Users Network concurs that they are necessary, even vital, given the tremendous increase in crude oil unit trains crisscrossing the nation’s railroad lines.

### *2014 Schedule of RUN Board Meetings:*

*Meetings for the balance of 2014 are scheduled for October 25 and December 13.*

*Board meetings take place at the MTA headquarters in New York City at 347 Madison Ave., from 1:00 to 5:00 p.m., unless otherwise noted.*

*For more information, contact Richard Rudolph, Chair, at 207-776-4961.*

# WILL THE SUPREME COURT END AMTRAK'S LONG-DISTANCE NETWORK?

*(Continued from page 1)*

She characterized Amtrak as “a curious entity that occupies the twilight between the public and private sectors.” She could have used that statement to distinguish between Amtrak and GM, but instead concentrated on the fact that both have corporate forms, and refused to do so. The action by the D.C. Circuit invalidated the FRA-promulgated standards, due to Amtrak’s participation in the rule-making process, leaving the freight-carrying railroads essentially unregulated with respect to Amtrak trains. Some advocates for Amtrak riders, along with the riders themselves, have complained that on-time-performance on Amtrak long-distance trains has suffered during the past year.

The next level of review is the Supreme Court itself, whose word is final. Attorneys in the Solicitor General’s Office within the Department of Justice filed their petition for review on March 10. This is how the petition framed the question presented to the Court:

*Section 207(a) of the Passenger Rail Investment and Improvement Act of 2008, Pub. L. No. 110-432, Div. B, 122 Stat. 4916, requires that the Federal Railroad Administration (FRA) and Amtrak “jointly \* \* \* develop” the metrics and standards for Amtrak’s performance that will be used in part to determine whether the Surface Transportation Board (STB) will investigate a freight railroad for failing to provide the preference for Amtrak’s passenger trains that is required by 49 U.S.C. 24308(c) (Supp. V 2011). In the event that the FRA and Amtrak cannot agree on the metrics and standards within 180 days, Section 207(d) of the Act provides for the STB to “appoint an arbitrator to assist the parties in resolving their disputes through binding arbitration.” 122 Stat. 4917. The question presented is whether Section 207 effects an unconstitutional delegation of legislative power to a private entity.*

In their petition, government lawyers defending the rules at issue urged the Court to reverse the D.C. Circuit, and restore the rules that gave Amtrak trains priority and allowed for enforcement of that priority. The petition recounted the long history of Congressional regulation of Amtrak, and sharply criticized the D.C. Circuit’s holding that Amtrak’s participation in the rule-making process constituted an improper delegation of governmental power to a private entity. Government lawyers argued that the government retained sufficient control over the development and application of the Amtrak-related standards and metrics to avoid concerns that its power was delegated improperly.

The petition went on to say that, even if Amtrak is considered a private entity, there is a great deal of governmental control exercised over it, and it was specifically founded by an act of Congress. Therefore, Amtrak is different from the ordinary private corporation, and it was incorrect for the D.C. Circuit to hold differently. The petition also noted that the holding of the D.C. Circuit that the standards and metrics promulgated under PRIIA §207 marked the first time that a delegation of power under a statute enacted by Congress had been invalidated since 1936.

Alexander Volokh, a member of the faculty of Emory University Law School, filed an amicus curiae brief on April 10 of this year, in response to the petition. The term means “friend of the court” and raises issues that were not raised in the original petition. The brief was filed by the Emory Law School Supreme Court Advocacy Project. Volokh is not a party to the action, but he urged the Court to evaluate the case as a potential confiscation of the host railroads’ property rights without due process, as prohibited

by the Fifth Amendment to the U.S. Constitution. Volokh criticized the D.C. Circuit’s approach to considering Amtrak a private entity, to which power could not be delegated.

Instead, Volokh argued that Amtrak is a “state actor” by participating in the government promulgation and control of the rules at issue. As such, Volokh argued that Amtrak was subject to the prohibition of government moving against the interests of the freight-carrying railroads without “due process” that applies to all government agencies. Volokh noted that violations of the Due Process Clause could result in damages being assessed against the “state actor” that took the property of another entity without affording the required “due process.” Volokh requested that the Court remand the case back to the D.C. Circuit for a determination of whether Amtrak’s participation in the rule-making process constituted a bias toward Amtrak and against the freight-carrying railroads, which deprived the freight-carrying railroads of their property (revenue from their operations, although this was not explicitly stated on Volokh’s brief).

