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FILE NO. 27290 000013

November 23, 2011

**HAND DELIVERED**

Cynthia Brown  
Chief, Section of Administration  
Surface Transportation Board  
Office of Proceedings  
395 E Street SW  
Washington, DC 20423

**ENTERED  
Office of Proceedings**

**NOV 23 2011**

**Part of  
Public Record**

**RECEIVED  
NOV 23 2011  
MANAGEMENT  
STB**

**In re National Rail Passenger Corporation  
STB Finance Docket No. 35571**

Dear Ms. Brown:

My firm represents National Rail Passenger Corporation (Amtrak) in connection with the above-referenced matter. Enclosed for filing is Amtrak's Supplemental Filing in Support of Petition for Determination of PRIIA Section 209 Cost Methodology. The filing includes an original and 10 copies of all documents.

Please stamp one copy of this letter to indicate that all documents have been received and filed, and please return the stamped copy with our messenger for our files. Thank you for your assistance in this matter.

If you have any questions or concerns, please feel free to contact me.

Sincerely,



Neil K. Gilman



On November 21, 2011, National Railroad Passenger Corporation ("Amtrak") filed its petition for miscellaneous relief pursuant to 49 C.F.R. § 1117.1. In its petition, Amtrak explained, among other things, that 15 of 19 Covered States had voluntarily adopted the Agreed Methodology and that transportation officials in three additional states had recommended adoption of the Agreed Methodology. On November 21, 2011, one of those three states, Massachusetts, formally adopted the Agreed Methodology, bringing to 16 the number of Covered States that have adopted the methodology. A true and correct copy of the signed letter received from Massachusetts is attached to this Supplemental Filing as Exhibit A.

November 23, 2011

Respectfully Submitted,



William H. Herrmann  
Christine E. Lanzon  
National Railroad Passenger  
Corporation (Amtrak)  
60 Massachusetts Avenue, N.E.  
Washington, DC 20002

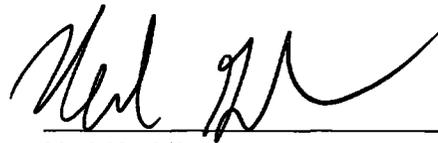
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Counsel for National Railroad  
Passenger Corporation (Amtrak)

**CERTIFICATE OF SERVICE**

Because there are no other "parties" to this proceeding, service is not required pursuant to 49 C.F.R. § 1104.12. Nonetheless, because the 19 Covered States have an interest in this matter, I hereby certify that I have this day caused to be sent by express mail, next day delivery, courtesy copies of Amtrak's Petition for Determination of PRRA Section 209 Cost Allocation Methodology and Memorandum in Support of Petition to the Governors of the 19 Covered States.



Neil K. Gilman

# **EXHIBIT A**



Deval L. Patrick, Governor  
Timothy F. Murray, Lt. Governor  
Richard A. Davey, Secretary & CEO



November 21, 2011

Thomas C. Carper  
Chairman, Amtrak Board of Directors  
National Railroad Passenger Corporation  
60 Massachusetts Avenue, NE  
Washington, DC 20002

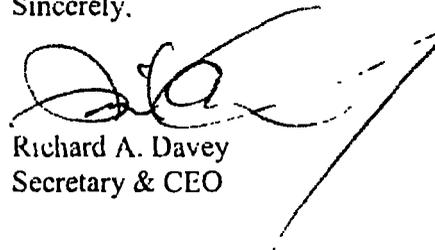
Dear Chairman Carper:

I am pleased to provide my formal concurrence with the proposed cost sharing methodology for Section 209. Massachusetts recognizes both the importance and significance of this cost methodology and, as such, strives to ensure that it effectively meets the needs of Amtrak and our state.

Massachusetts appreciates the efforts by Amtrak to address key issues for our partnership in this state and in the region. The meeting which was held on October 14, 2011 with key Amtrak staff resulted in a formal understanding of Amtrak's commitment to address several key issues of concern to Massachusetts and our partner states in parallel with the implementation of the Section 209 methodology, and a commitment to implement interim payment terms consistent with Section 209 if Section 212 is not completed. Based on the November 2 letter from Stephen Gardner (attached) outlining the outstanding issues that will be addressed, I am able to concur with the proposed Section 209 methodology.

