



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

**General Counsel**

1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

August 31, 2016

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**FILED ELECTRONICALLY**

Ms. Cynthia Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

ENTERED  
Office of Proceedings  
August 31, 2016  
Part of  
Public Record

**Re: Docket No. EP 734  
Dispute Resolution Procedures Under The Fixing America's  
Surface Transportation Act of 2015**

Dear Ms. Brown:

Please find attached for filing in the above-referenced proceeding the Opening Comments of the United States Department of Transportation. If you have any questions, please feel free to contact me.

Respectfully,

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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**WASHINGTON, D.C.**

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**Dispute Resolution Procedures Under The  
Fixing America's Surface Transportation  
Act of 2015**

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**No. EP 734**

**OPENING COMMENTS OF THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION**

Pursuant to the Board's Notice of Proposed Rulemaking (NPRM) served on July 28, 2016, the United States Department of Transportation (Department or DOT) and the Federal Railroad Administration (FRA), an operating administration of DOT, respectfully submit their opening comments in this matter. The Department is pleased to have the opportunity to share its perspective on the Board's proposal.

As the Board points out, Congress established the Northeast Corridor Commission (NEC Commission) in the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), and created the State-Supported Route Committee (now the State-Amtrak Intercity Passenger Rail (SAIPR) Committee) in the 2015 Fixing America's Surface Transportation Act (FAST Act). The purpose of these measures was to ensure that Amtrak and the entities statutorily responsible for funding certain Amtrak services had a forum to develop cost allocation methodologies and to plan cooperatively for the provision of intercity passenger rail service. DOT and FRA are pleased to play an active role in the ongoing work of both the NEC Commission and SAIPR Committee. Along with the Board, DOT and FRA will continue our efforts to work with

Amtrak, states, and other stakeholders to find ways to enhance passenger rail service for the benefit of the nation.

As explained in the NPRM, Congress charged the Board with the responsibility of establishing procedures for resolving certain disputes that may arise among the relevant stakeholders with respect to cost allocation for Amtrak services. Those procedures “may include provision of professional mediation services.” 49 U.S.C. § 24712(c)(2); *see id.* § 24905(c)(4). Pursuant to those statutory provisions, the Board proposes to amend its current mediation rules defined in 49 C.F.R. Part 1109 by adding a section (1109.5) that would permit parties to a dispute, in either the SAIPR Committee or the NEC Commission, to request informal assistance in securing professional mediators, even in the absence of a formal complaint being filed with the Board. Given our continuing work on both the SAIPR Committee and the NEC Commission, DOT understands the potential need for dispute resolution and appreciates the Board’s attention to this issue. DOT looks forward to hearing the views of other parties and may submit further comments at a later stage of this proceeding if appropriate.

August 31, 2016

Respectfully submitted,



Molly J. Moran  
Acting General Counsel  
United States Department of Transportation