It appears that, if the Court endorses Volokh’s suggestion in their opinion, not only will the rules at issue remain invalid, but the freight-carrying railroads could collect damages from Amtrak as a “state actor” for reducing their revenue because of the priority that Congress had previously given to Amtrak trains.

The AAR filed its brief in opposition to Supreme Court review on May 12. AAR urged the Court to deny the Petition from DOT and FRA, and decline to hear the case. The AAR Brief said that applying the Metrics and Standards at issue would

*(Continued on next page)*

## THE SUPREME COURT AND LONG-DISTANCE RAIL

*(Continued from page 6)*

hinder the freight-carrying railroads in their freight operations, by requiring priority for Amtrak trains. The AAR defended the D.C. Circuit's holding, saying that it had decided correctly that rule-making power could not be delegated to Amtrak as a private entity. The AAR expressed agreement with Volokh's argument that the freight-carrying railroads' business interests were hampered by the rules at issue, but also argued that "Amtrak is not the government," a position contrary to the one Volokh took by labeling Amtrak a "state actor."

The government filed its Reply Brief on May 28. It called on the Court to reverse the D.C. Circuit's holding that the rules in question were improper, arguing that the rules were actually government regulations, with Amtrak being far less than equal partner, as the AAR contended. The brief also argued that Amtrak was not a pure "private entity" for this purpose.

In addition, the government urged the Court not to consider the "due process" argument raised by the AAR and Volokh, because the D.C.

Circuit had not considered it in making its decision last year. Finally, the government argued that Supreme Court review was warranted because the D.C. Circuit had taken the rare step of invalidating a federal statute.

The Court agreed on June 23, when it granted the petition. The case will be heard during the Court's next term, which begins this October. An opinion is expected by next June. It takes four of the nine Justices to agree to hear a case, so the D.C. Circuit's holding will probably not be left undisturbed.

On-time performance on Amtrak's long-distance trains has suffered during the past year, especially on trains like the *Empire Builder*, which shares tracks with BNSF's oil trains from the Bakken oil field in northwestern North Dakota. Amtrak, along with advocates for Amtrak's riders, hope that the Court will reverse the D.C. Circuit and reinstate the rules that the D.C. Circuit nullified last year.

By statute, Amtrak trains are supposed to have priority over freight movements, unless the freight-carrying railroad declares an emergency. It appears that the invalidated Standards and Metrics

were originally implemented in an effort to enforce Amtrak's priority, which was originally mandated by Congress.

At first blush, it appears that the Court may be willing to give Amtrak and its riders a break, by restoring rules that would improve Amtrak's on-time performance on long-distance trains. Given Volokh's argument and the strong stand that the AAR continues to take, it appears to this writer that the Court's opinion will probably go the other way. It appears likely that the Court would adopt Volokh's reasoning and hold that Amtrak's position in the rule-making process constituted "state action" and improperly cost the freight-carrying railroads money by interfering with their operations. Such a holding would force Amtrak to pay damages to the same railroads that Congress had hoped would give Amtrak trains priority when enacted PRIIA §207 and §213. In the high-stakes game of deciding when people or freight move on the nation's railroads, the stakes just got higher. Either the rules implemented by the FRA will hold, or Amtrak could be forced to pay damages to the very entities that delay Amtrak trains and the people who ride on them, often for hours.

*(Continued on page 8)*

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# WILL THE SUPREME COURT KILL AMTRAK'S LONG-DISTANCE TRAIN NETWORK?

*(Continued from page 7)*

To this writer, it appears that the current Court will adopt Volokh's argument. The D.C. Circuit Court ruling strongly enhanced the position of the "freight" railroads, which are no longer required to give effective priority to Amtrak trains running on their tracks. On-time performance for Amtrak's long-distance trains has deteriorated significantly since the ruling, and is now similar to where it was before the now-invalid rules were implemented in the first place. Since four of the nine Justices of the Court must agree to hear a case (only one less than the five needed to decide a case), it appears that the Court wishes to downgrade the rights of Amtrak and its riders to a greater extent than the D.C. Circuit had initiated by its ruling.

The Court has upheld the privileges of large corporations in recent years, often to the detriment of smaller or less-powerful organizations. *Citizens' United v. Federal Elections Commission*, 558 U.S. \_\_\_\_ (2010)(Docket No. 08-205) and *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. \_\_\_\_ (2014)(Docket No. 13-354) are examples of this tendency. In the present case, had the Court left the ruling below undisturbed, the Court could have enshrined the right of the "freight railroads" to delay Amtrak's long-distance trains as they do today and as they had before the rules at issue had been implemented. The only view that is worse for Amtrak and its riders is the Volokh view that Amtrak, as a governmental entity, is causing economic damage to the "freight railroads" and must compensate them for it.

