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January 17, 2014

235333

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
January 22, 2014
Part of
Public Record

Re: *Capital Corridor Joint Powers Authority and National Railroad
Passenger Corporation – Petitions for Declaratory Order – PRIIA Section
209 Cost Allocation Methodology Implementation,
Finance Docket No. 35790*

Dear Ms. Brown:

We represent National Railroad Passenger Corporation (“Amtrak”) in the above-captioned proceeding.

Enclosed for filing are an original and ten copies of (i) Amtrak’s Petition for Declaratory Order, (ii) Declaration of Deborah L. Stone, and (iii) Declaration of Maximilian R. Johnson (collectively, the “Petition”). Please note that three (3) CDs with these documents are enclosed. Also enclosed is a check in the amount of \$1,400.00 for the filing fee.

Please acknowledge receipt of the Petition for filing by date-stamping the enclosed extra copy and returning it to us in the self-addressed, postage pre-paid envelope.

A Certificate of Service is attached to the Petition. Copies of the Petition have been sent to counsel for the Capital Corridor Joint Powers Authority by electronic mail and regular mail.

FILED

January 22, 2014

Surface Transportation Board

FEE RECEIVED

January 22, 2014

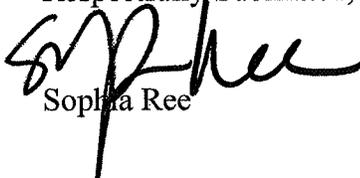
Surface Transportation Board

Landman Corsi Ballaine & Ford P.C.

Ms. Cynthia T. Brown
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Should you have any questions or require additional information, please contact the undersigned.

Respectfully Submitted,



Sophia Ree

cc: Charles A. Spitulnik
W. Eric Pilsk
Christian L. Alexander

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35790

**NATIONAL RAILROAD PASSENGER CORPORATION
– PETITION FOR DECLARATORY ORDER –
PRIIA SECTION 209 COST ALLOCATION METHODOLOGY IMPLEMENTATION**

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35790

**NATIONAL RAILROAD PASSENGER CORPORATION
– PETITION FOR DECLARATORY ORDER –
PRIIA SECTION 209 COST ALLOCATION METHODOLOGY IMPLEMENTATION**

National Railroad Passenger Corporation (“Amtrak”) hereby files this petition pursuant to the Surface Transportation Board’s (“STB” or “Board”) authority under the Passenger Rail Investment and Improvement Act of 2008 (“PRIIA”), Pub. L. 110-432, Div. B, Title II, Section 209(c), 122 Stat. 4848, 4918, codified at 49 U.S.C. § 24101 note, and 49 U.S.C. § 20103(b), for a Declaratory Order that the Amtrak Reservations and Call Center Costs associated with the *Capitol Corridor* Route must be reimbursed to Amtrak by the Capitol Corridor Joint Powers Authority (the “CCJPA”), as required by PRIIA Section 209 and the costing methodology approved by the Board thereunder.

I. INTRODUCTION

The *Capitol Corridor* intercity route, managed and administered by CCJPA under authority granted by the State of California, is subject to PRIIA Section 209. Section 209 required Amtrak and states to adopt and implement a “single, nationwide standardized methodology for establishing and allocating operating and capital costs” on state-supported routes. With CCJPA’s participation and approval, a methodology was developed which was

approved by this Board in a March 13, 2012 Decision finding that the methodology met the requirements of Section 209.

One of the costs allocated to states under the methodology approved by the Board is for “Reservations and Call Center” costs attributable to each route. CCJPA is the only covered entity that has not agreed to reimburse Amtrak for those costs as required by PRIIA 209 and the approved methodology, on the grounds that the CCJPA uses a non-Amtrak call center to impart scheduling information about the Capitol Corridor route to passengers. However, because passengers continue to call, and make use of, Amtrak’s Call Center to seek out scheduling information – as well as for other services and information that are not offered by CCPA’s alternate call center – PRIIA 209 and the methodology approved by the Board require CCJPA to pay its share of the incurred costs associated with the Amtrak Reservations and Call Center services allocable to the *Capitol Corridor* route. Any special arrangement for CCJPA would violate Section 209’s dual requirements of “equal treatment in the provision of like services of all States and groups of States” and “allocat[ion] to each route” of the costs incurred for the benefit of that route.

Amtrak therefore requests that the Board issue a declaratory order determining that the Reservation and Call Center costs incurred by Amtrak and allocable to the *Capitol Corridor* route be reimbursed by CCJPA as required by PRIIA 209 and the Board’s March 13, 2012 Decision.

II. BACKGROUND

A. CCJPA’s Use of Amtrak’s Reservations and Call Center Services

In 2005 CCJPA advised Amtrak that it wished to make use of the Bay Area Rapid Transit call center (“BART Call Center”) to provide information services to *Capitol Corridor*

passengers. In discussions with CCJPA, Amtrak specifically advised that, since the *Capitol Corridor* route overlaps with two Amtrak intercity routes (*California Zephyr* and *Coast Starlight*), and one non-CCJPA state-supported route (the *San Joaquins*), complete separation between *Capitol Corridor* inquiries and the Amtrak Call Center would not be possible, stating: ***“Amtrak would still get information calls for [Capitol Corridor] passengers that would not be identifiable as CCJPA calls, including, for example, station information and bus traffic.”*** See Declaration of Deborah L. Stone (“Stone Decl.”) at 4, Exhibit (“Ex.”) A at 3 (emphasis added). Amtrak also explained that the Amtrak Call Center provided services to all passengers beyond train status and scheduling information – including, *e.g.*, fares and policies, group reservations, special service requests (such as “meet and assist” or wheelchair accommodations), international sales, lost baggage inquiries, emergency handling, and station and tourist information – none of which the BART Call Center would be providing to *Capitol Corridor* passengers. *Id.*, Ex. A at 3, 5.

With that understanding, in December 2005, Amtrak and CCPA entered into a letter agreement setting forth the terms on which Amtrak would modify its call center operations to allow for CCJPA’s use of the BART Call Center. See Stone Decl. at 6, Ex. B (the “Letter Agreement”¹). The Letter Agreement provided:

1. Calls to the Amtrak toll-free number originating from designated Bay Area area codes would be given a recorded voice prompt, allowing the caller the option of accessing either *Capitol Corridor* information or other Amtrak information.

¹ Although there were subsequent amendments to the Letter Agreement, at no time did Amtrak agree to alleviate CCJPA’s responsibilities in reimbursing Amtrak for, among other things, CCJPA’s proportionate share of call center costs for operations in support of CCJPA services and ongoing incremental costs associated with the call-transfer system. See Stone Decl. at 6, n. 2.

2. Callers selecting the option of *Capitol Corridor* information would be automatically transferred to the BART Call Center, while other callers would be connected to the Amtrak Call Center.

3. CCJPA would continue to pay its proportionate share of call center costs incurred by Amtrak ***“for all calls that get through the call prompt and transfer system and end up being handled by the Amtrak Reservation Center agent.”***

4. Amtrak would continue to provide “ticketing and information services through Amtrak’s website, Quik-Trak self-serve ticketing machines, and *Capitol Corridor* station agents.

Id. (emphasis added).

Amtrak implemented the above procedures. To this day, calls to the 1-800-USARAIL number from the designated area codes receive a recorded voice prompt asking if the caller wishes *Capitol Corridor* information, in which case the call is transferred to the BART Call Center. *See* Stone Decl. at 7. For all calls not originating from the designated area codes, or for those callers choosing to stay within the Amtrak system, callers may either complete their transaction through Amtrak’s Interactive Voice Response (“JULIE”) system, or speak to a live Amtrak Call Center agent. *Id.* Thus, under the system put in place at CCJPA’s urging, Amtrak does not – and cannot – control whether a caller chooses to avail him or herself of Amtrak Call Center services. *Id.*

B. PRIIA Section 209

In 2008, Congress passed the Passenger Rail Investment and Improvement Act of 2008 (“PRIIA”), Pub. L. 110-432, Div. B, Title II, 122 Stat. 4848, 4918, codified at 49 U.S.C. § 24101 note. Section 209 of PRIIA (“Section 209”) was enacted to rectify the historical problem of

disparities in federal and state funding levels for different Amtrak routes that are classified as “State-supported” and was intended to “standardize Federal participation across all corridors”.² Amtrak and the affected states (“Covered States”)³ were required to develop a single standardized cost allocation methodology for routes meeting specified criteria.

Specifically, Section 209 required Amtrak, in consultation with the Covered States and other designated entities, to develop and implement “a single standardized cost-allocation methodology for establishing and allocating the operating and capital costs among the [Covered] States and Amtrak associated with trains operated on” the affected routes, which methodology had to meet two criteria: (1) “ensure[]... equal treatment in the provision of like services of all States and groups of States”, and (2) allocate[] to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.” PRIIA Section 209(a).

C. Development and Adoption of the Cost Methodology

Amtrak engaged in extensive fact-sharing and negotiations with the Covered States to develop a proposed cost methodology meeting the requirements of PRIIA 209. *See* Declaration of Maximilian R. Johnson (“Johnson Decl.”) at 5. Amtrak worked closely with a “State Working Group” formed by the Covered States to represent their interests, which Group included a representative of CCJPA, to develop the cost allocation methodology. *Id.*

After two years of consultation and negotiations, in which the CCJPA representative fully participated, eighteen of the 19 Covered States concurred with the proposed cost allocation

² 110 S. Rpt. at 25 (2007). The report is accessible at: <http://beta.congress.gov/110/crpt/srpt67/CRPT-110srpt67.pdf> and the text in quotes appears under the heading for Section 206, which was renumbered as 209 in the enacted bill.

³ The Covered States are: California, Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Missouri, New Hampshire, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Texas, Vermont, Virginia, Washington, and Wisconsin.

methodology. *Id.* at 6. California signified its concurrence on October 10, 2011, when a designee of the Governor of California countersigned a September 1, 2011 letter transmitting the proposed methodology. *Id.* Because not all Covered States had concurred, however, PRIIA Section 209(c) required Amtrak to petition the Board for approval of the proposed methodology. *Id.* at 7; see *Amtrak's Petition for Determination of PRIIA Section 209 Cost Methodology*, Docket No. FD 35571. By its Decision dated March 13, 2012, the Board held that the proposed methodology “provides a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among Amtrak and the States concerning the routes covered by PRIIA Section 209,” and ordered that the methodology be implemented by Amtrak and the Covered States (the “Approved Methodology”). See Johnson Decl. at 7, Exs. A (the Decision) and B (the Approved Methodology).

The Approved Methodology contains categories of costs, referred to as “Route Costs,” which are “operating costs closely associated with the operation of a route” and which can “clearly be evaluated and tracked by Amtrak and the states in the direct provision of service on a corridor train.” See Johnson Decl. at 8, Ex. B at 5.⁴ One of those Route Costs is for “Reservations and Call Centers.” See *Id.*, Ex. B at 7. The Reservations and Call Centers category is defined in the Approved Methodology as “Reservation sales call centers for general public and travel agencies, and supporting information systems” and with the formula of “FM[Family]_402 (Information & Reservations)” in the APT system. *Id.*, Ex. B at 15. The

⁴ The final methodology proposed by Amtrak and the State Working Group was based on a cost allocation system known as the Amtrak Performance Tracking System (“APT”), which was developed by a partnership of the Federal Railroad Administration and Amtrak on behalf of the Secretary of Transportation, and which grouped all cost centers into mutually exclusive “families” and in some cases “subfamilies”. See Johnson Decl. at 8, n. 2; Ex. B at 3.

APT documentation which forms the basis of the Route Cost allocation in the Approved Methodology describes this category further:

The Information & Reservations Subfamily provides reservation services to both the general public as well as interacting the outside travel agency reservations and information service systems. The Subfamily captures the costs of reservation sales call centers (RSCC) as well as the costs of the operating information systems required for Amtrak reservation services.

See Johnson Decl. at 9, Ex. C at 116-117.

Amtrak operates two Reservation Sales Call Centers. One is located in Philadelphia, PA, and employs between 350 to 400 Reservation Sales Agents and support personnel. The other is located in Riverside, CA, and employs between 600-650 Reservation Sales Agents and support personnel. *See* Stone Decl. at 8.

On annual basis, the Amtrak Call Centers receive approximately 13 million customer calls with approximately 2.5 million of those calls handled by JULIE. The remainder of the calls is handled by the sales agents. The Amtrak Call Centers contribute in excess of \$300 million in reservation sales revenue annually while handling a myriad of inbound and outbound customer care functions. *See* Stone Decl. at 9.

D. The Current Dispute

Following the Board's Decision, Amtrak and the Covered States began negotiations to finalize contracts which would incorporate the Approved Methodology. *See* Johnson Dec. at 11. As those negotiations progressed, Amtrak furnished CCJPA with worksheets estimating the allocated costs chargeable to CCJPA pursuant to the Approved Methodology, including a forecast allocation of Reservations and Call Center costs for the *Capitol Corridor* route. *Id.* During that process, CCJPA indicated that it disputed any liability for any Reservations and Call Center costs, on the grounds that it had designated the BART Call Center to handle calls related

to the *Capitol Corridor* service. *Id.* Amtrak and CCJPA entered into an Operating Agreement in October 2013 for service in FY 2014 applying the PRIIA 209 methodology in every respect except for the Route Cost charge for Reservations and Call Center costs, with an agreement to submit the dispute to the Board for resolution. *Id.*

III. JURISDICTION

The Board has the authority under PRIIA Section 209 and the March 13, 2012 Decision to resolve this dispute. The parties agree that the Board has jurisdiction over this dispute.

IV. DISCUSSION

CCJPA Receives Services from the Amtrak Reservation and Call Center System, and PRIIA Section 209 requires that CCJPA Pay for the Amtrak Call Center Services it Receives

There can be no dispute that Amtrak provides services to actual and potential *Capitol Corridor* passengers through its Reservations and Call Center system. For example:

- As agreed to by CCJPA, callers to the 1-800-USARAIL (Amtrak) toll-free number calling from the designated Bay Area area codes⁵ *are given the choice* to either transfer to the BART Call Center, or to continue using the JULIE system, or to talk to a live Amtrak Call Center agent. Once a live Amtrak Call Center agent is involved, costs allocable to the *Capitol Corridor* route are incurred by Amtrak and properly chargeable to CCJPA. *See* Stone Decl. at 10(a).

- Callers from area codes outside of the Bay Area do not receive a recorded prompt giving them the option of being transferred to the BART Call Center, but continue in the Amtrak

⁵ In this regard, it should be noted that due to the combination of the proliferation of cell phones and the Federal Communication Commission's "local number portability" (LNP) rules, many Bay Area residents may actually have phone numbers with area codes that fall outside the Bay Area, which in turn means that these Bay Area residents would not receive the prompt directing them to the BART Call Center.

system. If they choose to speak to a live Amtrak Call Center agent, costs allocable to the *Capitol Corridor* route are incurred by Amtrak and properly chargeable to CCJPA. *See Id.* at 10(b).