Massachusetts appreciates and values our relationship with Amtrak while we face the challenges of advancing passenger rail service in New England.

Sincerely,



Richard A. Davey  
Secretary & CEO

NATIONAL RAILROAD PASSENGER CORPORATION

60 Massachusetts Avenue NE Washington DC 20002  
tel 215 349 1467 fax 215 349 4826

Stephen Gardner  
Vice President, NEC Infrastructure & Development



November 2, 2011

Mr. Richard A. Davey  
Secretary and CEO  
Massachusetts Department of Transportation  
10 Park Plaza Room 4160  
Boston, MA 02116

Mr. James Redeker  
Commissioner  
Connecticut Department of Transportation  
2800 Berlin Turnpike, P.O. Box 317546  
Newington, Connecticut 06131-7546

Dear Messrs. Davey and Redeker:

We would like to thank you and your respective staff for making the time on October 14, 2011 to discuss the Section 209 Final Policy developed by Amtrak and the State Working Group (SWG). We believe that our conversation addressed many of the issues raised in your letters of September 30, 2011 and provided us with greater context and insight into your questions and concerns. We acknowledge that some of the outstanding issues that you have may not be answerable immediately, but we hope that the following response provides you with an indication of our commitment to find answers or solutions to these topics in advance of the required implementation of the Section 209 Policy. This letter attempts to reiterate and further clarify the main points of our discussion in the order of our agenda for the October 14 meeting.

State-owned railroad assets. As we discussed, Connecticut and Massachusetts own railroad assets that Amtrak uses in its daily operations. Some of these assets are used in Section 209 services, and some of these assets are on the Northeast Corridor (NEC) and are therefore not affected by Section 209. Amtrak appreciates that the Section 212 efforts will result in new allocations of costs to Amtrak for use of State-owned NEC assets, and we are optimistic that the cost allocation work of Section 212 will be concluded by the time Section 209 is implemented in October 2013. In the event that the resolution of the Section 212 cost allocation efforts are not complete by the Section 209 implementation date, Amtrak will work with Connecticut and Massachusetts on developing interim



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contract-based payment terms consistent with the Section 209 policy that reflect the anticipated completion of the Section 212 cost allocation methodology.

Value of State investment in Amtrak infrastructure. Amtrak appreciates that Connecticut is planning to make substantial investments on the New Haven-Hartford-Springfield Line, which is an Amtrak-owned asset. As we discussed at our meeting, these investments are projected to bring increased riders and revenue and help keep Connecticut and Massachusetts' operating support payments low. Moreover, as part of the Synthetic Host Railroad charge, Connecticut and Massachusetts are only being asked to cover \$0.6 million of the \$2.9 million annual fully-allocated share of maintenance of way cost with Amtrak being responsible for the remainder, according to the most recent financial data we presented.

As we discussed, the amount of continuing capital investment required in the New Haven-Hartford-Springfield line after the initial improvements is difficult to forecast at this time and will be subject to our mutual development in FY 2012 in advance of the implementation of the Policy. However, we recognize your desire to understand now, at a general level, what on-going capital investments will likely be required to continue the service and performance levels committed to under your grant agreements with the FRA. Accordingly, we will prepare some estimates based on our other experiences to give some guidance as to what these continued investments might be. To reiterate, we look to Connecticut and Massachusetts to determine the level of service and performance desired on this line, which will be the basis for the continued capital investment amounts that we will jointly determine.