Given today's political situation, this writer cannot fathom where Amtrak would obtain the money to pay such damages, even if they are disguised as higher trackage fees. Amtrak does not have the

money to pay such fees, and neither do the states through which Amtrak trains pass. New Mexico, in particular, is balking at having to pay a share of the cost for upgrading BNSF's Raton Pass route, which the *Southwest Chief* uses. In theory, Congress could appropriate the extra money for Amtrak. As things stand now in Congress, that appears impossible. All appropriations bills originate in the House of Representatives, which is dominated by Republicans, who are traditionally less friendly to Amtrak than Democrats.

***To this writer, it is inconceivable that the House would appropriate the extra money that Amtrak would need, unless the Democrats score a history-making upset in November.***

At the present time, the Tea Party, which exercises strong influence over Republican policies, is strongly opposed to Amtrak. To this writer, it is inconceivable that the House would appropriate the extra money that Amtrak would need, unless the Democrats score a history-making upset in November.

If Amtrak cannot obtain the money to run the trains and pay damages to the "freight" railroads, the only course of action available to Amtrak would be to discontinue the long-distance trains. The entire process for eliminating these trains could be accomplished within a year or two of the Court handing down its decision. That should occur sometime next spring; no later than next June.

Advocates are fighting the case to the

extent they can. It is expected that the National Association of Railroad Passengers (NARP) will argue that the original rules were actually valid. The Environmental Law & Policy Center in Chicago will prepare the Brief and argue the case. It is true that the "freight railroads" who now object to Amtrak had pushed for the formation of Amtrak in 1970 and 1971, and they received the consideration of being relieved of their responsibility to operate passenger trains. This writer expects that such an argument will be presented to the Court, but is not convinced that the Court will agree with it.

The Northeast Corridor and some of its branches, which Amtrak owns, would not be affected. Neither would statewide corridors in the Midwest, Northwest and California, which are state-sponsored and governed by agreements by the states and the "freight" railroads. The few long-distance trains that Amtrak operates are a different story; they could be gone within two years. It is ironic that, with the battles that Amtrak has fought with Congress and with hostile administrations in Washington, it could be the Supreme Court that actually, although indirectly, orders the elimination of the nation's long-distance train network.

*David Peter Alan lives and practices law in South Orange, NJ, and rides Amtrak's long-distance trains regularly. The opinions expressed are his own and do not necessarily reflect those of any other individual or organization, including RUN, and they are not intended to be considered a legal opinion. The briefs and other papers in this case can be found at [www.scotusblog.com](http://www.scotusblog.com), under the caption Department of Transportation v. Association of American Railroads.*



# EMPIRE CORRIDOR MAY SOON SEE HIGH SPEED RAIL...

*By Gary Prophet*

New York State and the FRA are currently reviewing options for higher speed rail on the New York City to Niagara Falls corridor. These options include a top speed west of Schenectady of either 90 mph or 110 mph, which is an increase over the 79 mph maximum passenger rail speed today across the former New York Central Water Level Route now owned and operated by CSX. There is also an option for a 125-mph maximum speed on a new corridor across New York State, but its cost is prohibitive and it will not be the preferred option for future funding.

Currently, it takes about nine hours for Amtrak to travel from New York City to Niagara Falls. With higher speed rail, the result would be about or slightly less than six hours travel time, with the train taking about two hours between New York City and Albany and about four hours from Albany to Buffalo-Depew. The Empire Corridor is operated by Metro-North south of Poughkeepsie, where frequent

commuter trains limit the top speed to about 79 mph. From Poughkeepsie to Schenectady, which Amtrak leases from CSX, the top speed is 110 mph in a few small sections of track and the goal is to increase the majority of this area to above 100 mph. West of Schenectady, Amtrak operates on CSX on what is primarily a two-track railroad with 60-80 freight trains each day, which results in delays to Amtrak trains.

The goal of many of the improvements is to add sections of third track and eliminate areas of low speed, so that passenger rail can operate the 290 miles from Albany to Buffalo-Depew in four hours, which is an average speed of 72.5 mph. CSX is fearful that a "passenger only" third track would limit CSX's ability to serve current and future businesses, freight yards, and short line rail operators. In reality, a third track would likely be a shared track with passenger rail and CSX freight trains both using all three tracks, although there could be short, 10-mile segments, where a passenger rail track could

operate at 110 mph and be exclusive to passenger rail and not limit CSX's ability to serve its freight customers.