- Amtrak Call Center agents cannot always immediately determine if the caller is *only* interested in *Capitol Corridor* route information. Since the route is shared by two long-distance services operated by Amtrak, a caller who simply wants to know how to get from Point A to Point B on a specified day may have three options for travel – only one of which involves *Capitol Corridor* route information. Amtrak Call Center agents in such a situation by necessity provide information about Amtrak's *California Zephyr* or *Coast Starlight* service even if the caller eventually chooses to travel via the *Capitol Corridor* service. *See Id.* at 10(c).

- If Amtrak Call Center agents can determine from the caller's inquiry that they are seeking information about the *Capitol Corridor* service, they are instructed to – and they do – advise the caller of the BART Call Center number that they should call to get the information.⁶ However, callers do not always immediately end the call at that point. They may want to discuss why they need to call a separate number; or have trouble writing down the separate number; or simply want to ask additional questions of the Amtrak Call Center agent. As transcripts of calls that the CCJPA claims should not be chargeable to them show, Amtrak Call Center agents are not in complete control of how a conversation will go or how long it will last. *See Id.* at 10(d), Ex. C.⁷

⁶ Amtrak Call Center agents have had their access to *Capitol Corridor* schedule information restricted and as agreed to by CCJPA, have been trained not to answer callers' questions about that information. They, however, are permitted access to train status information about the *Capitol Corridor* service. *See Stone Decl.* at 10(d), n. 3.

⁷ CCJPA has suggested that, once Amtrak Call Center agents have provided the BART Call Center telephone number, they simply hang up on the caller. *See Stone Decl.* at 10(d), n. 4. Since all callers to 1-800-USARAIL are potential or actual Amtrak customers, Amtrak rejects that suggestion.

- Callers transferred or referred to the BART Call Center may not get the information they seek and call into the Amtrak system again. For the 4 month period of September to December 2013, 24.2% of the callers that selected to transfer to the BART Call Center placed a subsequent call to the Amtrak Call Center on the same day, a clear indication that they did not find the information they were seeking at the BART Call Center. *See Id.* at 10(e). In addition, the BART Call Center is not staffed with live call center agents 24/7, whereas the Amtrak Call Center is. In fact, during the same 4 month period, 14.1% of the calls received at the Amtrak Call Center from the Bay Area area codes were received during the hours that the BART Call Center is closed. *See Id.* As posted on www.capitolcorridor.org on January 16, 2014, CCJPA has been having technical issues and has been unable to provide accurate train status information to its customers via both its website and the BART Call Center. *See Id.* at 10(e). Ex. D. This problem has been an issue since March 1, 2013. *See Id.* at 10(e).

- Finally, in addition to train and status information, the Amtrak Call Center provides services beyond the kinds of schedule and train status information that the BART Call Center provides. Besides providing customers with train status, schedules and standard reservation services, the Call Centers provide special reservations-related services such as the following:

- Group Reservations and Sales
- Special Service requests including customers requiring special assistance, unaccompanied minors, passengers requiring wheelchair space or seats allowing special access
- Refunds Research
- Spanish language agent support
- Hearing-impaired services
- Amtrak Guest Rewards
- Baggage Policy and Lost Baggage/Item Inquiry
- Station Information and Support
- Emergency Services and Customer Hot Line

See Stone Decl. at 11.

In addition to handling reservation-related calls, the Amtrak Call Centers act as a resource for internal customers by providing: (1) Help Desk functions for Conductors and Lead Service Attendants, (2) assistance to all call center and station agents, and (3) support for Corporate Communications with the dissemination of media releases to Amtrak.com. *See Stone Decl.* at 12.

CCJPA does not dispute that its potential passengers make use of the Amtrak Call Center for these and other purposes, nor that Amtrak incurs costs associated with these services allocable to the *Capitol Corridor* route as Route Costs under the Approved Methodology. CCJPA's refusal to pay for these services appears to be based entirely on one paragraph in the Approved Methodology, which provides that states may "independently contract with alternative service providers for some services rather than Amtrak ... Working with independent service providers may have an impact on the level of service for a state." *See Johnson Decl.* at 7, Ex. B at 7-8. However, as the Approved Methodology goes on to state: "In these cases, **costs that are not incurred by Amtrak would not be included** in cost estimates or service reimbursements." *See Id.* (emphasis added.) Conversely, costs that **are** incurred by Amtrak should still be included in Route Costs. Since costs continue to be incurred by the Amtrak Reservations and Call Center system relating to the *Capitol Corridor* service, this provision of the Approved Methodology does not justify CCJPA's refusal to pay for the services it continues to receive.⁸

Nor can CCJPA claim to be surprised by the fact that such costs continue to be incurred on its behalf. As described above, before entering into the December 2005 Letter Agreement

⁸ In contrast, the services identified in the Cost Methodology as potential candidates for outsourcing, food service and equipment maintenance services, can be effectively controlled by Amtrak and the Covered States. *See Johnson Decl.* at 7, Ex. B at 7.

Amtrak advised CCJPA that, despite the arrangements agreed to for transferring calls to the BART Call Center, “Amtrak would still get information calls for [Capitol Corridor] passengers that would not be identifiable as CCJPA calls, including, for example, station information and bus traffic.” See Stone Decl. at 4, Ex. A. Similarly, the June 10, 2011 Frequently Asked Questions (“FAQ”) regarding the cost methodology that the American Association of State Highway and Transportation Officials (“AASHTO”) distributed while the cost methodology was being developed states in relevant part: “However, there are likely to be limits to outsourcing, *particularly for routes where there are shared Amtrak facilities that also serve Long Distance trains* or for routes utilizing the Northeast Corridor. Options vary considerably over the network and Amtrak should be consulted early-on regarding any services for which a State is interested in seeking an alternate provider so that a clear understanding of the options, costs, and impacts of such arrangements can be developed.” See Johnson Decl. at 10, Ex. D (emphasis added). As noted above, in the December 2005 Letter Agreement, CCJPA itself acknowledged this reality when it agreed to continue to reimburse Amtrak “for all calls that get through the call prompt and transfer system and end up being handled by the Amtrak Reservation Center agent,” as well as for CCJPA’s “proportionate share of non-call center costs as indicated in the RPS Reservations and Information line item...”. See Stone Decl. at 6, Ex. B.

For the above reasons, Section 209 and the approved Cost Methodology promulgated thereunder require that these costs be paid by CCJPA. The Reservations and Call Center Route Costs chargeable to CCJPA are costs that Amtrak is actually incurring on behalf of the *Capitol Corridor* route. To find otherwise would lead to a result where CCJPA alone could escape paying for services that they receive and for which other states are properly charged. This would be entirely inconsistent with both the letter and spirit of PRIIA Section 209 – as reflected in the

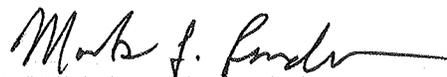
Approved Methodology adopted by the Board -- which requires a “single, nationwide standardized methodology for establishing and allocating operating ... costs” as well as “equal treatment in the provision of like services” to all affected entities. *See* Johnson Decl. at 7, Exs. A and B.

V. CONCLUSION

For the foregoing reasons, Amtrak respectfully requests that the Board determine that CCJPA is required to reimburse Amtrak for the Reservations and Call Center fee associated with the *Capitol Corridor* route.

January 17, 2014

Respectfully Submitted,



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CERTIFICATE OF SERVICE VIA ELECTRONIC MAIL & REGULAR MAIL

I hereby certify that on January 17, 2014, I served the within (i) **Petition for Declaratory Order**, (ii) **Declaration of Deborah L. Stone**, and (iii) **Declaration of Maximilian R. Johnson** (collectively, the "Petition") upon

Charles A. Spitulnik
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attorneys in this proceeding, at the address designated by said attorneys for that purpose by transmitting a copy to the above-named person(s) by ELECTRONIC MAIL at said e-mail address and at the addresses designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York.



Sophia Ree

Dated: January 17, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35790

**NATIONAL RAILROAD PASSENGER CORPORATION
– PETITION FOR DECLARATORY ORDER –
PRIIA SECTION 209 COST ALLOCATION METHODOLOGY IMPLEMENTATION**

DECLARATION OF DEBORAH L. STONE

1. My name is Deborah L. Stone and this Declaration is submitted in support of Amtrak's petition for a declaratory order that the Amtrak Reservation and Call Center costs incurred by Amtrak and allocable to the *Capitol Corridor* route must be reimbursed by CCJPA¹ as required by PRIIA Section 209 and the costing methodology approved by the Board.

2. The facts stated herein are based on my personal knowledge and my review of the file maintained by Amtrak's offices.

3. I am employed by Amtrak and my title is Chief, Sales Distribution and Customer Service. I am responsible for developing and implementing key strategies, policies and initiatives to provide the most cost efficient and effective operations of all sales channels, including Call Center operations, station sales, eCommerce (Amtrak.com), consumer mobile applications, travel agent sales, VRU technology, and related business mobile applications, such as the eTicketing Mobile Device.

¹ Capitalized and abbreviated terms used but not defined herein shall have the meanings ascribed to them in Amtrak's Petition for Declaratory Order dated January 17, 2014.

4. In 2005 CCJPA advised Amtrak that it wished to make use of the Bay Area Rapid Transit call center (“BART Call Center”) to provide information services to *Capitol Corridor* passengers. In discussions with CCJPA, Amtrak specifically advised that, since the *Capitol Corridor* route overlaps with two Amtrak intercity routes (*California Zephyr* and *Coast Starlight*), and one non-CCJPA state-supported route (the *San Joaquins*), complete separation between *Capitol Corridor* inquiries and the Amtrak Call Center would not be possible, stating: “Amtrak would still get information calls for [Capitol Corridor] passengers that would not be identifiable as CCJPA calls, including, for example, station information and bus traffic.” A copy of the presentation that Amtrak provided to CCJPA on June 27, 2005 is annexed hereto as Exhibit (“Ex.”) A at 3.

5. Amtrak also explained that the Amtrak Call Center provided services to all passengers beyond train status and scheduling information – including, *e.g.*, fares and policies, group reservations, special service requests (such as “meet and assist” or wheelchair accommodations), international sales, lost baggage inquiries, emergency handling, and station and tourist information – none of which the BART Call Center would be providing to *Capitol Corridor* passengers. *See Ex. A at 3, 5.*

6. With that understanding, in December 2005, Amtrak and CCPA entered into a letter agreement setting forth the terms on which Amtrak would modify its call center operations to allow for CCJPA’s use of the BART Call Center. A copy of the December 21, 2005 letter

agreement (the "Letter Agreement") is annexed hereto as Ex. B.² The Letter Agreement provided:

(a) Calls to the Amtrak toll-free number originating from designated Bay Area area codes would be given a recorded voice prompt, allowing the caller the option of accessing either *Capitol Corridor* information or other Amtrak information.

(b) Callers selecting the option of *Capitol Corridor* information would be automatically transferred to the BART Call Center, while other callers would be connected to the Amtrak Call Center.

(c) CCJPA would continue to pay its proportionate share of call center costs incurred by Amtrak "for all calls that get through the call prompt and transfer system and end up being handled by the Amtrak Reservation Center agent."

(d) Amtrak would continue to provide "ticketing and information services through Amtrak's website, Quik-Trak self-serve ticketing machines, and *Capitol Corridor* station agents.

Id.

7. Amtrak implemented the above procedures. To this day, calls to the 1-800-USARAIL number from the designated area codes receive a recorded voice prompt asking if the caller wishes *Capitol Corridor* information, in which case the call is transferred to the BART Call Center. For all calls not originating from the designated area codes, or for those callers choosing to stay within the Amtrak system, callers may either complete their transaction through Amtrak's Interactive Voice Response Unit ("JULIE") system, or speak to a live Amtrak Call

² Although there were subsequent amendments to the Letter Agreement, at no time did Amtrak agree to alleviate CCJPA's responsibilities in reimbursing Amtrak for, among other things, CCJPA's proportionate share of call center costs for operations in support of CCJPA services and ongoing incremental costs associated with the call-transfer system.

Center agent. Thus, under the system put in place at CCJPA's urging, Amtrak does not – and cannot – control whether a caller chooses to avail him or herself of Amtrak Call Center services.

8. Amtrak operates two Reservation Sales Call Centers. One located in Philadelphia, PA, and employs between 350 to 400 Reservation Sales Agents and support personnel and the other in Riverside CA, and employs between 600-650 Reservation Sales Agents and support personnel.

9. On annual basis, the Amtrak Call Centers receive approximately 13 million customer calls with approximately 2.5 million of those calls handled by JULIE. The remainder of the calls is handled by the sales agents. The Amtrak Call Centers contribute in excess of \$300 million in reservation sales revenue annually while handling a myriad of inbound and outbound customer care functions.

10. Amtrak provides services to actual and potential *Capitol Corridor* passengers through its Reservations and Call Center system. For example:

(a) As agreed to by CCJPA, callers to the 1-800-USARAIL (Amtrak) toll-free number calling from the designated Bay Area are codes *are given the choice* to either transfer to the BART Call Center, or to continue using the JULIE system, or to talk to a live Amtrak Call Center agent. Once a live Amtrak Call Center agent is involved, costs allocable to the *Capitol Corridor* route are incurred by Amtrak and properly chargeable to CCJPA.

(b) Callers from area codes outside of the Bay Area do not receive a recorded prompt giving them the option of being transferred to the BART Call Center, but continue in the Amtrak system. If they choose to speak to a live Amtrak Call Center agent, costs allocable to the *Capitol Corridor* route are incurred by Amtrak and properly chargeable to CCJPA.

(c) Amtrak Call Center agents cannot always immediately determine if the caller is only interested in *Capitol Corridor* route information. Since the route is shared by two long-distance services operated by Amtrak, a caller who simply wants to know how to get from Point A to Point B on a specified day may have three options for travel – only one of which involves *Capitol Corridor* route information. Amtrak Call Center agents in such a situation by necessity provide information about Amtrak's *California Zephyr* or *Coast Starlight* service even if the caller eventually chooses to travel via the *Capitol Corridor* service.

(d) If Amtrak Call Center agents can determine from the caller's inquiry that they are seeking information about the *Capitol Corridor* service, they are instructed to – and they do – advise the caller of the BART Call Center number that they should call to get the information.³ However, callers do not always immediately end the call at that point. They may want to discuss why they need to call a separate number; or have trouble writing down the separate number; or simply want to ask additional questions of the Amtrak Call Center agent. As transcripts of calls that the CCJPA claims should not be chargeable to them show, Amtrak Call Center agents are not in complete control of how a conversation will go or how long it will last.⁴ A copy of the sample transcripts of calls are annexed hereto as Ex. C.

(e) Callers transferred or referred to the BART Call Center may not get the information they seek and call into the Amtrak system again. For the 4 month period of September to December 2013, 24.2% of the callers that selected to transfer to the BART Call Center placed a subsequent call to the Amtrak Call Center on the same day, providing a clear

³ Amtrak call center agents do not have access to *Capitol Corridor* schedule information and they therefore cannot answer callers' questions about that information. They can, however, access train status information about the *Capitol Corridor* service.