Connecting revenue on Shuttle trains. We appreciate the anomalous nature of the Springfield shuttle service and the relationship these trains have to the Northeast Corridor services. These shuttle trains operate in blended service with through-running trains; are scheduled and operated to connect with Northeast Regional trains of similar service type to and from points south of New Haven; offer cross-platform, closely-timed connections and are held for connections when necessary; and are marketed in timetables, stations, and elsewhere on a "code-sharing" basis, making them unique within the Amtrak system. At this time, we are gathering information on our ability to quantify the amount of connecting revenue on the NEC that transfers to or from Shuttle trains. As we discussed, our current ticketing system does not allow us to track connecting trips by individual passenger, and thus create an accurate portrait of revenue that follows such passengers as they connect between the NEC and shuttle trains. Given this, we will work with Connecticut and Massachusetts on possible strategies during this fiscal year to gather such connecting revenue information. Upon either the implementation of such mutually-agreeable strategies or the introduction of Amtrak's new planned ticketing system in the



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corridor, assuming this system contains the necessary capabilities, we are open to discussing changes in our then-operative agreements for the shuttle trains to reflect a through-revenue credit for the shuttle service consistent with the 209 Policy.

Real estate, freight, and other revenue. The New Haven-Hartford-Springfield Line generates revenue today from real estate, freight, and other activities. Through the Amtrak Performance Tracking (APT) system, costs on the line are allocated proportionally to Intercity, Commuter, and Commercial users, and the costs associated with these revenues are therefore excluded from the costs that are allocated to Connecticut and Massachusetts, with revenues from each user correspondingly allocated to such costs. Amtrak recognizes that we have not been able to fully present the financial results from these other business lines to Connecticut and Massachusetts, due in part to the continuing transition to both the APT system and a related transition to a SAP enterprise financial system, and we will make arrangements to do so as soon as the data is available and no later than by the end of FY 2012, well in advance of the implementation of Section 209. Finally, we would like to emphasize that the Section 209 Policy leaves open the issue of future revenue opportunities on the line, including real estate development, and how revenues from state or shared investments will be allocated or used by the parties. Likewise, the 209 Policy leaves the parties free to make mutually-agreeable business arrangements regarding rights related to capital assets that benefit from future state or shared investments. Amtrak looks forward to future discussions and collaboration with Connecticut and Massachusetts to maximize the potential of the line.

Operational control. Today Amtrak State partners who support base-increment extensions of NEC services consist of Pennsylvania, North Carolina, Vermont, and Virginia. These States all exercise significant control over fare levels, service levels, and other elements of the service, subject to some appropriate constraints regarding capacity and service levels on the NEC and other Amtrak corporate responsibilities. As the New Haven-Hartford-Springfield Line transitions to Section 209 status, Amtrak expects Connecticut and Massachusetts to collaboratively define the service and service standards for this route and to work with us as cooperative partners to plan, manage, and implement your routes, as we do today with other state partners.

Labor agreements. Amtrak's negotiations with its labor unions are defined by Federal laws and procedures with compensation arrangements linked historically "pattern bargaining" based on freight railroad agreements. Due to the past decisions of a labor arbitrator, the New Haven-Hartford-Springfield Line has some unique labor provisions relative to other similar Section 209 services. Amtrak will work with Connecticut and Massachusetts to explore ways of delivering service on the line in a more cost-effective



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manner and mitigating the financial impact to the service of this unique situation, and will seek to generally consult with you on labor matters that impact your services.

We hope this letter has further clarified the issues we discussed in New Haven on October 14. We believe there are opportunities to update existing agreements in ways that are consistent with the Section 209 process as described above, and we acknowledge that there are additional materials we need to present and discuss with Connecticut and Massachusetts, also described above. At the same time, we hope that we have further explained parts of the policy itself and how it would apply to the New Haven-Hartford-Springfield line. If this resolves your outstanding concerns, we respectfully request your Governors', or their designees', signature on the concurrence letter of September 1. Otherwise, we remain available to discuss these or other issues in further detail.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen Gardner".