CSX has stated that an increase in passenger train speed, above 79 mph, would create more interference with freight trains and be unsafe with the large number of freight trains between Schenectady and Buffalo. CSX has also stated that any train operated above 90 mph would need a 30-foot separation from the existing CSX tracks. There are areas where this is possible using the former westbound line, but in most areas a 30-foot separation would require such a track to be built outside of the current rail right-of-way. The FRA is currently reviewing the public comments on the higher speed rail along the Empire Corridor to determine a preferred option, as each option has numerous individual projects associated with it. Projects that are not part of this process and have already been funded are the second track between Albany and Schenectady and additional track and switches at the Albany (Rensselaer) station and track and signal improvements between Poughkeepsie and Albany.

## ... AS IT NOW SEES SOLD-OUT TRAINS

*By Gary Prophet*

This summer has had a large number of trains sold out along the Empire Corridor. From late June through Labor Day weekend, the *Maple Leaf* and *Adirondack* were sold out nearly every day in both directions, sometimes one to two weeks in advance. On Fridays, all Empire Corridor trains from New York City were sold out departing anytime in the morning and afternoon. During August, trains to west of Albany on Fridays, were all sold out four or five days in advance. On summer weekends, all mid- to late-afternoon and early evening trains from Albany to New York City were sold out every Sunday.

On Fridays and Saturdays, all trains were sold out from New York City to north of Albany (Saratoga, Rutland, Montreal) several days to over a week in advance.

Between 10 PM and 11 PM on Mon, August 11, 2014, every non-overnight train in Amtrak's entire system for the next seven days was checked to see if the train was sold out. There were 16 trains sold out across the entire Amtrak system including the NEC and all corridors of every non-overnight train. Of those 16 trains, FIFTEEN were on the Empire Corridor. The only other train not on the Empire Corridor that was sold

out was Train 79 (New York City to Charlotte) for the following morning (August 12). As of Monday (Aug 11) evening, all trains to north of Albany and west of Albany from New York City were already sold out for Friday, August 15. Amtrak continues, even during peak time, to operate all Empire Corridor trains with five or six cars when many trains, such as the *Toronto Maple Leaf*, *Adirondack*, and Friday trains from New York City to Niagara Falls, need 10 to 12 cars.

*Gary Prophet is RUN Treasurer and Vice President of the Empire State Passengers Association.*

## OHIO'S RAIL SERVICE: NOT WHAT IT ONCE WAS

By *David Peter Alan*

Ohio was once a very powerful state. In the half-century between 1873 and 1923, there were 11 American presidents, and seven of them came from the Buckeye State. None of them performed particularly well in the office, and there has not been a president from Ohio since that time. The state has regained a measure of political clout, since Ohioan John Boehner is now Speaker of the House.

Ohio once had a powerful passenger train network, too. Trains from New England, the Middle Atlantic states and the South all came through the state on their way to and from Chicago and St. Louis. The eight major cities in Ohio (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown) all were served by passenger trains until the 1970s. Columbus and Dayton were served by the Amtrak version of the *National Limited* until 1979. Canton lost its service when the *Broadway Limited* was re-routed onto the historic Baltimore & Ohio (B&O) route in 1990. The re-routed train, eventually re-named the *Three Rivers*, served Akron and Youngstown until 2005, when it was discontinued west of Pittsburgh. The last

commuter train in Ohio ran between Cleveland and Youngstown on the historic Erie Railroad route, and made its final trip in 1977.

Today, Cleveland, Toledo and Cincinnati still have Amtrak service, but all Ohio stops are scheduled for the middle of the night or very early in the morning. Toledo and Cleveland, along with Elyria and Sandusky in between, are served by the *Capitol Limited* and the *Lake Shore Limited*. Only the *Lake Shore Limited* stops at Bryan, west of Toledo. Only the *Capitol Limited* stops at Alliance, a town about halfway between Cleveland and Pittsburgh. Train #49 is scheduled to stop at Bryan at 7:05 a.m. on its way to Chicago. The next passenger stop in Ohio is at Toledo, where Train #30 is scheduled to leave at 11:49 p.m., nearly 17 hours later. The tri-weekly *Cardinal* also stops at Cincinnati during the middle of the night: at 1:23 as it ambles toward Chicago and at 3:27 as it moves slowly eastward.