⁴ CCJPA has suggested that, once Amtrak call center agents have provided the BART call center telephone number, they simply hang up on the caller.

indication that they did not find the information they were seeking at the BART Call Center. In addition, the BART Call Center is not staffed with live call center agents 24/7, whereas the Amtrak Call Center is. In fact, during the same 4 month period, 14.1% of the calls received at the Amtrak Call Center from the Bay Area area codes were received during the hours that the BART Center is closed. As posted on www.capitolcorridor.org on January 16, 2014, CCJPA has been having technical issues and has been unable to provide accurate train status information to its customers via both its website and the BART Call Center. A print out of Capitol Corridor Train Status information is annexed hereto as Ex. D, which is also accessible at http://www.capitolcorridor.org/train_status. The problem has been an issue since March 1, 2013.

11. Finally, in addition to train and status information, the Amtrak Call Center provides services beyond the kinds of schedule and train status information that the BART Call Center provides. Besides providing customers with train status, schedules and standard reservation services, the Call Centers provide special reservations-related services such as the following:

- Group Reservations and Sales
- Special Service requests including customers requiring special assistance, unaccompanied minors, passengers requiring wheelchair space or seats allowing special access
- Refunds Research
- Spanish language agent support
- Hearing-impaired services
- Amtrak Guest Rewards
- Baggage Policy and Lost Baggage/Item Inquiry
- Station Information and Support
- Emergency Services and Customer Hot Line

12. In addition to handling reservation related calls, the Amtrak Call Centers act as a resource for internal customers by providing: (1) Help Desk functions for Conductors and Lead

Service Attendants, (2) assistance to all call center and station agents, and (3) support for Corporate Communications with the dissemination of media releases to Amtrak.com.

I declare under penalty of perjury that the foregoing is true and accurate.

Executed on January 17, 2014.



Deborah L. Stone

Stone Declaration

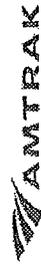
EXHIBIT A

Amtrak June 2005 Presentation

6/27/05

**CCJPA Request to
Operate Independent Call Center**

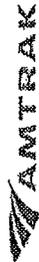
June 2005





Proposal Summary

- Switch to BART call center support, who handles information requests
- Re-program Julie so that any Capitol Corridor calls are forwarded to BART (BART has proposed to cover calls for \$450,000 annually).
- Retain all other Amtrak sales channel support (i.e., Julie, Internet, Quik-Trak, station agents, and travel agents)

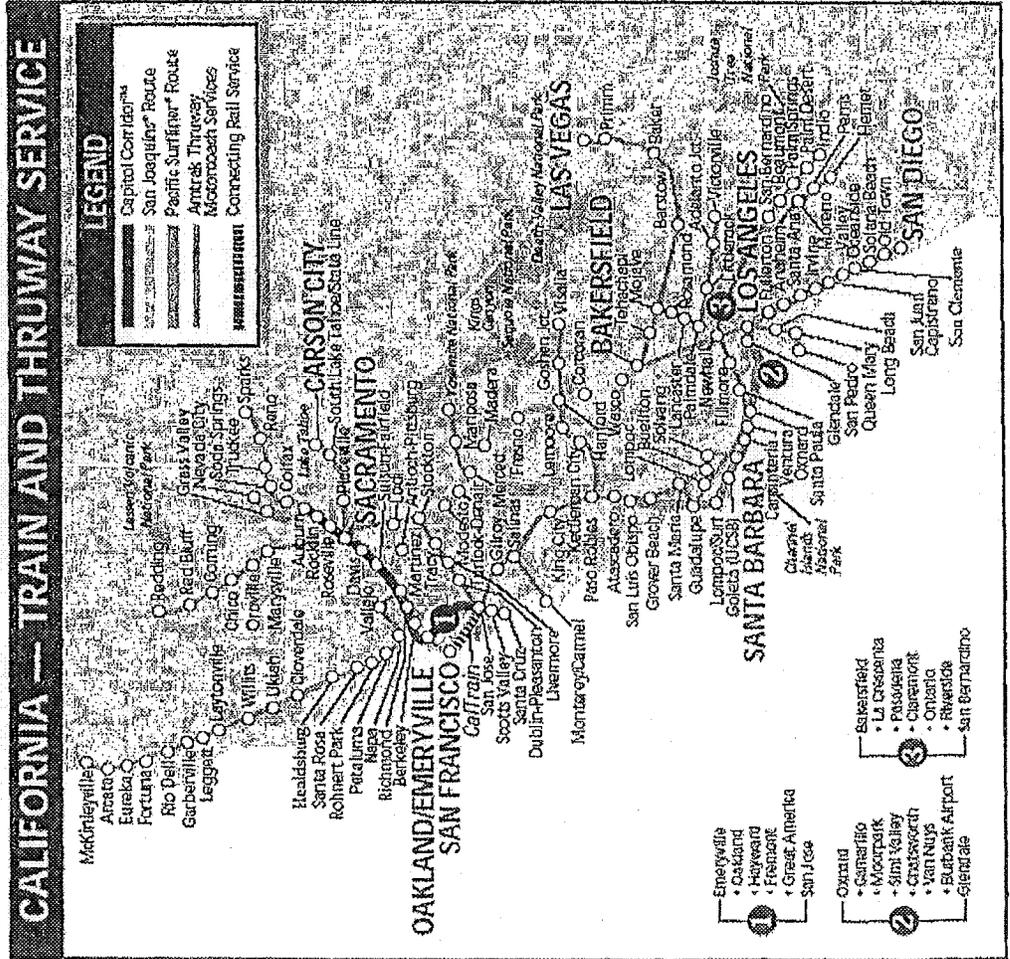


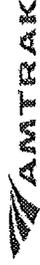
Implementation Challenges

- Amtrak call centers would continue to receive calls
- CCJPA/BART may not be able to handle all calls, specifically:
 - Book or issue tickets
 - Provide detailed train status
 - Offer other services, such as group sales or email support
- Capitols route overlaps with three others (San Joaquins, Zephyr, and Starlight) and extensive bus network
 - Amtrak would still get information calls for Capitols passengers that would not be identifiable as CCJPA calls, including, for example, station information and bus traffic.
- CCJPA does not pay all costs currently
 - Amtrak reservation systems and Internet IT were historically classified as “system” costs, and not charged to CCJPA through RPS billing/invoicing.



Capitol Corridor is part of a complex network





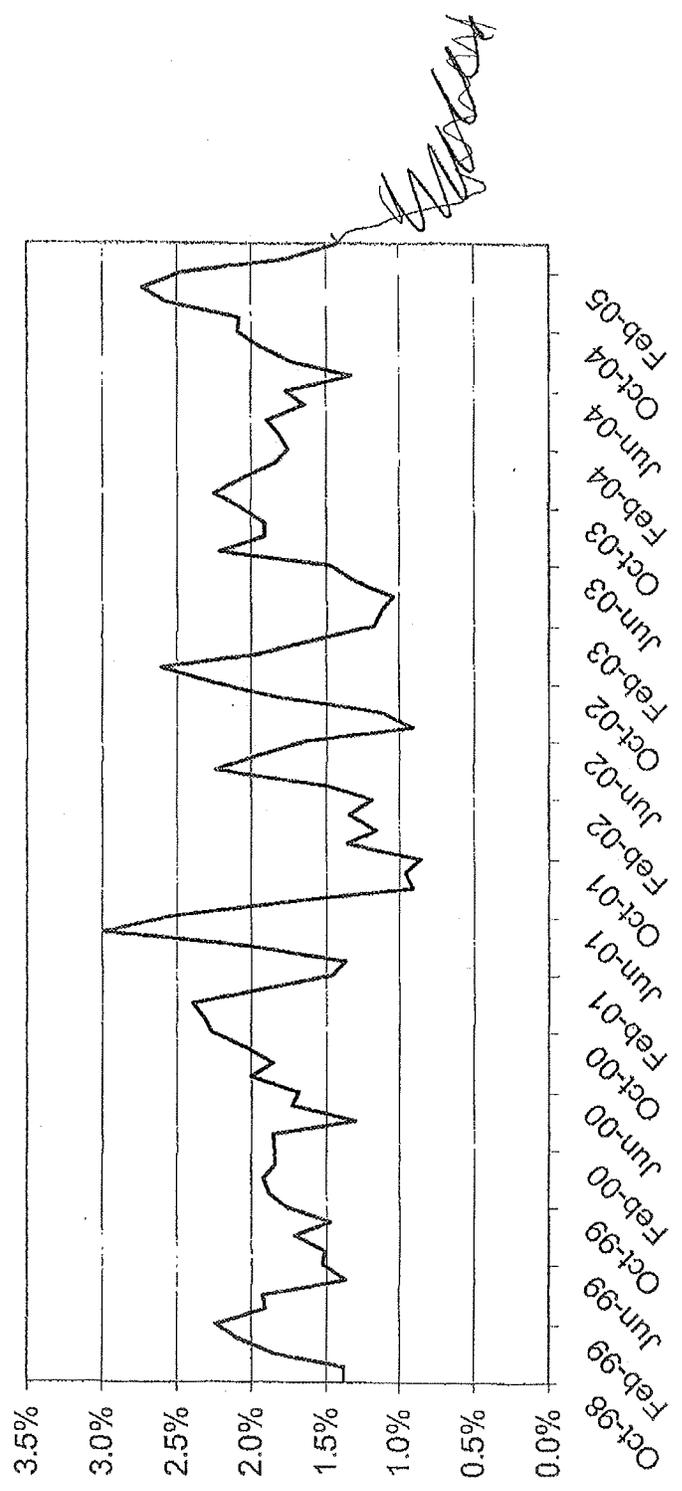
Amtrak Call Center Services

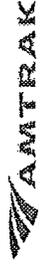
- **Full Contact Center Support**
 - Schedules, fares and policies, reservations, routes
 - Group reservations
 - International sales
 - Internet e-mail support
 - Customer service support handling telephone and email contacts
 - Special service requests (such as "meet and assist" or special meal requests)
 - Lost baggage inquiries
 - Station information
 - Customer callback and re-accommodation services (in the event of schedule change or service disruption)
 - Emergency handling
 - Sightseeing information
- **Customers may, at their option, also be transferred to specialists that can book hotels, rental cars, and tour packages.**
- **Operates year-round 24 hours a day 7 days a week, and also offer support for both Spanish-speaking and hearing-impaired customers.**



Trends in CCJPA Call Share

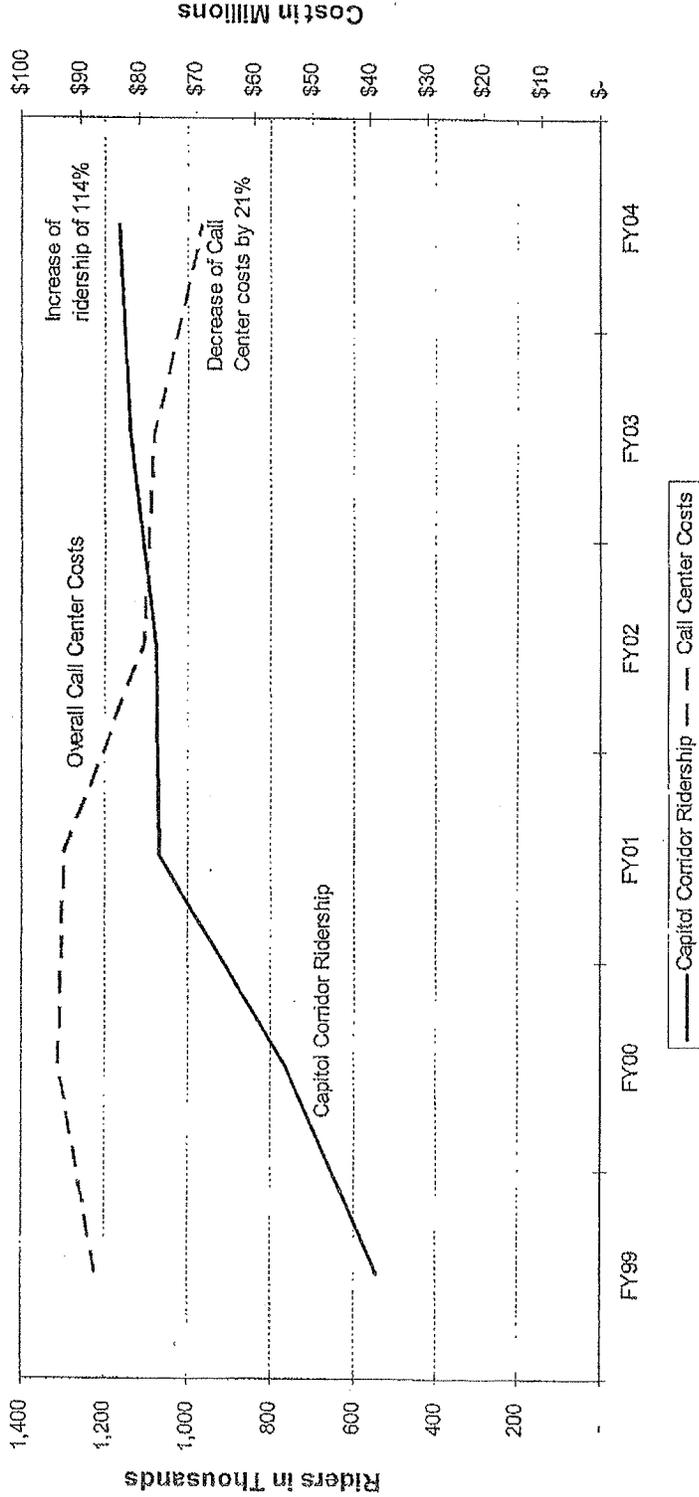
Call Center Share Oct 1998 - Apr 2005

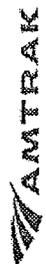




Trends in Call Center Costs vs. CCJPA Traffic

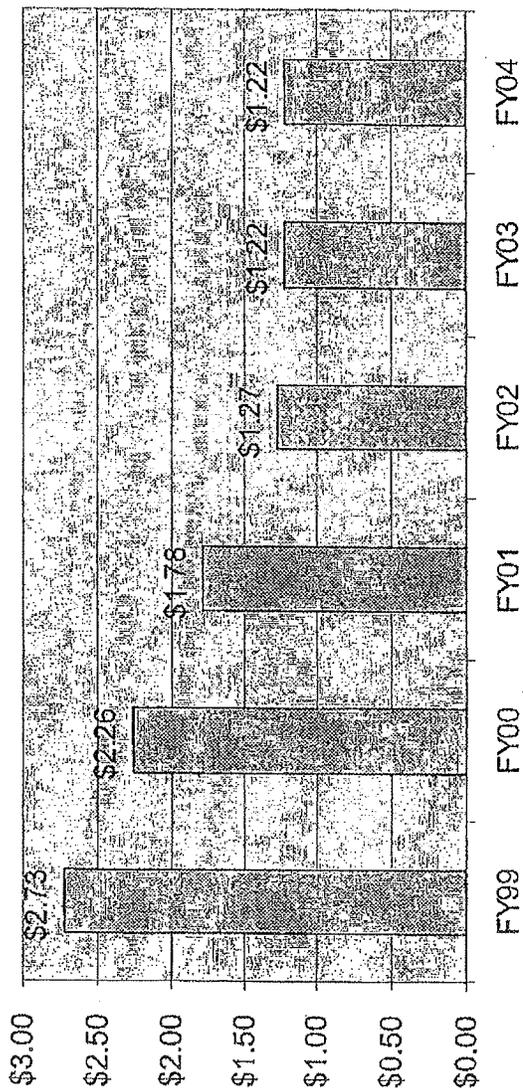
Trends in Capitol Corridor Ridership and Amtrak Call Center Operating Costs