Stephen Gardner  
Vice President, NEC Infrastructure & Development



September 1, 2011

The Honorable Deval Patrick  
Governor of Massachusetts  
State House  
Office of the Governor, Room 360  
Boston, MA 02133

Dear Governor Patrick,

This letter serves to officially transmit the proposed cost sharing methodology and accompanying policy developed by Amtrak and the Section 209 State Working Group (SWG) as required under Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA, Public Law 110-432, Division B). Section 209 of PRIIA requires that the Amtrak Board of Directors and relevant States collaboratively develop a common methodology for establishing and allocating operating and capital costs between the parties for all intercity passenger train services operated by Amtrak on routes less than 750 miles outside the Boston-Washington Northeast Corridor, known herein as "Section 209 services". In your State, the Section 209 services include the *Downeaster*, New Haven-Springfield line, and the *Vermont* Amtrak corridor routes.

The proposed methodology, captured in the attached Section 209 policy, has been cooperatively developed between Amtrak and the States over the past year and a half. Through the SWG, comprised of representatives from California, Maine, North Carolina, Virginia, and Wisconsin appointed by the American Association of State Highway and Transportation Officials' Standing Committee on Rail Transportation (SCORT) and the States for Passenger Rail Coalition (SPRC), Amtrak and the States have worked hard to create a common and transparent cost sharing methodology which will apply to all routes equally, ensuring that all States are compensating Amtrak in a like manner for like services. Through national, regional, and individual meetings with all impacted States, plus extensive outreach efforts undertaken by the SWG, we have sought to fully engage all States in the development of this policy and have provided opportunities for your State to provide comments, feedback and improvements throughout the development process. Most recently, your rail agency staff was provided this policy in draft form for comment on June 23, 2011 and in final draft form on August 12, 2011.

We are now asking for your concurrence with this policy. Concurrence with this policy does not obligate your State to a specific future funding amount or level of service. However, concurrence does indicate your acceptance of the methodology and policy as the ruling basis for any contract with Amtrak for Section 209 services, with the understanding that such policy will govern Amtrak's pricing for such services beginning on October 1, 2013. Between now and then, Amtrak will continue to work with your State's rail staff to develop specific service alternatives and agreements for routes in your State that are affected by Section 209.



*The Honorable Deval Patrick*

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Amtrak and the SWG's priority has been to develop a policy in a collaborative way, since failure to reach voluntary agreement between Amtrak and the relevant States on this policy will trigger the provisions of Subsection 209(c) which require that the U.S. Surface Transportation Board (STB) determine the appropriate methodology and require its full implementation by the parties within one year of the STB's decision. Once the policy voluntarily adopted by the parties or imposed by the STB has taken effect, Amtrak will only continue to operate Section 209 services that are governed by funding agreements with States that are consistent with the policy.

While the original statutory deadline to reach agreement on the policy of October 16, 2010 was not met, extension agreements between Amtrak, SCORT, and SPRC afforded us the opportunity to continue to develop the sound policy structure proposed in this transmittal. These agreements to extend negotiations expired on June 16, 2011 and the parties are now free to petition the STB to determine the methodology. It remains our hope that we will reach voluntary concurrence on this policy and avoid turning to the STB for resolution of this important matter.

To that end, we request your concurrence with the policy by you or your designee signing this letter and returning it to the above address by September 30, 2011. Upon receipt of your reply and other states, we will transmit the results to the STB.

We look forward to the swift conclusion of this important process. Amtrak deeply appreciates your support of intercity passenger rail service and the contributions made by your State in developing this policy. We, and the States with which this proposed policy was developed, recognize that implementing this policy may present significant challenges for some States, especially given the current economic climate, but are confident that it represents a thoughtful and fair approach that responds to the requirements of the law. Our partnership with your State is of vital importance to Amtrak and we will endeavor to work collaboratively with you on the successful implementation of this policy, or such other policy as may be ordered by the STB, and strive towards the continuation and improvement of all of today's Amtrak Section 209 services.

Sincerely,

Thomas C. Carper  
*Chairman, Amtrak Board of Directors*

ACCEPTED AND AGREED

Date:

11/21/11

By:

Title:

Secretary & CEO, MassDOT  
Governor or Governor's Designee

cc: Richard Davey, Secretary, Massachusetts Department of Transportation  
Tim Doherty, Director of Rail Programs, Massachusetts Department of Transportation  
Joseph H. Boardman, President and CEO, Amtrak