Over the past 40 years, some Ohioans had hoped that passenger trains would again connect the cities in their state. Previous proposals to connect Cleveland, Columbus and Cincinnati (the "3C"

corridor, serving Dayton as well) had failed. Former Gov. Ted Strickland had made progress toward implementing such a service, but incumbent Gov. John Kasich defeated Strickland in his re-election bid in 2010. One of Kasich's first acts in office was to kill the project and refuse the federal grant that had been offered to cover construction costs.

As Ohio's rail network became weaker, so did the state's intercity bus network. All Aboard Ohio (AAO), the statewide passenger-rail advocacy organization, has published maps that compare the state's intercity rail and bus networks in 1979 and 2009. In 1979, there were four rail lines that had trains running through the state on east-west alignments. The state was also connected by an extensive bus network. By 2009, only the trains that run today were left, and the state's bus map looked like the spokes of a wheel, radiating out from Columbus. There are even fewer buses serving Ohio today than there were five years ago.

As for rail transit, every Ohio city had it at one time, as did most American cities and towns. Today, only Cleveland has any  
(Continued on page 11)

## CLEVELAND'S RED LINE SEES SOME PROGRESS

By *Steve Albro*

On August 28, the Cedar-University Station of the Red Line was dedicated. This was an ADA renovation. Now there is only one exit from the elevated platform to a bus concourse on the north side of Cedar Glen. Formerly, there were two stairways to concourses on either side of the road. In the 1990s, a temporary renovation was done, but there was only one elevator serving the south side concourse, and it had periodic breakdowns. Bus passengers can

transfer to the Red Line in front of the station entrance. Transfers to buses require going under the CCRTA/CSX bridges. Extensive lighting was installed under the bridge for security.

Construction continues on the new Little Italy Station. Due to a contractor glitch, Red Line service to the east terminus had to be provided with shuttle buses from the Cedar-University station since early 2014. On August 9, rail service on the Red Line has been restored. The

Little Italy Station is scheduled to be opened in Autumn 2015.

Finally, the E. 79th and E. 34th stations for both heavy and light rail are being considered for closure. These stations have fewer than 200 boardings a day. Neighborhood groups and City Hall will be debating the issues. As always, the issue is transit oriented development vs. capital funding.

*Steve Albro is Vice-Chair of the Cleveland RTA Citizen Advisory Board.*

# THE STATE OF OHIO'S RAIL SERVICE

*(Continued from page 4)*

left. The city's transit authority opened a metropolitan rail (also known as "heavy rail") line on an east-west alignment, centered in Downtown Cleveland. Today, it is known as the "Red Line" and runs two-car trains. The cars are 85 feet long and similar to the subway cars in New York, Los Angeles and other cities.

In addition, streetcars now run on the "Shaker Rapid" lines from downtown to Shaker Square, and then branching off onto Shaker Boulevard ("Green Line") or Van Aken Avenue ("Blue Line"). All lines run concurrently between Tower City Center (the former "Terminal Tower" downtown that hosted intercity trains until 1972) and East 55th Street, and all use the same electrical system. High-level platforms for the Red Line are separated from low-level platforms for the Green and Blue Lines by a ramp (at East 34th and 55th streets) or were constructed separately (at Tower City Center terminal). A branch line runs along the lakefront, past the Amtrak station.

There are plans to expand the Red Line east to Euclid, although transit officials also refused to build rail transit on Euclid Avenue, one of the city's main arteries. Instead they built a busway (called the "Health Line"), which is beginning to show wear, even though it has only been in service since 2008. Not only is the Greater Cleveland Regional Transit Authority (RTA) the only transit agency in Ohio that operates any rail transit, but it is also the only one with a strong and active advisory committee. Stephen W. Albro, a RUN Board member, serves as that committee's Vice-Chair.

As for Ohio's other cities, all of their local transit is operated with buses, and those bus systems are not strong. Except in the northeastern part of the state, they do not connect with each other.

There is a regular bus route between Canton and Akron, but it does not run after mid-evening on Sundays; there are no buses running in the Canton area on Sundays. There are buses during the evening and on Sundays in Akron, Columbus, Dayton, Toledo and Youngstown, but they run infrequently on skeletal networks. On weekdays, commuter buses run from Canton to Cleveland for peak-hour commuters only. There are also commuter buses between Akron and Cleveland, on a route that now has limited mid-day service in addition to peak-hour runs. Until last year, there were also buses between Cleveland and Elyria, a suburb to the west, where Amtrak trains still stop in the middle of the night.