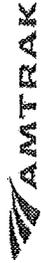




Amtrak R&I Costs are Significantly Lower

Reservations and Information Capitol Corridor
Cost Per Passenger (Based on RPS Costs)





Proposed Approach

- **Amtrak recommends status quo**
- **If CCJPA still wishes to pursue, we propose a shared costs model**
 - CCJPA agrees to cover the cost of additional programming and call tipping
 - Amtrak diverts calls to BART, however CCJPA still responsible for remaining charges for share of calls to Amtrak
 - CCJPA begins paying for mainframe computer costs and IT support of Internet
- **Ability to implement proposed approach subject to detailed systems analysis**



Preliminary Systems Analysis

- **Approach**
 - Intercept regional calls (based on area code) and offer Capitol Corridor option
 - Route accordingly
- **Challenges**
 - System will not be perfect
 - Not all calls will be intercepted
 - Callers may be routed to wrong call center and then be rerouted – no “first call” resolution, eroding customer service
 - Amtrak outbound line capacity may be affected (area codes proposed represent 6.8% of all inbound traffic)

Stone Declaration

EXHIBIT B

December 21, 2005 Letter Agreement



December 21, 2005

Mr. Gene Skoropowski
Managing Director
Capitol Corridor Joint Powers Authority
300 Lakeside Drive, 14th Floor East
Oakland, CA 94612

Re: CCJPA/BART Call Center

Dear Mr. Skoropowski:

This letter agreement serves to set forth the general terms for which the parties will modify the existing call center operation to provide *Capitol Corridor* riders with the BART call center service option.

Capitol Corridor Joint Powers Authority (CCJPA) desires to operate an independent call center to support passengers using *Capitol Corridor* trains. At a meeting on June 27, 2005, Amtrak and CCJPA discussed the challenges associated with segregated call centers, given the overlap of additional intercity trains that operate over the *Capitol Corridor* territory, as well as an extensive regional feeder bus network. The parties have agreed to offer callers whose calls originate from select Northern California area codes the option of accessing either *Capitol Corridor* train information or Amtrak information. For calls originating in these area codes to Amtrak on the 1.800.USA.RAIL number, the offer will be made in the form of a recorded prompt at the beginning of the call, the language of which will be jointly agreed to by CCJPA and Amtrak. In the event the caller selects Capitol Corridor information, the call will be transferred to the BART call center. CCJPA also agrees to retain all other Amtrak sales channel support and to jointly program these activities at the agreed upon funding levels to support these joint efforts.

By signing below, CCJPA authorizes Amtrak to proceed with necessary reprogramming and hardware modifications to accomplish the revisions to Amtrak's Reservations and Information System as outlined above. CCJPA will reimburse Amtrak for its actual costs incurred in performing the reprogramming and hardware modifications as well as for ongoing operational costs, as follows:

1. One-Time Costs. CCJPA will reimburse Amtrak for the one-time cost of reprogramming and establishing the call prompt and transfer system. CCJPA understands and agrees that the actual costs that will be billed by Amtrak for performance of these services shall not exceed the estimate of \$43,750 without the approval of the CCJPA.



2. Ongoing Operating Costs. CCJPA will pay the following operating costs:

- a. The CCJPA's proportionate share of non-call center costs as indicated in the RPS Reservations and Information line item pursuant to the FY06 state-supported service agreement.
- b. The CCJPA's proportionate share of call center costs for operations in support of CCJPA services. Amtrak will invoice CCJPA for the monthly call center costs incurred by Amtrak, for all calls that get through the call prompt and transfer system and end up being handled by the Amtrak Reservation Center agent. The value of the calls handled will be calculated based on the share of CCJPA-related calls as determined by Amtrak's Call Center Survey. The Survey will allocate Amtrak unit costs chargeable to the CCJPA for services and activities on the same basis as prior to October 1, 2005. The CCJPA will reimburse Amtrak for these incurred call center operating costs as "Extra Work" as part of the FY06 operating agreement between Amtrak and CCJPA.
- c. The CCJPA shall pay its proportionate share of ongoing incremental costs associated with the call-transfer system, including but not limited to transfer fees and the costs of telecommunications necessary to support the transfer program. These costs will be allocated to the CCJPA by Amtrak based on actual costs to Amtrak. In order to fully determine actual cost to Amtrak, CCJPA shall provide to Amtrak, on a monthly basis, a tracking report for BART call center talk time. The CCJPA will reimburse Amtrak for these incurred transfer fees as "Extra Work" as part of the FY06 operating agreement between Amtrak and CCJPA.

The sum total of ongoing operating costs identified in 2(a) through 2(c) above, shall not exceed \$575,000 without the approval of CCJPA. However, once such funds have been expended, Amtrak is no longer obligated to continue to provide call center services (for Capitol Corridor trains) as defined in the presentation provided to CCJPA on June 27, 2005. Amtrak will continue to provide ticketing and information services through Amtrak's website, *Quik-Trak self-serve ticketing machines and Capitol Corridor station agents.*

3. Overhead Costs. CCJPA agrees to pay for its remaining use of any other Amtrak information technology overhead costs when other states contracting with Amtrak for similar services begin covering this expense, and the CCJPA shall be charged on the same unit cost basis and in the same proportion of total costs that these costs are billed to the other states.

Amtrak and CCJPA agree to amend the state-supported service agreement to treat all costs identified above in Sections 2(b) and 2(c) as a direct reimbursable, rather than fixed cost item. The parties further agree that October 1, 2005 is the target date for completing all necessary reprogramming and hardware modifications to have the call transfer system operational. However, both parties recognize that this

Mr. Gene Skoropowski
December 21, 2005
Page 3



schedule is dependent upon agreement by both parties on the final technical specifications of the program, as well as the timely completion of work tasks by Amtrak technical staff and external communications companies. It is clearly understood that the CCJPA intends to have the new CCJPA/BART Call Center in operation by October 1, 2005.

Please signify your acceptance of these terms by signing below and returning a copy to me. If you have any questions, please call me at 202-906-2372.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert O. Mallery". The signature is fluid and cursive, with a long, sweeping tail.

Gilbert O. Mallery
Vice President, Contract Administration

cc: Matt Hardison

Accepted and Agreed::

CAPITOL CORRIDOR JOINT POWERS AUTHORITY

A handwritten signature in black ink, appearing to read "Eugene Skoropowski". The signature is bold and somewhat stylized, with a prominent initial "E".
Eugene Skoropowski, Managing Director

Stone Declaration

EXHIBIT C

Sample Transcripts of Calls

Misty Garcia - Capitol Corridor Call**Transaction ID 2006469 Date Recorded 06/18/2012 Length of call 1:37**

Agent:	"Thank you for choosing Amtrak. This is Misty and how may I help you? (2 seconds)
Customer:	"Alright, um, can you, ugh, give me the departure times for um, ugh, ugh, I think it's, ugh, Amtrak for, from Richmond to Sacramento; the last, ugh, two trains, tonight." (11 seconds)
Agent:	"I'd be happy to look into that for you." (3 seconds) <i>Agent is pulling up city pairs – (3 seconds)</i> I have a train leaving at 10:20 arriving into Sacramento at 11:59; if you want further, um, train numbers, or, train times you want to call the Capitol Corridor do you, ugh, do you have a pen so you can write down their phone number? (16 seconds)
Customer:	"Ugh, yeah." (2 seconds)
Agent:	"Okay, it is 8-7-7..." (5 seconds)
Customer:	"Hold on one second." (2 seconds) <i>The customer starts to enter the number in their phone. (5 seconds)</i> "Ugh huh." (1 second)
Agent:	"9-7-4..." (3 seconds)
Customer:	<i>The customer continues to enter the number in their phone. (5 seconds)</i> "Ugh huh." (1 second)
Agent:	"33-22" (2 seconds)
Customer:	<i>The customer mumbles the number as they finish entering it into their phone. (7 seconds)</i> "I'm sorry" (1 second)
Agent:	"That is..." (1 second)
Customer:	<i>The customer mumbles something however it is not clear. (2 seconds)</i>
Agent:	"Is there anything else I can assist you with today?" (3 seconds)
Customer:	"And that's for, that's for Capitol Corridor right?" (3 seconds)
Agent:	"Yes" (1 second)
Customer:	"Okay, thank you." (2 seconds)
Agent:	"You're welcome; you have a great day and thank you for calling Amtrak." (3 seconds)
Customer:	"Okay." (1 second)
Agent:	"Goodbye." (2 seconds)
Customer:	"Bye." (1 second) <i>The caller takes a few seconds before hanging up. (8 seconds)</i>

Amy Cool – Capitol Corridor**Transaction ID 2006384 Recording Date 6/18/2013 Length of call 1:28**

Agent:	"Amtrak, this is Amy how may is help you?" (3 seconds)
Customer:	"Yeah can you tell me when the next bus leaves RNO to go to SAC?" (5 seconds)
Agent:	"Okay you were looking for schedules between RNO and SAC?" (4 seconds)
Customer:	"Yeah" (1 second) (Agent is reading advisory regarding the Capital Corridor 3 seconds)
Agent:	"I'm sorry this is the wrong number to call for those busses. You have to call the Capital Corridor. Do you have their phone number?" (8 seconds)
Customer:	"No." (1 seconds)
Agent:	"Do you have a pen I can give you the number to call?" (3 seconds)
Customer:	"Do you have that schedule from RNO down to SAC? "
Agent:	"Only the train schedule. The train that leaves RNO at 8:36am in the morning. The busses are operated by the State of California the Capital Corridor. We do not have schedules at this phone number. I'm sorry." (12 seconds)
Customer:	"One second." (2 seconds) Not clear what the caller states
Agent:	"Let me know when you are ready I will give you the correct number." (Agent waits for customer response 13 seconds)
Customer:	"Okay, go ahead" (2 Seconds)
Agent:	"Okay its 1-877" (3 seconds) (Agents waits for a response from the caller 15 seconds)
Agent:	"Uh so 1-877-974-3322." (7 seconds) (Agents waits for a response from the caller 12 seconds)
Customer:	"Okay thank you." (2 seconds)
Agent:	"You're welcome. Is that all the information you needed?" (3 seconds)
Customer:	"Yeah." (1 seconds)
Agent:	"Thank you for calling Amtrak. Good Bye." (2 seconds)

Gloria Green – Capitol Corridor**Transaction ID 2006384 Recording Date 6/18/2013 Length of call 1:28**

Agent:	"Amtrak, this is Gloria speaking. How can I help you?" (3 seconds)
Customer:	"This is Gloria speaking?" (2 seconds)
Agent:	"Gloria" (2 seconds)
Customer:	"Hi Gloria." (1 second)
Agent:	"Hi." (1 second)
Customer:	"Um, I'm trying to leave Sacramento Wednesday afternoon or in the early part of the evening." (9 seconds)
Agent:	Okay, to.." (2 seconds)
Customer:	"Sacramento to Haywood, CA" (5 seconds)
Agent:	"...(pause for 2 seconds) Okay..uh you would have to call a different number for that." (6 seconds)
Customer:	"Why" (1 second)
Agent:	"Because I don't handle the Capitol Corridor and I don't have all their schedules or anything. The number..uh I'll give you the number to call." (11 Seconds)
Customer:	"Okay" (1 Second)
Agent:	"Okay and the number is 877-974-3322." (11 seconds)
Customer:	"3322?" (2 seconds)
Agent:	"Un-huh" (1 second)
Customer:	"And that's the what?" (3 seconds)
Agent:	"Capitol Corridor train" (3 seconds)
Customer:	"Capitol Corri.." (2 seconds)
Agent:	"Capitol Corridor train" (2 seconds)
Customer:	"Corridor train" (2 seconds)
Agent:	"Un-Huh" (1 second)
Customer:	"Alrighty then hon. Thank you so much" (2 seconds)
Agent:	"Thank you. Thank you for calling Amtrak." (2 seconds)
Customer:	"Bye-bye" (1 second)
Agent:	"Hmm. Bye" (1 second)

Stone Declaration

EXHIBIT D

Capital Corridor Train Status Printout



TRAFFIC FREE. HANDS FREE. STRESS FREE.

Keyword search...

[Home](#) [Tickets](#) [Train Status](#) [Route and Schedules](#) [Stations](#) [Connections](#) [Special Offers](#) [On Board](#)

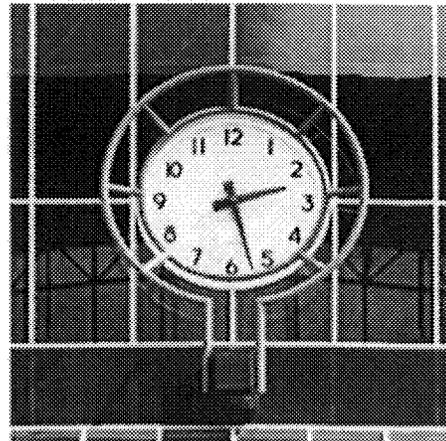
TRAIN STATUS

Check the current status of a train

--Select and download (PDF files)--

Train Status Availability- effective March 1, 2013

Capitol Corridor is currently troubleshooting some technical issues with our online and telephone Train Status feature. Unfortunately, we need to keep the feature live on our website to test solutions to the problems we're currently experiencing. Please be advised that the train status information below may not be correct. We will update this page with a notice once we have the train status feature working correctly. Thank you for your patience as we work to resolve this issue.



About the Train Status Feature

Welcome to Capitol Corridor's automated train status checker. Please note:

- If the "status" column is blank, there is no additional information available, aside from scheduled time and estimated/actual time of arrival/departure.
- Results may differ slightly from information provided via amtrak.com or telephone, as each system updates independently. Queries made even one minute apart may show different results.

Feedback

We welcome your feedback on this train status application; please send comments to trains@capitolcorridor.org or call us at 1-877-9-RIDECC (1-877-974-3322).

Train Status Via Phone

Automated train status is also available via telephone at 1-877-9-RIDECC (1-877-974-3322), with the Capitol Corridor's voice-activated train status system. This feature is also in a test phase.