While Ohio's bus systems struggle, there is little reason to hope for improvement in the foreseeable future. Rail transit is out of the question almost everywhere in the state, even though it could give the state's cities a shot in the arm toward improved economic development. Probably the best example is High Street in Columbus. It is the main street of town, originating downtown and running near the State Capitol. The city's main street then goes through the artsy Short North and then near the Ohio State University (OSU) campus.

Larry Robertson, a retired OSU faculty member and local rail advocate, had been pushing for

passenger rail since early in his career. Although he expressed his disappointment that the 3C Corridor (Cleveland, Columbus and Cincinnati, with Dayton thrown in) will not be built in the foreseeable future, he still pushes for light rail or a streetcar on High Street. "With its 50,000 students and 5,000 faculty, OSU would be a major ridership center," he said. At the present time, there seems to be about as much chance of a rail line on High Street as there is of the 3C Corridor being built anytime soon.

Dayton, located between Columbus and Cincinnati, has no intercity transportation to its downtown area. There is no train, and intercity buses on Greyhound and Megabus go to a station in Trotwood, a suburb located about 40 minutes from downtown by local bus. Dayton was once a center of innovation: Charles Patterson started National Cash Register Co. there, Charles Kettering started DELCO there, and the Wright Brothers built the first airplane in a bicycle shop near downtown.

Today, an unusual and historic transit mode still runs in Dayton. It is the trolley bus, also known as the "trackless trolley" or the "trolley coach." These unusual vehicles have overhead wires to supply power to their electric motors, while they travel on the street on rubber tires. These vehicles served as transitional vehicles in many cities, after streetcar tracks were ripped up and before diesel buses replaced the electric models. In this country, they only run in four cities besides Dayton: Boston, Philadelphia, San Francisco and Seattle. In Canada, they only run in Vancouver.

*(Continued on page 14)*

## A TALE OF TWO TRAINS: ONE'S ON SCHEDULE, THE OTHER IS WAY BEHIND



Amtrak's Lake Shore Limited en route to New York City

### By Bill Engel

It was the best of timekeeping; it was the worst of timekeeping. With apologies to Charles Dickens, I would like to discuss the Amtrak timekeeping I experienced on a July 2014 trip to New York City.

My wife Sandy and I had booked sleeping car space on Amtrak's *Lake Shore Limited* round-trip from Cleveland to New York City. Our eastbound trip was on July 3. Noticing that Train #48 appeared to be chronically late arriving in New York, and not relishing the thought of waiting in a line outside Pennsylvania Station for a taxi as late as midnight, we exchanged our eastbound sleeping car space for two business class seats on the *Pennsylvanian* from Pittsburgh.

The trip was fine. We rented an auto for the drive to Pittsburgh and booked a room at the Westin-Convention Center Hotel for July 2, since the *Pennsylvanian* departs at 7:30 AM. On July 3 a hotel doorman wheeled our luggage across the street to the Amtrak station (talk about customer service!) just in time for us to join the line of passengers being pre-boarded on Train #42. After we found seats in the Business Class car, we watched the eastbound *Capitol Limited* roll in on an adjacent track just over two hours late. In spite of Train #30's tardiness, connecting passengers were quickly ushered aboard our train and we departed on time at 7:30 AM.

It was a beautiful summer day, so we were able to enjoy the scenery as we rolled across Pennsylvania. Train #42 has a six-car consist of four coaches,

the café car, and the business class car. Although we saw many freight trains our train kept on schedule. The conductors announced at practically every station stop for people to leave the seat beside them open for another passenger to sit in, since the train was "sold out."

We were still on schedule when we left Philadelphia's 30th Street Station for the last leg of the trip to New York. But then we encountered slow running before Trenton, NJ. As a result, our arrival in New York was about 10 minutes late. This was good timekeeping.

Our return to Cleveland had us departing New York on July 28. We had sleeping car space on the *Lake Shore Limited*. Train #49 departed New York City on time at 3:40 PM. Dinner in the dining car is always nice on this train while enjoying the Hudson River Valley scenery. A young couple from Russia, one of whom spoke English, were our table companions. The Boston section of the train was in when we got to Albany-Rensselaer, so there was no delay combining the trains. Departure from Albany was on time at 7:05 PM.

Our first delay was at Schenectady at about 7:30 PM when we had to wait east of the station for Train #48 to finish his work. He was over five hours late! In consideration of our scheduled 3:27 AM arrival at Cleveland, we had our attendant make up the beds shortly after we left Schenectady and turned in. Waking up at some stations we noticed what seemed to be long or even double station stops. Our final arrival at Cleveland was about 5:30 AM, some two hours late. Not good timekeeping!

*(Continued on next page)*



## A TALE OF TWO TRAINS: ONE ON SCHEDULE, ONE VERY LATE

*(Continued from page 12)*

The *Lake Shore Limited* is a 13-car train. There are two baggage cars, one on the head end for baggage on the Boston section, and one on the rear for baggage on the New York section. One of the three sleeping cars, the one from Boston, is at the front of the train, behind the baggage car. The other two are from New York and are at the rear of the train, in front of the baggage car. Not all of the stations between Albany and Cleveland have platforms which can accommodate the entire train at one stop. At the short platform stations, the train stops so the front baggage car can be worked, and passengers may board or deboard the Boston sleeper and the coaches. The train then pulls ahead so the rear baggage car and sleepers can be worked. This takes time. What could Amtrak do to improve this situation?

Short of completely remaking the train at Albany, there is not much that can be done. The locomotives from Boston continue to Chicago so the Boston section is simply backed down onto the New York section as soon as the locomotive from New York is moved out of the way.

Maybe the Boston baggage car could be unloaded and the bags reloaded into the New York car, but that is extra labor. Do you then haul an empty baggage car all the way to Chicago? Extending the station platforms would also help, but is an expensive fix.

Freight train congestion on both CSX (Albany to Cleveland) and NS (Cleveland to Chicago) is a major problem for Amtrak timekeeping. In my mind this raises the question: how can NS keep the *Pennsylvanian* on time so well and screw up the *Lake Shore*

*Limited* and *Capitol Limited* so badly between Cleveland and Chicago? The delays west of Cleveland are not an occasional event but have gone on daily for months. Here is an example of this situation: On Friday, August 29, Train #48 departed Chicago two hours and 39 minutes late. But it was six hours and 25 minutes late departing Cleveland. On August 30 Train #42 departed Pittsburgh on time at 7:30 AM and arrived in New York six minutes early!

In this writer's opinion, the chronic lateness of Train #48/448 and Train #49/449 is an intolerable situation that Amtrak needed to address months ago. At the same time, it should be commended for the timely performance of Train #42 & Train #43.

*Bill Engel is a RUN Board Member based in Clinton, OH..*

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## THE STATE OF OHIO'S RAIL PASSENGER SERVICE



*Ohio Gov. John Kasich killed the 3C Corridor project shortly after taking office.*

*(Continued from page 11)*

There is one bright spot on Ohio's transit horizon. Cincinnati is building a streetcar that will run in the Central Business District downtown and Over-the-Rhine, a neighborhood settled by German immigrants during the 19th Century. The neighborhood had fallen on hard times, and is now improving

Landmarks such as the Music Hall (built in 1878) and the Findlay Market (opened in 1852) are still in operation, and much of the historic housing stock is now vacant, signaling that there is room in the neighborhood for new people who will help to improve it. The streetcar is being built by the City of Cincinnati. As part of the plan, Metro, the transit provider (officially the Southeastern Ohio Regional Transit Authority or SORTA) will operate it. The line is scheduled to open two years from now.

Transit planners and managers, and many Cincinnatians, hope that history will not repeat itself in their city. There was a subway tunnel that was 2.2 miles long and almost completed in 1925. Due to funding problems and political changes in City Hall, the tunnel was never

completed and never saw transit service. The Cincinnati Streetcar now under construction faced similar hurdles. It was approved by the voters twice (technically, propositions that would have stopped construction were voted down twice). The current mayor, John Cranley, originally opposed the project when he took office. However, he relented when he learned that it would cost more to give back the grant money advanced by the Federal Transit Administration (FTA) than to complete construction. It is unclear how the operation of the line will be funded, but managers and city officials have about two years to come up with a plan. It might even be extended to connect with the unfinished 1925 tunnel some day.

Then there is Ohio's busiest railroad, the Cuyahoga Valley Scenic Railroad (CVSR), which operates between Akron and a suburban point south of Cleveland on a part-time and seasonal basis. The CVSR is a tourist railroad, owned by the National Park Service, which takes riders to scenic places in the Cuyahoga Valley National Park, along the river and the historic Ohio & Erie Canal. The railroad operates on weekends most of the year and Wednesdays through

Sundays from June through October. The current schedule calls for three runs between Independence and Akron on operating days. It is difficult, but possible, to get to the Rockside Station in Independence (the boarding location closest to Cleveland) on a bus operated by RTA. CSX will not allow the trains to go into downtown Cleveland.