[News](#) [About CCJPA](#) [Rail Advocacy](#) [Get On Board Blog](#) [Store](#) [Contact](#)

For schedules, fares, trip-planning and train status call 1-877-9-RIDECC (1-877-974-3322)
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Stay Connected:

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35790

**NATIONAL RAILROAD PASSENGER CORPORATION
– PETITION FOR DECLARATORY ORDER –
PRIIA SECTION 209 COST ALLOCATION METHODOLOGY IMPLEMENTATION**

DECLARATION OF MAXIMILIAN R. JOHNSON

1. My name is Maximilian R. Johnson and this Declaration is submitted in support of Amtrak's petition for a declaratory order that the Amtrak Reservation and Call Center costs incurred by Amtrak and allocable to the *Capitol Corridor* route must be reimbursed by CCJPA¹ as required by PRIIA Section 209 and the costing methodology approved by the Board.

2. The facts stated herein are based on my personal knowledge and my review of the file maintained by Amtrak's offices.

3. I am employed by Amtrak in the Corporate Research & Strategy Department. I have worked on issues related to PRIIA Section 209 first as a contractor and subsequently as a full-time employee in various positions since February 2010. Prior to this role, my past experiences include positions at a limousine and bus company, a car-sharing company, and within the Amtrak Finance Department. I have a Masters in Business Administration in Finance and Operations.

¹ Capitalized and abbreviated terms used but not defined herein shall have the meanings ascribed to them in Amtrak's Petition for Declaratory Order dated January 17, 2014.

4. In my prior capacity as Principal Officer, Corridor Strategy & Analysis, I participated on behalf of Amtrak in the development of the methodology for establishment and allocation of costs for state-supported routes as mandated by PRIIA, Section 209 and submitted a Declaration in support of Amtrak's Petition for Determination of PRIIA Section 209 Cost Methodology.

5. Amtrak engaged in extensive fact-sharing and negotiations with the Covered States to develop a proposed cost methodology meeting the requirements of PRIIA 209. Amtrak worked closely with a "State Working Group" formed by the Covered States to represent their interests, which Group included a representative of CCJPA, to develop the cost allocation methodology.

6. After two years of consultation and negotiations, in which the CCJPA representative fully participated, eighteen of the 19 Covered States concurred with the proposed cost allocation methodology. California signified its concurrence on October 10, 2011, when a designee of the Governor of California countersigned a September 1, 2011 letter transmitting the proposed methodology.

7. Because not all Covered States had concurred, however, PRIIA Section 209(c) required Amtrak to petition the Board for approval of the proposed methodology. *See Amtrak's Petition for Determination of PRIIA Section 209 Cost Methodology*, Docket No. FD 35571. By its Decision dated March 13, 2012 (the "Decision"), the Board held that the proposed methodology "provides a single, nationwide standardized methodology for establishing and allocating the operating and Capitol costs among Amtrak and the States concerning the routes covered by PRIIA Section 209," and ordered that the methodology (the "Approved

Methodology”) be implemented by Amtrak and the Covered States. Copies of the Decision and the Approved Methodology are annexed hereto as Exhibit (“Ex.”) A and Ex. B, respectively.

8. The Approved Methodology contains categories of costs, referred to as “Route Costs,” which are “operating costs closely associated with the operation of a route” and which can “clearly be evaluated and tracked by Amtrak and the states in the direct provision of service on a corridor train.” *See* Ex. B at 5.² One of those Route Costs is for “Reservations and Call Centers.” *Id.* at 7. The Reservations and Call Center category is defined in the Approved Methodology as “Reservation sales call centers for general public and travel agencies, and supporting information systems” and with the formula of “FM[Family] 402 (Information & Reservations)” in the APT system. *Id.* at 15.

9. The APT documentation which forms the basis of the Route Cost allocation in the Approved Methodology describes this category further:

The Information & Reservations Subfamily provides reservation services to both the general public as well as interacting the outside travel agency reservations and information service systems. The Subfamily captures the costs of reservation sales call centers (RSCC) as well as the costs of the operating information systems required for Amtrak reservation services.

A copy of the relevant pages of the APT documentation is annexed hereto as Ex. C at 116-117, which is accessible in its entirety at <http://www.fra.dot.gov/Elib/Details/L04154>.

10. The American Association of State Highway and Transportation Officials (“AASHTO”) distributed a June 10, 2011 Frequently Asked Questions (“FAQ”) regarding the

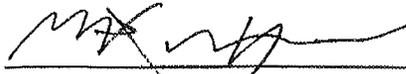
² The final methodology proposed by Amtrak and the State Working Group was based on a cost allocation system known as the Amtrak Performance Tracking System (“APT”), which was developed by a partnership of the Federal Railroad Administration and Amtrak on behalf of the Secretary of Transportation, and which grouped all cost centers into mutually exclusive “families” and in some cases “subfamilies”. *See* Ex. B at 3.

cost methodology as it was being developed which acknowledged that not all services are suitable for outsourcing. A copy of the June 10, 2011 FAQ is annexed hereto as Ex. D, which is also accessible at: <http://www.highspeed-rail.org/Documents/PRIIA%20305%20DocSpec%20and%20other%20NGEC%20Documents/PRIIA%20Section%20209%20FAQs%20061011.pdf>.

11. Following the Board's Decision, Amtrak and the Covered States began negotiations to finalize contracts which would incorporate the Approved Methodology. As those negotiations progressed, Amtrak furnished CCJPA with worksheets estimating the allocated costs chargeable to CCJPA pursuant to the Approved Methodology, including a forecast allocation of Reservations and Call Center costs for the *Capitol Corridor* route. During the process, CCJPA indicated that it disputed any liability for any Reservations and Call Center costs, on the grounds that it had designated the BART Call Center to handle calls related to the *Capitol Corridor* service. Amtrak and CCJPA entered into an Operating Agreement in October 2013 for service in FY 2014 applying the PRIIA 209 methodology in every respect except for the Route Cost charge for Reservations and Call Center costs, with an agreement to submit the dispute to the Board for resolution.³

I declare under penalty of perjury that the foregoing is true and accurate.

Executed on January 17, 2014.



Maximilian R. Johnson

³ For Fiscal Year 2014, those costs are forecasted to be \$1.26 million for the CCJPA, under a forecasting methodology applied consistently to all affected services.

Johnson Declaration
EXHIBIT A
March 15, 2012 Decision

SERVICE DATE—MARCH 15, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35571

AMTRAK'S PETITION FOR DETERMINATION OF
PRIIA SECTION 209 COST METHODOLOGY

Decided: March 13, 2012

Digest:¹ In accordance with the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), Amtrak and various states have adopted a methodology to establish and allocate costs for state-supported Amtrak routes. Affected states, other than Indiana, have adopted the methodology. The Board finds that the methodology complies with PRIIA.

BACKGROUND

Pursuant to Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA),² the National Railroad Passenger Corporation (Amtrak) must develop and implement a single, nationwide standardized methodology for establishing and allocating operating and capital costs among the States and Amtrak in connection with the operation of certain Amtrak routes. PRIIA Sec. 209(a). The routes subject to PRIIA Sec. 209(a) include high-speed rail corridors designated by the Secretary of Transportation (other than the Northeast Corridor railroad line, which extends from Boston, Mass., to Washington, D.C.);³ short-distance corridors and routes currently part of the national rail passenger transportation system that do not exceed 750 miles between their endpoints;⁴ and intercity rail routes not included in the national rail passenger transportation system that Amtrak operates on behalf of state or local entities.⁵ PRIIA Sec. 209(a) requires Amtrak to consult with the Secretary of Transportation, the governors of

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² P.L. 110-432, Div. B, Title II, § 209, codified at 49 U.S.C. § 24101 note.

³ See 49 U.S.C. § 24102(5)(B). Designated high-speed rail corridors become subject to PRIIA Sec. 209(a) only after regularly scheduled intercity service over a corridor has been established. No such corridors have as yet become subject to PRIIA Section 209(a).

⁴ See 49 U.S.C. § 24102(5)(D).

⁵ See 49 U.S.C. § 24702.

each affected state, and the Mayor of the District of Columbia (or their representatives). If Amtrak and the states (including the District of Columbia) in which Amtrak operates affected routes do not voluntarily adopt and implement a methodology, then the Board must determine an appropriate methodology within 120 days following submission of the dispute to the Board. PRIIA Sec. 209(c), 49 U.S.C. § 24904(c).

In a petition filed with the Board on November 21, 2011, Amtrak requests the Board, pursuant to PRIIA Section 209(c) and 49 C.F.R. § 1117.1, to: (1) determine that the methodology developed jointly by Amtrak and various states, establishing and allocating costs for state-supported Amtrak routes (Agreed Methodology), is the appropriate methodology under Section 209; and (2) require the full implementation of the Agreed Methodology pursuant to Section 209(c). In its petition and in supplemental filings made on November 23, December 5, and December 6, 2011, Amtrak represents that it engaged in extensive fact-sharing and negotiations with the 19 states affected by PRIIA Section 209 (Covered States) to develop a consensus methodology.⁶ Amtrak states further that all but one Covered State – Indiana – have formally agreed to adopt its proposed methodology. According to Amtrak, Indiana declined to accept the consensus methodology but did not provide a reason for its decision or offer an alternative. Rather, in an email sent to Amtrak on November 17, 2011, the Indiana Department of Transportation (INDOT) stated that the Governor’s Office and INDOT “have decided to not sign [Amtrak’s] request” to accept the proposed methodology. Pet., Johnson Decl., Exh. Y.

Our rules required parties served with Amtrak’s petition to file responses within 20 days.⁷ Neither Indiana nor any other state or other entity filed comments opposing Amtrak’s petition or the Agreed Methodology. DOT comments that “speedy resolution of Amtrak’s Petition would serve the goals of PRIIA and would benefit the passenger rail network.” Reply at 3.

⁶ Pet., Decl. of Maximillian R. Johnson (Johnson Decl.), ¶ 4 (listing Covered States: California, Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Missouri, New Hampshire, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Texas, Vermont, Virginia, Washington, and Wisconsin).

⁷ Amtrak initially served its petition and supplements on the 19 Covered States because they have an interest in this matter. However, it did not indicate in its petition or supplements that it had served these filings upon the Secretary of Transportation and the District of Columbia. Because the Board believed that the Secretary and the District should be notified of the petition and supplements, the Board directed Amtrak to serve the petition and supplements on the Secretary and the District. Amtrak’s Pet. for Determination of PRIIA Sec. 209 Cost Methodology, FD 35571 (STB served Dec. 15, 2011). In a notice filed with the Board on December 19, 2011 (corrected December 21, 2011), Amtrak notified the Board that it had done so. After requesting and receiving an unopposed, 2-week extension of time in which to respond to Amtrak’s petition and supplements, the U.S. Department of Transportation (DOT) filed a Reply on January 23, 2012.

DISCUSSION AND CONCLUSIONS

The Board finds that the Agreed Methodology meets the requirements of PRIIA Section 209(a) and should be implemented by Amtrak in accordance with PRIIA Section 209(c). The Agreed Methodology is a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with the trains operated on the routes subject to PRIIA Section 209(a). Upon review of the Agreed Methodology and the facts and circumstances surrounding its development, the Board concludes that the Agreed Methodology will: (1) ensure equal treatment in the provision of like services of all States and groups of States; and (2) allocate to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than one route.

In reaching this decision, the Board notes that allocation of costs “involves judgment on a myriad of facts. It has no claim to an exact science.” United Parcel Serv., Inc. v. United States Postal Serv., 184 F.3d 827, 838 (D.C. Cir. 1999), quoting Colo. Interstate Co. v. FPC, 324 U.S. 581, 589 (1945). Thus, we could find that the Agreed Methodology was an appropriate methodology even if parties had offered a credible alternative. No alternative has been presented. The Agreed Methodology is the product of two years of arm’s length negotiations between Amtrak and the Covered States.⁸ The only state that has not accepted the Agreed Methodology has offered no reason why the Board should not find that the Agreed Methodology meets the requirements of PRIIA Section 209.

We note that Section 209 includes the District of Columbia among the States to be consulted in development, and adoption, of a methodology for cost allocation. As required by the Board, Amtrak served the District with its petition and supplements on December 19, 2011. The District has not submitted any filings in this matter.

Development of the Agreed Methodology

I. Amtrak Performance Tracking System

The Amtrak Performance Tracking (APT) system provides the foundation of the Agreed Methodology. The APT was created in 2009 pursuant to the Consolidated Appropriations Act,

⁸ As detailed in the Johnson Decl., ¶¶ 6-90, between March 2010 and October 2011, Amtrak conducted a series of presentations, meetings, and discussions regarding its then-proposed methodology. Each of the Covered States, as well as certain additional states in which Amtrak currently does not operate state-supported routes, participated in these consultations. Amtrak also met with other interested groups including, but not limited to, the Federal Railroad Administration, the Surface Transportation Board (Office of Public Assistance, Governmental Affairs, and Compliance), the American Association of State Highway and Transportation Officials, the States for Passenger Rail Coalition, the John A. Volpe National Transportation Systems Center, and various regional transportation authorities. Id., ¶¶ 7, 8, 18.

2005 (P.L. 108-447), which directed the Secretary of Transportation to develop a methodology for determining the avoidable and fully allocated cost of each Amtrak route. The Federal Railroad Administration was responsible for meeting this requirement and tasked the Volpe National Transportation Systems Center to develop the cost accounting methodology in consultation with Amtrak. The APT tracks approximately 1,600 cost centers and groups all cost centers into mutually exclusive “families” of costs. According to Amtrak, APT “could, with only minor modifications . . . be an ‘appropriate methodology’ under Section 209(a) . . .” Pet. 12. In negotiation with the Covered States, Amtrak agreed to modify various aspects of APT for incorporation into the Agreed Methodology, to address concerns and unique circumstances in certain States. See Pet. 12-19.

II. Allocation of Costs to Routes

Relying on the APT, the Agreed Methodology groups costs into a wide range of categories (e.g., maintenance of way, equipment maintenance, general and administrative, and capital) similar to those that freight railroads report in their R-1 annual reports submitted to the Board. The Agreed Methodology links direct costs and other costs closely connected to train operations (for example, train crew labor costs, which are generally associated with operation of a specific route) to trains operating on particular routes. Thus, the Agreed Methodology meets Section 209(a)(2)’s requirement that costs associated with a specific route are fully allocated to that route.

With respect to operating and capital costs that are not attributable solely to a particular route, the Agreed Methodology allocates a proportionate share of these costs to all associated routes based on factors that reasonably reflect relative use. The Covered States organized a State Working Group (SWG), including Indiana, and developed a proposal, accepted by Amtrak, to allocate common costs (referred to as “Support Fees”) as a percentage of various direct route costs. The Agreed Methodology includes Support Fees for six broad categories of costs: train and engine crew labor; maintenance of equipment; on-board services; marketing; system-wide policing; and general and administrative costs. Amtrak and the SWG also negotiated a method to allocate maintenance of way and capital costs. All of the Support Fees are allocated using factors tied to relative use of these six cost categories. There has been no suggestion that the factors used to allocate costs in the Agreed Methodology are inappropriate. Thus, the Board finds that the Agreed Methodology meets Section 209(a)(2)’s requirement regarding the allocation of joint and common costs.

III. Equal Treatment in the Provision of Like Services of All States and Groups of States

We addressed the cost allocation principles required by PRIIA Section 209(a)(2) before the “equal treatment” requirement of Section 209(a)(1) because, in our view, equal treatment in the provision of like services requires a cost allocation methodology that assigns equivalent costs to the provision of like services. The Agreed Methodology appears to accomplish this requirement by placing each state on an equal footing. All costs directly attributable to or closely associated with a route are fully allocated to that route. Similarly, the use of Support

Fees built on usage-based allocation factors ensures an equitable allocation of those costs that cannot easily be attributed to any single route. Significantly, 18 of the 19 Covered States concur that they will be treated equally under the Agreed Methodology. Indiana, which does not concur, has not provided any reason for us to believe that the Agreed Methodology will treat like services unequally.

Amtrak's Petition states (at 18-19) that, "where a route crosses more than one State, costs associated with that route are allocated among the affected States on a basis to be determined by the affected States themselves." The Board's decision should not be read as finding that future agreements among States regarding the allocation among them of costs assigned to the route by the Agreed Methodology meet the requirements of PRIIA Section 209(a).

The Agreed Methodology provides a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among Amtrak and the States concerning the routes covered by PRIIA Section 209. Because the Board finds that the Agreed Methodology meets the requirements of Section 209(a), the Board orders that: Amtrak and the States implement the Agreed Methodology as set forth in Amtrak's Petition, in accordance with PRIIA Section 209.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Amtrak and the States shall implement the Agreed Methodology as set forth in Amtrak's Petition, in accordance with PRIIA Section 209.
2. This decision is effective on April 14, 2012.
3. A notice of this decision will be published in the Federal Register.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Johnson Declaration
EXHIBIT B
Approved Methodology

PRIIA Section 209
Cost Methodology Policy
August 31, 2011
Final Version

Prepared for PRIIA 209 States and Other Interested States by
The States Working Group (SWG) and Amtrak:

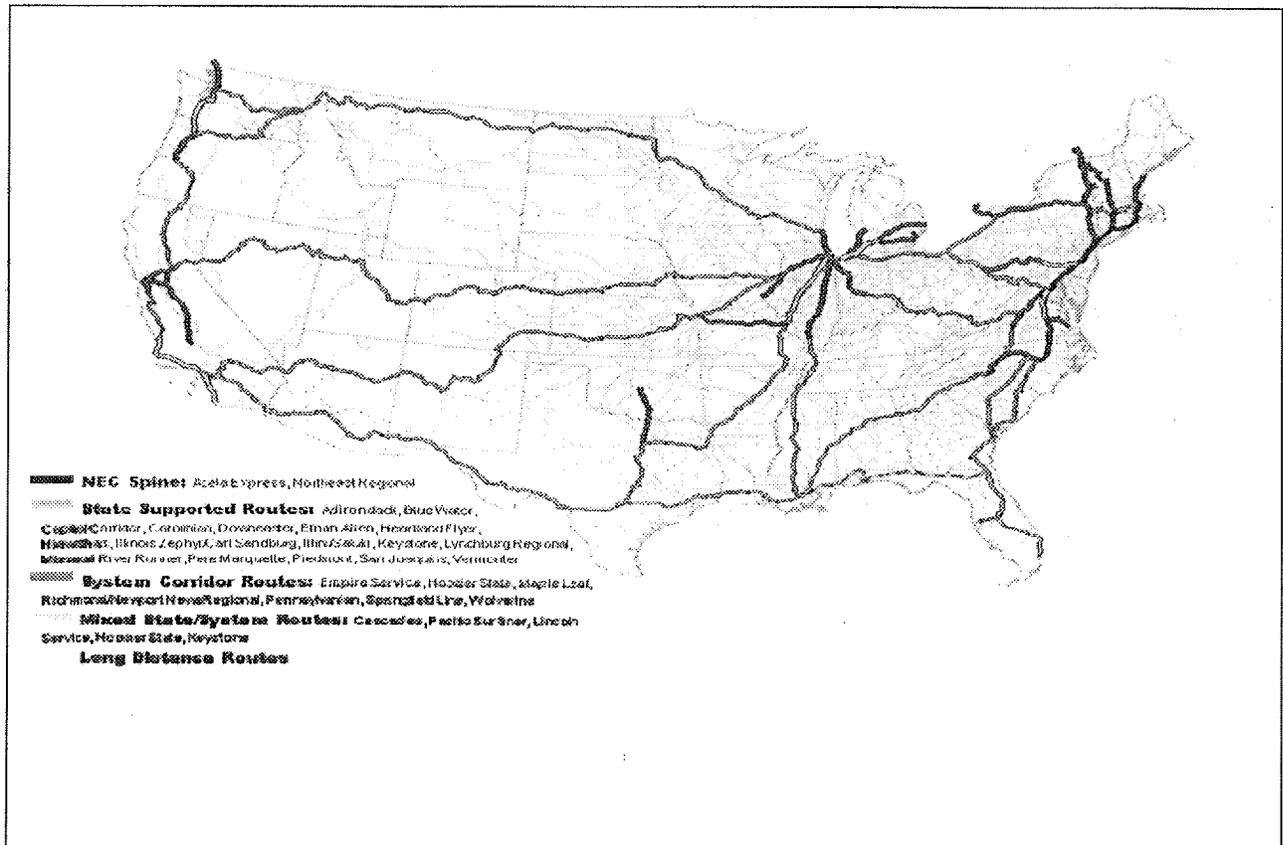
Passenger Rail Investment and Improvement Act (PRIIA) of 2008 Section 209 Cost Methodology Policy

Recommended by the State Working Group (SWG) and Amtrak Staff¹

FINAL VERSION 8/31/11

Overview

Under the provisions of PRIIA Section 209, all short-distance Amtrak corridor services must become state-supported routes and states must pay the proportional costs associated with their respective corridor route. This document describes the “single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak.” This methodology applies to services provided by Amtrak over routes “of no more than 750 miles between endpoints,” as described in section 24102(5)(B).



¹ Members of SWG-Amtrak group include: John Bennett, Stephen Gardner, Shayne Gill, Susan Howard, Max Johnson, David Kutrosky, Beth Nachreiner, Kevin Page, Patricia Quinn, and Patrick Simmons

Appendix A provides a list of affected routes; **Appendix B** provides the text of Section 209 and related statutes. Currently, approximately 36 of the total 110 corridor routes are either partially or completely supported by Amtrak. Once Section 209 is implemented, all such corridors routes will be priced in a transparent, fair and equitable manner. Amtrak and states were charged with collaboratively creating a cost methodology to establish a basis for sharing operating costs plus an annual capital charge for Amtrak-owned equipment and facilities used for intercity passenger rail service.

This policy statement outlines the methodology Amtrak will use to compute:

- operating expenses for routes using a formulation that defines direct route costs and associated additives, and
- capital charges for the use of Amtrak-owned assets.

The Amtrak Performance Tracking (APT) system – Amtrak’s recently-implemented cost accounting system, that is linked to Amtrak’s financial and operating systems -- provides the cost basis that the SWG and Amtrak used to evaluate options for assigning service area route costs.

The Federal Railroad Administration (FRA) met with the SWG and Amtrak to address the issue of transition assistance to the states during the phase in of the new methodologies for route and capital costs. This policy outlines clearly that states are responsible for the costs associated with the new capital charge. However, the FRA recognizes that states will face a financial burden as they implement the new cost-sharing approach. While the details of transition assistance have not been fully developed, the FRA has committed to working with the states and Amtrak on transition assistance.

Basis for Allocating Costs

Many railroad costs—both costs directly related to the services provided and those shared among services—are by their nature provided through jointly used crews, crew bases (locations where train crews report for work), support teams/facilities, maintenance facilities, and stations. As such, cost allocation methods and procedures are needed to fairly apportion these costs. The Amtrak Performance Tracking (APT) system will provide the basis for allocating “to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than one route”.

In some cases, Amtrak and states may agree to use supplemental financial data to adjust the results of APT, including, but not limited to, local systems for measuring fuel consumption that are not available nationally. Pursuant to part (b) of Section 209, if changes to Amtrak’s financial systems result in a material change to the results of APT, Amtrak will work with its state partners to update this policy in a manner consistent with the intent of Section 209.

Operating Scenarios

State-supported routes are classified into three operating scenarios:

Single State Corridor Trains. These corridor trains do not cross state lines and do not use the NEC “spine” (Boston-Washington).

Multi-State Corridor Trains. For corridor trains that cross state lines but do not use the NEC “spine” (Boston-Washington), the states on the train route shall develop an equitable method for sharing the costs

and revenues from the trains. Amtrak will provide the affected states with information to assist in reaching agreement.

Base-Increment NEC Corridor Trains (Single- and Multi-State). In Section 209, the Northeast Corridor (NEC) is defined as “the continuous Northeast Corridor railroad line between Boston, Massachusetts and Washington, District of Columbia” in section 24102(5)(B). Trains having some part of their route both on the NEC and on a state-supported corridor are considered Base-Increment trains. In the case of base-Increment NEC corridor trains, APT allocates costs between the state leg and the NEC leg for accounting purposes in various ways. The allocation explanations for specific expenses are described in the APT documentation available on the FRA website, both in summary in the Main report and in detail in Appendix A.

The following general conditions apply to Base-Increment trains:

- Route Costs (defined below) common to both legs are prorated based on whether costs are incurred on the state leg or on the NEC. For instance, turnaround servicing is allocated by train miles on the NEC and state leg. Non-turnaround maintenance is allocated by both time and mileage-based statistics prorated for the amount of time a train spends on either the NEC or the state leg.
- Trains that travel through multiple states off the NEC shall develop a mutually agreeable method for sharing the costs and revenues of the trains.
- “Through revenue” is revenue from trips with one endpoint on the NEC and one endpoint on the state-supported leg. Through revenue will be credited to the state in one of two ways, to be determined by the state and established in the agreement:
 - Passenger Mile Split. Through revenue will be split between the state and Amtrak proportionate to miles traveled off and on the NEC. Under this method, Amtrak is responsible for all operating and capital costs when the train is on the NEC leg. Capital charges for equipment will be split between the state and Amtrak reflecting service both on and off the NEC, allocated based on the time-based Units Used statistic. Capital charges for fixed assets will be for the state leg only.
 - Through Revenue Plus Passenger Mile Charge. States will continue to be charged costs for the state leg as described above. Through revenue will be credited to the state, along with a charge per passenger mile for the costs of through riders traveling on the NEC. This per passenger mile charge will represent the state’s share of Amtrak’s:
 - Fully allocated NEC operating costs, as pro rated by all available Amtrak Northeast Regional seat miles;
 - Equipment capital overhaul costs, as pro rated by all available Amtrak Northeast Regional seat miles
 - Fully allocated fixed asset Normalized Replacement capital costs as defined in **Appendix C**, pro rated by all available Amtrak NEC seat miles; and
 - 20% of any fixed asset State of Good Repair Backlog capital costs as defined in **Appendix C**, pro rated by all available Amtrak NEC seat miles.

These charges will be fixed for the term of the contract between the state and Amtrak and applied against actual passenger miles. However, this through revenue policy may be amended by Amtrak and the affected states if the outcome of the PRIIA Section 212 cost allocation process requires changes to this policy.

In addition to the operating scenarios described above, some state-supported routes travel for part or all of the entire route on right-of-way owned by Amtrak outside the NEC; these routes are described in **Appendix D**. In these situations, Amtrak will remove the maintenance of way expenses for these segments as allocated in APT, and replace them with a synthetic host railroad charge. This charge is consistent with the costs that are typically charged to Amtrak by host railroads for incremental operating and maintenance. For right of way that Amtrak purchases or assumes maintenance responsibility for not listed in **Appendix D**, Amtrak and the state will negotiate such maintenance and related charges on a case-by-case basis.

Methodology for Determining Operating Costs

Under the proposed S209 Methodology, the Service Fee will include:

- 100 percent of the "Third Party Costs" associated with its corridor service;
- 100 percent of the verifiable Route Costs associated with its corridor service;
- Support Fees proportional to its corridor service; and,
- Credit for passenger and other allocated revenue, resulting in the Net State Cost.

Third Party Costs:

Actual Third Party Costs will be charged to the state corridors. Third Party Costs are comprised of:

- Host railroad maintenance of way;
- Host railroad performance payments; and
- Fuel and power charges.

Route Costs:

Route Costs are operating costs closely associated with the operation of a route. Route Costs can clearly be evaluated and tracked by Amtrak and the states in the direct provision of service on a corridor train. Route operating costs include the following categories as allocated by the APT system:

- Train and engine crew labor
- Car and locomotive maintenance and turnaround service
- On Board Service Labor and provisions (Food Service)
- Route Advertising,
- Sales & Distribution
- Reservations and Call Centers
- Route Stations
- Shared Stations
- Commissions
- Customer Concession
- Connecting Motor Coach
- Local & Regional Police
- Block & Tower operations
- Terminal Maintenance of Way
- Insurance

Support Fees:

Some cost categories have an additional level of regional and national support not included in the Route Costs, and therefore also include Support Fees that are proportional to the service provided. Support Fees are determined by applying category-specific additives to an associated route cost or other aspect of service, (i.e. revenue or passenger miles). These additives were developed by converting support cost data from the APT system into rates that would be consistent across all trains in a region, or in some cases, all state-supported trains.

For example, Amtrak provides mechanical support, facilities and services that can reasonably be apportioned between Amtrak's business lines – the Northeast Corridor (NEC) trains, long-distance trains and state-supported trains. The Maintenance of Equipment (MoE) support fee represents the portion of those costs allocated to state-supported trains and is determined by applying an additive rate to the Car & Locomotive Maintenance and Turnaround route cost.

There are six categories of Support Fees are determined as follows:

- Train & Engine Crew Support (T&E): A combination of system and division additives applied to Train & Engine Crew Labor route costs. All corridors will be charged a system additive which is fixed (12.9 percent) and a division additive which is variable (13.5-24.3 percent). The division additive is based on the Amtrak region in which the corridor operates and is linked to the management structure within Amtrak that is responsible for service delivery by train crews. The T&E system additive rate excludes costs from Amtrak's Consolidated National Operations Center (CNOC), which are considered a "backbone" cost.
- Maintenance of Equipment (MoE): A fixed system additive (27 percent) applied to the Car & Locomotive Maintenance and Turnaround Route Cost. The MoE additive rate excludes backshops and fleet engineering costs, which are considered a "backbone" cost.
- On Board Services (OBS): A fixed system additive (10 percent) applied to the OBS Crew & Provisions Route Cost.
- Marketing: A variable regional additive (1.9 - 2.8 percent) applied to total revenue. The marketing additive is based on the degree to which a state corridor is connected to the NEC or to a major Amtrak hub station. Corridors that fall into those categories will have a higher additive associated with Amtrak's higher level of shared marketing in those regions.
- Police: A fixed system additive (\$.005) applied to passenger miles.
- General & Administrative: A fixed system additive (2 percent) applied to Total Route Costs.