The railroad operates various tours, in addition to the "National Park Scenic," its regular run between Rockside Station and Akron. There is a baggage car to carry bikes for cyclists, a car that serves meals on some trains, interesting school programs, opportunities to visit historic towns and sites, and other activities. The railroad also operated trains further south to Canton between 2003 and 2012, but that part of the route has been discontinued.

What does the future hold for passenger rail and transit in Ohio? In the short run, it is likely that the Cincinnati Streetcar will be the only improvement, along with a possible extension of rail transit in Cleveland. There are efforts underway to develop corridors going toward Chicago from Cleveland, Columbus and Cincinnati. The proposed line from Columbus would also stop at Fort Wayne, Indiana and other intermediate stops. If things go well for Corridor Capital, LLC as the new operator of the Hoosier State train between Chicago and Indianapolis, service could be extended to Cincinnati some day, in addition to Amtrak's tri-weekly *Cardinal*.

As for the 3C project that Gov. John Kasich killed, that is unlikely to resurface soon. It appears to have a better chance as an initiative of the Cleveland, Columbus, Dayton and Cincinnati metropolitan areas than as a statewide initiative. It might come back someday in that fashion, but the initiatives to build corridors between each of the "3C" cities and Chicago seems to have a better chance at the moment. It is possible that, for a while, the only way to go between Cleveland and Columbus or Cincinnati (or between Columbus and Cincinnati) will be to go through Chicago and change trains there on the way back through Indiana to Ohio.

*David Peter Alan is Chair of the Lackawanna Coalition and a Run Board member.*

## THE ONLY CONSTANT IS CHANGE

*By Mela Cardosa-Bush*

Change has come to commuter rail operations in Massachusetts! For the past 11 years, MBCR has been the operator of the MBTA's Commuter Rail trains. In an unprecedented turn of events and after much media coverage and even some litigious activity, Massachusetts Bay Commuter Rail Service/Veolia has lost its bid to staff, maintain and operate the MBTA's commuter rail trains. As of July 1, 2014, the France-based firm Keolis is the official entity charged with operating the service.

Over the past 27 years, the MBTA's Commuter Rail has been operated by only two companies: Amtrak and the MBCR. The MBCR had its contract extended twice since 2008, but just as with its predecessor, on-time performance was an issue and it was so bad that the state increased the late train fines from \$100 to \$300. Well, trains are meant to move people. So they embroidered new names on the uniforms and kept us moving. It has only been two months since the service transferred over; so we must wait and see.

“The Way Forward,” Governor Patrick's Transportation Plan— involves change. One BIG change is a plan to run DMUs on the “Indigo Line.” This is great news for the Fairmount Indigo Transit Coalition and the Greater Four Corners Action Coalition, the long time advocates who have kept the DMU dream alive. In 2013, The Governor included \$200 million in his transportation plan for a DMU Pilot. This bill was signed into law. MassDOT Secretary Rich Davey detailed the “Track 61” project, where an independent DMU line would run service from the Seaport District to Copley. In Davey's capital plan, MassDOT would like to put \$252 million toward DMUs and pilot it on the Fairmount Line to provide “reliable public transit to underserved communities in the Fairmount Corridor of Boston, Chelsea, and the North Shore.”

According to T officials, no DMUs currently operate in Massachusetts. When the \$190 million dollar investment in DMUs on the Fairmount Line is complete, the name of the line will be changed to the Indigo Line and will operate more like a subway line. An

additional \$42 million is earmarked for other improvements on this line, including construction of the new Blue Hill Ave Station in Mattapan. Changes over the next decade will expand DMU use and the Indigo Line would be extended and make loops into Fort Point, near the Convention Center, as well as provide trips to Back Bay, and maybe even introduce a connector that could swing into Cambridge before making its way to North Station from Allston. There's also a proposal to have DMUs travel alongside the Lowell and Rockport Lines as a connection to Boston.

More Change .. according to the MBTA's Capital investment plan, an additional \$1.3 billion is headed toward the Green Line extension, The one thing the Fairmount Indigo Transit Coalition doesn't want to see change is who these lines serve! We remain steadfastly dedicated to equity in all transportation planning to avoid displacement of those who have waited far too long for these transit improvements.

*Mela Cardosa-Bush is a RUN Board Member and Lead Organizer for the Greater Four Corners Action Coalition in Boston.*

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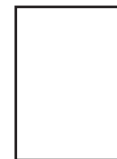
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