The additive rate will remain the same for three years beginning October 2012, unless there is a significant unforeseen event, such as a significant decrease in Amtrak's Federal funding or a significant change to the size of Amtrak's network. A change in the additive rate during the three-year term must be approved by Amtrak and the states. At the end of the three year period, Amtrak will propose adjustments to the additive rates if they are necessary. States and Amtrak must mutually agree on additive rate adjustments.

The table below illustrates the S209 Operating Cost Pricing Methodology. The definitions of cost categories and additives are described in more depth in **Appendix E**.

S209 Operating Cost Pricing Methodology

ROUTE COSTS	+	SUPPORT FEE	=	OPERATING COSTS
Train & Engine Crew Labor		<i>T&E Route x (Division Additive* + System Additive (12.9%))</i>	=	Total Train & Engine Crew Labor
Car & Locomotive Maintenance & Turnaround	+	<i>Car & Loco Route Cost X System Additive (27%)</i>	=	Total Maintenance of Equipment
On Board Service (OBS) Crew & Provisions	+	<i>OBS Route Cost x 10% OBS Additive</i>	=	Total On Board Services
Route Advertising			=	Total Route Advertising
Sales & Distribution	+	<i>Marketing Additive* x Passenger and Allocated Revenue*</i>	=	Total Sales & Marketing
Reservations & Call Centers			=	Total Res & Call Center
Stations – Route			=	Total Route Stations
Station – Shared			=	Total Shared Stations
Commissions			=	Total Commissions
Customer Concessions			=	Total Concessions
Connecting Motor Coach			=	Total Motor Coach
Regional/Local Police	+	<i>Passenger Miles x Police Additive (\$0.005)</i>	=	Total Police & Security
Terminal Yard Operations			=	Total Terminal Yard Ops
Terminal Maintenance of Way			=	Total Terminal MoW
Insurance			=	Total Insurance
Total Route Costs (Sum of Above)	+	<i>Total Route Costs x General & Administration Additive (2%)</i>	=	General & Administrative
				Route Service Fee (Sum of Above)
		<i>Host RR Maintenance of Way + Host RR Performance + Fuel & Power</i>	+	3 rd Party Costs
			=	Total Operating Costs Service Fee + 3rd Party Costs
			-	Less Passenger and Other Allocated Revenue
			=	NET STATE COST

*Denotes variable additive. Reference Appendix E

Passenger and Other Allocated Revenue

Passenger revenues include ticket revenue and food and beverage revenue attributable to a particular route. Other Allocated Revenue includes miscellaneous revenue related to a route’s passenger train operations, such as ticket by mail fees, loyalty marketing revenue, commissions from sales of third-party services during the reservations process (call/Internet “tipping”), package express where applicable, and other.

Optional Services and Pricing

States may wish to independently contract with alternative service providers for some services rather than Amtrak. For example, states may contract directly with vendors for food service, equipment maintenance, and other components of their services. Working with independent service providers may have an impact on the

level of service that Amtrak can provide for a state. In these cases, costs that are not incurred by Amtrak would not be included in cost estimates or service reimbursements.

Operating Surplus

In the case where a route achieves an operating surplus, that route's surplus funds will be applied as follows: first, to operating payments for other routes supported by that state; second, to equipment capital charges for that state; third, for agreed upon fixed asset capital charges for that state; fourth, for future operating and capital payments by that state.

Methodology for Determining Capital Costs

Amtrak makes substantial capital investments in equipment (rolling stock) and other fixed assets needed to deliver passenger rail services. Under this policy, Amtrak will charge states for a share of these investments proportional to their use in state-supported services. Based on Section 209 requirements, the capital charge, or capital use charge², will be allocated to each route; each sponsoring state is responsible for funding its capital charge. Amtrak will work with states to find federal and other sources of funds to assist with the capital charge.

The capital charge will be forward looking and investment-based. Amtrak will assess an annual capital charge to each state for the following asset types:

- Equipment – existing and new Amtrak-owned;
 - For existing rolling stock, states will be charged a pro rata share, based on Units Used, of capital overhauls performed on the equipment classes they use to assure the assets remain FRA compliant and in a state of good repair
 - For rolling stock procured in the future by Amtrak, states will be charged a pro rata share of the purchase price, financing cost, and capital overhauls reflecting costs paid by Amtrak
 - Capital equipment charges will vary from year to year based on the life cycle maintenance plan associated with the equipment type.
- Other Amtrak fixed assets, including joint stations and Amtrak-owned rights of way;
 - This policy contains no formula-based fixed asset capital charge for Amtrak's other fixed assets such as stations and other facilities. Because of the unique nature of the fixed assets on each route, Amtrak and the states will develop an investment plan to maintain fixed assets in a state of good repair on a case-by-case basis during contract negotiation. States and Amtrak, as necessary, will be responsible for their pro rata share of any capital investments required on these Amtrak owned assets based on usage of these assets by state-supported and other users such as Amtrak long distance and/or commuter.
 - Amtrak will work with states to jointly identify and prioritize route-specific capital projects
- Other investments in assets not owned by Amtrak but required to maintain or enhance service.
 - Some routes make use of assets owned by third parties such as host railroads or state and local governments. States and Amtrak, as necessary, will be responsible for their pro rata share of any capital investments required on these non-Amtrak owned assets based on usage of these assets by state-supported and other users such as Amtrak long distance and/or commuter.

² Depending on specific state needs, the charge for capital investment on a state corridor can be characterized as a capital charge, or a capital use charge. For purposes of this document, the term "capital charge" encompasses both characterizations.

A complete description of capital cost categories is included in **Appendix E**.

Amtrak will develop a defined five-year investment program in cooperation with each state that describes the capital investments to be made over the period and the payments expected from the states throughout the period to support the five-year capital program. The program will be adjusted as needed in each annual contract update.

The five-year program would include detailed, verifiable program work elements to be accomplished by Amtrak in support of state services annually. In the case of investments/overhauls for equipment used in multiple routes, a sharing relationship will be negotiated at the beginning of each fiscal year based on the route's actual use of equipment as recorded by the APT system and adjusted for any changes in service expected in the upcoming year.

Amtrak will use the best available data to provide the state with an estimate for its capital charge prior to signing an agreement for state supported service. At the end of the contract period, Amtrak will reconcile that estimate to the actual capital investment by that equipment type and a state's use of equipment, as previously determined in each state's annual contract.

In cases where Amtrak spent less on capital programs than planned, Amtrak will apply a credit balance to future years' capital charges. In cases where Amtrak spent more on capital programs than planned, there will be no adjustment to the current year's charge but an adjustment will be made on the subsequent year's charge based on look forward investment strategies.

Amtrak will include the capital charge as a component of each state's Annual Operating Support Agreement. This capital charge will equal each state's pro rata share of the overhaul work described above. States may pay this amount from operating or capital funds, depending on a state's individual financial policies and/or grant sources.

The timing of the billing for capital charges will depend on the timing of the planned capital expenditures. The monthly cash flow for the equipment charge would be determined as part of the development of the Annual Operating Support Agreement.

Attribution of Previous State Capital Investments on the Amtrak Network

Some states have made capital contributions to Amtrak assets in association with their services. For Amtrak-owned equipment, states will be credited for the net present value of past capital investments in Amtrak equipment at the time of Section 209 implementation. This will compensate States for investments they have made in pooled assets used by multiple routes. These past equipment investments by States will allow all routes using that equipment type to schedule future capital replacements at a later date than would have been the case without the prior state investment. Amtrak will work with states to calculate the value of past capital investments in a mutually agreeable way.

For fixed assets, whether owned by Amtrak or other third parties, the capital charge is based on planned investments, not past depreciation, and represents the funding needed to make the agreed-upon investments to sustain existing service levels. As a result, any credit that reduces the capital charge would reduce the funds available for investment, create a funding gap, and prevent the needed investment. Therefore, credit towards future fixed asset capital charges cannot be given within the framework of the Section 209 policy for prior investments made by a state in Amtrak or third party assets. Notwithstanding the inability to fund a fixed asset credit, past State investments in Amtrak or other fixed assets should result in a longer service life for the asset,

and a resulting reduction and/or deferral in the amount of future capital investments, as well as maintaining and/or improving a route's operating performance.

Forecasts of Funding Requirements for State Supported Contracts

Amtrak develops five-year revenue and cost forecasts as part of its annual business planning process. For each state-supported route, Amtrak will estimate projected costs for the contract period and share them with states. For existing services that are not changing in the forecast period, Amtrak will rely on historical APT data together with out-year cost forecasts provided by Amtrak to predict the results. In cases where service levels (frequencies, schedule changes, etc.) are changing, Amtrak will forecast revenue and expense changes using ridership, revenue, and cost estimation models which are directly related to the expected changes in service levels.

State Corridor-Amtrak Contract Template

Amtrak and the SWG developed a contract template for states and Amtrak to use as they work together to develop their contract for services. The contract template addresses the key issues that states and Amtrak must discuss and address in some fashion to develop their agreements for the contract period. The contract template can be customized to reflect state differences. *Appendix F* outlines the proposed contract template

Transition from Prior Costing Methodologies

Section 209 of PRIIA requires that the new methodology be fully implemented by October 16, 2013 – that date closely aligns with the beginning of Federal Fiscal Year (FFY) 2014 on October 1, 2013. States may transition to the Section 209 methodology at a mutually agreed upon time prior to October 1, 2013 provided this transition does not result in a reduction in net forecasted state payments to Amtrak compared to that State's prior methodology. Otherwise, all states will transition to the Section 209 methodology effective October 1, 2013.

FRA staff met with the Amtrak and the SWG several times during the course of Section 209 methodology development. The FRA recognizes that the implementation of the new methodology will require increased financial support from states. FRA staff have committed to continuing their work with Amtrak and the states to develop a possible transition assistance plan to ease the impact of Section 209 on the affected states. The states, Amtrak and FRA recognize that any transition plan will need to ultimately be addressed by Congress.

Appendix A: Routes Affected by PRIIA Section 209

	Route Miles ³	State-Supported FY10 ⁴	System Trains	State-Supported per PRIIA Sec 209
Single-State⁵				
Empire Service	461	-	Yes	Yes
Lincoln Service (Chi-St. Louis)	284	Yes	Partial	Yes
Illini/Saluki	310	Yes	-	Yes
Illinois Zephyr/Carl Sandburg	258	Yes	-	Yes
Pacific Surfliner	350	Yes	Partial	Yes
Capitols	168	Yes	-	Yes
San Joaquins	315	Yes	-	Yes
River Runner (KC-St. Louis)	283	Yes	-	Yes
Piedmont	173	Yes	-	Yes
Multi-State (Non-NEC)				
Ethan Allen Express	241	Yes	-	Yes
Maple Leaf	545	-	Yes	Yes
Downeaster	116	Yes	-	Yes
Hiawatha	86	Yes	-	Yes
Wolverines	304	-	Yes	Yes
Heartland Flyer	206	Yes	-	Yes
Cascades	467	Yes	Partial	Yes
Adirondack	381	Yes	-	Yes
Blue Water	319	Yes	-	Yes
Hoosier State	196	-	Yes	Yes
Pere Marquette	176	Yes	-	Yes
NEC Base-increment (Single and Multi-State)⁶				
Vermonter	611	Yes	-	Yes
New Haven – Springfield	63	-	Yes	Yes
Keystone Service	195	Yes	Partial	Yes
Boston/New Haven-Lynchburg	173	Yes	-	Yes
Washington-Richmond	187	Yes	Partial	Yes
Pennsylvanian	353	-	Yes	Yes
Carolinian	479	Yes	-	Yes

³ For routes with multiple frequencies having different origins and destinations, represents the longest rail trip possible on multiple trains.

⁴ FY10 State support does not include capital payment, or in some cases, all trains on a route.

⁵ Routes with 95% or more route miles in one state are considered single state.

⁶ Excludes route miles on NEC.

Appendix B: Relevant Legislation

SEC. 209. STATE-SUPPORTED ROUTES.

(a) IN GENERAL.—Within 2 years after the date of enactment of this Act, the Amtrak Board of Directors, in consultation with the Secretary, the governors of each relevant State, and the Mayor of the District of Columbia, or entities representing those officials, shall develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with trains operated on each of the routes described in section 24102(5)(B) and (D) and section 24702 that—

- (1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and
- (2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

(b) REVISIONS.—The Amtrak Board of Directors, in consultation with the Secretary, the governors of each relevant State, and the Mayor of the District of Columbia, or entities representing those officials, may revise or amend the methodology established under subsection (a) as necessary, consistent with the intent of this section, including revisions or modifications based on Amtrak's financial accounting system developed pursuant to section 203 of this division.

(c) REVIEW.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

(d) USE OF CHAPTER 244 FUNDS.—Funds provided to a State under chapter 244 of title 49, United States Code, may be used, as provided in that chapter, to pay capital costs determined in accordance with this section.

49 USC § 24102. Definitions

- (5) "national rail passenger transportation system" means -
- (A) the segment of the continuous Northeast Corridor railroad line between Boston, Massachusetts, and Washington, District of Columbia;
 - (B) rail corridors that have been designated by the Secretary of Transportation as high-speed rail corridors (other than corridors described in subparagraph (A)), but only after regularly scheduled intercity service over a corridor has been established;
 - (C) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the PRIIA [October 16, 2008]; and
 - (D) short-distance corridors, or routes of not more than 750 miles between endpoints, operated by--(i) Amtrak; or (ii) another rail carrier that receives funds under chapter 244.

49 USC §24702. Transportation requested by States, authorities, and other persons provides:

- (a) **CONTRACTS FOR TRANSPORTATION.** Amtrak may enter into a contract with a State, a regional or local authority, or another person for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

49 USC § 24904. General authority

(c) **Compensation for Transportation Over Certain Rights of Way and Facilities.** – (1) An agreement under subsection (a)(6) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between commuter rail passenger and intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

Appendix C: Definition of NEC Capital Charges, Where Applicable

Normalized Replacement Capital Charge– Replacement of assets on a regular schedule designed to mitigate cyclical imbalances in renewal needs. Normalized replacement is the estimated annual capital investment requirements to maintain infrastructure in a state of good repair once it is in that condition.

State of Good Repair (SOGR) Backlog Capital Charge—An asset or group of assets that have received inadequate maintenance over a long period of time, or have not been replaced within standard life cycle. It may still be functioning as designed but face imminent heavy repair or replacement to overcome a “backlog” of regular maintenance which was not performed on schedule. For the Section 209 policy, SOGR Capital Charge will be calculated as incremental to the Normalized Replacement Capital Charge.

Appendix D: Amtrak-Owned Right of Way Eligible for Synthetic Host Railroad Charge

Amtrak-Owned Track Segment	Miles (Timetable)	Routes Affected
New Haven, CT – Springfield, MA	62	Springfield Shuttle
Philadelphia, PA – Harrisburg, PA	104	Keystones, Pennsylvanian
Porter, IN – Kalamazoo, MI	100	Blue Water, Wolverine
New York Penn Station – Spuyten Duyvil, NY	10.7	Empire Service

Appendix E: Definition of Cost Categories Used in State-Supported Service

version 2011-06-01						
Major Cost Category	Cost Category	Definition	Formula			
Third Party Costs	Host Railroad Maintenance of Way	Payments to host railroads for incremental costs, primarily maintenance of way associated with passenger operations	FM_307(Host RR) less incentives, less Host RR fuel, less Host RR MoE			
	Host Railroad Performance Incentives	Incentive payments to host railroads for meeting on-time and other performance targets	FM_307(Host RR) Schedule Adherence account			
	Fuel and Power	Diesel fuel and electric power used in train operations	FM_304(Fuel) + FM_307(Host RR) fuel account +			
Route Costs	Train & Engine (T&E) Crew Labor	Salaries, wages, benefits, and FELA for employees providing services for train operations. Includes engineers, conductors, assistant conductors, and related extra boards	FM_302_1(T&E Crew)			
	Car & Locomotive Maintenance and Turnaround	Turnaround service consists of cleaning, inspection, and minor repairs before or after revenue service. Also contains scheduled running maintenance and bad order repairs. Excludes capitalized maintenance and overhaul	FM_201(MoE Turnaround) + FM_202(MoE Loco Maint) + FM_203(MoE Car Maint) + FM_205(Moe Multiple, direct functions only) _ FM_307(Host RR, MoE account only)			
	OBS Crew & Provisions	Salaries, wages, and benefits for employees providing On Board Services in Café, Lounge, and Dining Cars, including related extra boards. Also includes provisions loaded on train for sale	FM_301_1(OBS Crew) + FM_301_2(OBS Supplies)			
	Route Advertising	Sales & marketing expenses in support of a specific route, budgeted and recorded separate from other sales & marketing expense	Specific cost centers in FM_403(Marketing)			
	Sales Distribution	Sales and distribution operations, including development of new ticketing and on-board systems	FM_401(Sales (and Distribution) less Commission accounts			
	Reservations & Call Centers	Reservation sales call centers for general public and travel agencies, and supporting information systems	FM_402(Information & Reservations)			
	Stations - Route	Stations serving a single route. Depending on location, may include ticketing, baggage and express, stationmaster and ushers, station cleaning and maintenance, training and supervision	FM_501(Stations - Route)			
	Stations - Shared	Stations serving multiple routes. In addition to route station services, shared stations may include Red Cap and porter services	FM_502(Stations - Shared)			
	Commissions	Commission expense from credit cards, travel agencies, airline system access fees, and sales by other carriers as applicable	Commission accounts in multiple families for credit card sales, travel agents, and interline commission expense			
	Customer Concession (Psg Inconv)	Payments to passengers for food & lodging as a result of delays. Generally includes unscheduled/ emergency motor coaches	Passenger inconvenience account in FM_G_A(General & Administrative)			
	Connecting Motor Coach	Scheduled connecting motor coach services	FM_306(Train Movement) Connecting Motor Coach account			
	Regional/Local Police	Local and regional police patrolling duties in support of Amtrak trains, facilities, and rights of way	FM_901_2(Police - Regional/Local)			
	Block & Tower Operations	Crews who operate staffed towers along specific rights of way	Specific cost centers in FM_306(Train Movement)			
	Terminal Yard Operations	Crews who move train equipment at larger terminals before and after revenue service	FM_303_2(Yard - Train & Equipment Moves) + FM_303_4(Yard - Terminal Rent/Yard Services)			
	Terminal MoW	MoW expense at large Amtrak terminals, as applicable	Specific cost centers in FM_MOW(Maintenance of Wway)			
Insurance	Self and purchased insurance for passenger train operations	Allocated insurance expense in FM_G_A(General & Administrative)				
Additives	T&E	Division-specific and system overhead rates for T&E supervision and management. Includes road foremen, superintendents, crew bases, crew dispatching, local and national operating rule compliance, and other support. Excludes national train dispatching	Division	Division Rate	System Rate	Total
			Central	13.50%	12.90%	26.40%
			Mid-Atlantic	18.40%	12.90%	31.30%
			Mid-Atlantic/Southern	20.20%	12.90%	33.10%
			New England	16.50%	12.90%	29.40%
			New York	24.30%	12.90%	37.20%
			Pacific	19.50%	12.90%	32.40%
			Southern	20.60%	12.90%	33.50%
			Southwest	16.30%	12.90%	29.20%
			Total rate to be applied to T&E Crew Labor			
	MoE	Maintenance of shops and equipment to support direct Mechanical activities. Excludes Backshops and Fleet Engineering	27.10% of Route Cost Car & Locomotive Maintenance and Turnaround			
	OBS	OBS and commissary management and supervision	10.00% of OBS Crew & Provisions			
Police	National police operations and support	\$0.0050 per passenger mile				
Marketing	National marketing programs, including national advertising; loyalty marketing; timetables; personnel in support of Route Advertising; shows, exhibits & special events; and other	Region	Rate			
		Base-increment routes on NEC	2.80%			
		Routes with one terminal in Chicago	2.80%			
		All other routes	1.90%			
Rate to be applied to Total Revenue						
General & Administrative	Charge for General & Administrative support including Computer Systems, Finance, Legal, and other	2.00% of Route Costs				
Revenue Credit	Ticket revenue, net	Ticket revenue from passengers. Where applicable, includes through revenue adjustments described elsewhere in policy	As reported by APT, with adjustments for through revenue described elsewhere in policy			
	Food & Beverage Revenue	On-board food & beverage sales. Where applicable, pro-rated with supply expense across multiple legs	As reported by APT, pro-rated with supply expense across multiple legs			
	Other Revenue	Miscellaneous revenue as allocated by APT	As reported by APT			

Appendix E: Definition of Cost Categories Used in State-Supported Service - Capital

version 2011-06-01			
Major Cost Category			
Major Cost Category	Cost Category	Definition	Formula
Equipment	Passenger service equipment	Capital overhauls for Amtrak-owned equipment in service on state-supported routes, including locomotives, cab cars, coaches, and food service cars. States will be charged for the periodic capital overhauls of equipment in a period based on their proportionate use of that equipment in that period	Capital overhaul expense: by equipment type, from Amtrak's capital accounting systems. Equipment usage statistics: from the Amtrak Performance Tracking system. Amtrak will provide States with an estimate of planned overhaul work at the beginning of a contract period and will reconcile the planned usage to actual work performed and actual equipment used in a State's service
	Other mechanical expense	Wreck repair, facility improvements, equipment engineering and design, general safety & reliability, mechanical IT projects	Not charged to States
Other Amtrak Fixed Assets	Amtrak-owned fixed Assets used in State Services	Includes assets such as Amtrak-owned rights of way, large terminals, stations, and other	To be handled on a case-by-case basis between Amtrak and State partners
Other non-Amtrak Fixed Assets	Non-Amtrak-owned fixed assets used in State services	Includes assets used in State services owned by third parties such as host railroads or state and local governments, such as rights of way, stations, and other	To be handled on a case-by-case basis between Amtrak and State partners

Appendix F: State-Amtrak Contract Template

Contract Outline

Effective Date: Contracts aligned to match each Agency's fiscal year

Parties: State Intercity Passenger Rail (IPR) Agency and Amtrak

Recitals/Boilerplate:

Section 1: Services to be Provided (multiple state funded services can be co-mingled under one agreement):

- Description of Amtrak Services and Service Standards {unique to each State}
- Train Schedule and Route Description {Train Service Schedules (including Connecting Bus Service, if applicable) detailed in appendix}
- Service Standards (see appendices) [Optional and specific to each State IPR Agency]
- Monitor the fiscal performance of the service/quarterly meetings (budget vs. actual)

Section 2: Decisions Affecting Service:

- Include Agency in discussions with railroads or appropriate regional rail authorities regarding schedule changes which impact service.
- Apprise Agency of any bargaining provisions that may impact service

Section 3: Amount of Reimbursement by the State IPR Agency:

- Agency's total financial obligation to Amtrak for the stated contract term shall be defined in terms of the following elements as part of the Section 209 Policy:
 - Service Fee—including Route Costs and Additives (including General & Administrative costs)
 - Third Party Costs—including fuel, host railroad access fees and incentive performance payments.
 - Other Special Cost Items as agreed upon between Amtrak and the Agency
 - Passenger Related Revenue—including ticket revenues, food and beverage revenues and other allocated revenues. These revenues are offsets from the above cost categories
 - Agency payment is the sum of the Service Fee, Third Party Costs, Other Special Costs Items with a credit for Passenger Related Revenue
- Forecasting financial elements always entails some risk as costs and/or revenues may vary from the forecasts. Amtrak and the Agency will determine the procedure for handling variances from forecasts during contract negotiations and, in particular, which party takes the risk for variances for each cost category. Options for managing and assigning variance risk are noted below:
 - Service Fee. Amtrak will make forecasts for the Service Fee. The assignment of variance risk will be subject to negotiation among the parties.
 - Third Party Costs. By definition, these costs are passed through Amtrak directly to the Agency. While Amtrak will make forecasts for these costs, the Agency will reimburse Amtrak for the actual amount of these costs whether they are lower than or higher than the Amtrak estimates

- Other Special Cost Items. These cost items will be negotiated between Amtrak and the Agency with the management of the variance between forecast and actual expenses governed in accordance with the particular arrangement between the parties
- Passenger Related Revenue. Amtrak will make forecasts for these items and the assignment of variance risk will be subject to negotiation among the parties.

Section 4: Manner of Reimbursement:

- Agency will pay Amtrak in accordance with the monthly payment schedule provided service operates at a deficit (see appendices)
- Invoices shall be rendered not less than forty-five (45) days prior to the due date.
- Force majeure
- Monthly Reconciliation Statements to State IPR Agency
- Remedies in the event that Amtrak fails to perform the services as required by this Agreement or Amtrak fails to provide revenue credits or carryover excess contract revenues
- Remedies in the event the State IPR fails to provide payment to Amtrak

Section 5: Defense of Claims {may vary due to scope of work}

Section 6: Inspection and Audit:

- Agency has the right to inspect the rail passenger and bus feeder services, facilities and equipment provided for service subject to adequate notice
- Amtrak shall provide the number of passengers carried and passenger miles operated for each train as well as other service-related reports as agreed-to by Amtrak and the Agency. Such data shall be computed and furnished on a monthly basis as described in the appendices (varies by State).

Section 7: Dispute Resolution {May vary}

Section 8: Force Majeure

- The obligations of Amtrak hereunder shall be subject to force majeure.

Section 9: Termination

Section 10: Notices

Section 11: Agreement Content

Section 12: Construction {May vary by State}

Section 13: Severability

Section 14: Compliance with Collective Bargaining Agreements

- The State acknowledges the existence of collective bargaining agreements between Amtrak and certain labor organizations representing certain of Amtrak's employees, and agrees that Amtrak will provide the

Service in a manner consistent with its obligations and rights under such agreements, as they may exist from time to time.

Section 15: State-Required Provisions (unique to each State):

- Appropriation of Funds
- Non-Discrimination
- Fair Employment Practices
- Contractor Integrity

Signature Blocks

Appendices: (contents and number of appendices will vary by State):

- National Section 209 Policy
- Train Service Schedules (and Connecting Bus Service, if applicable)
- Budget
- Payment Schedule
- Examples of Services and Performance Standards {OPTIONAL}
 - Provision of Equipment—Availability and Condition
 - Equipment Maintenance Standards
 - Reliability of Service—On Time Performance
 - Maintenance of Stations
 - Crew Performance, Supervision and Standards
 - Food Service
 - Reservations/Call Center
 - Marketing Support
 - Other Services

Johnson Declaration

EXHIBIT C

**Excerpt of Methodology for Determining the
Avoidable and Fully Allocated Costs of
Amtrak Routes**



U.S. Department of
Transportation
Federal Railroad
Administration

Methodology for Determining the Avoidable and Fully Allocated Costs of Amtrak Routes

Volume I, Main Report

Office of Railroad
Development
Washington, DC 20590

Report to Congress 2009

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Cost Allocation Method

Cost allocations are at the ResCen level using Function and Account information to spread Sales Subfamily expenditures to all Amtrak trains. As Sales activities and expenditures are driven by the number of tickets sold for a service, most costs are allocated to all Amtrak trains based in proportion to their share of total riders (TRD). Within Function 1201 Sales, Account data is used to separate those expenditures related to travel agent commissions and airline reservation system access expenditures. These expenditures are allocated by travel agent sales (TAS), a manual statistic available from the Train and Earnings System that calculates the level of sales by outside travel agents.

Summary

Table 7-25 is an overview of the cost allocation method for the Sales Subfamily.

Table 7-25: Sales Subfamily Overview

Subfamily	Sales - #401		
Subcategory	Sales - General (401_0)		
FY 2007 Expenditures (Mil.)	\$23.9		
Business Types To Which Costs Are Allocated	NTS		
Number of ResCens	7		
Top 4 Function by Expenditures (Dollars, Mil., FY07)			
Function	Code Number	Expenditure	Percent of Family
Sales	1201	\$12.7	53.1%
Marketing Admin	1210	\$1.0	4.4%
Corporate Service Centers	1121	\$0.9	3.8%
Marketing Support	1225	\$0.6	2.7%
Top 2 Allocation Statistics by Expenditures (Dollars, Mil., FY07)			
Statistic	Code	Expenditure	Percent of Family
Total Riders	TRD	\$8.6	35.9%
Travel Agent Sales	TAS	\$7.1	29.8%
Direct (Unallocated)	NON	\$8.2	34.3%

7.4.2 Information & Reservations Subfamily

Family: Sales & Marketing - #400
 Subfamily: Information & Reservations - #402

Scope

The Information & Reservations Subfamily provides reservation services to both the general public as well as interacting with outside travel agency reservations and information service

systems. The Subfamily captures the costs of reservation sales call centers (RSCC) as well as the costs of the operating information systems required for Amtrak reservation services.

Subfamily expenditures for FY07 were \$83.6 million and account for 2.0 percent of Amtrak's total expenses.

Cost Allocation Method

Cost allocations are at the ResCen level and costs are spread to all Amtrak trains. The exclusive allocation statistic for the Information & Reservations Subfamily is usage time (talk time) for reservations sales office operations (RSO), which assigns Information & Reservations costs to Amtrak routes based on the share of talk time at RSCCs spent booking reservations for each route relative to total talk time. RSO is calculated based on a 3-month rolling average talk time survey of calls at RSCCs.

Summary

Table 7-26 is an overview of the cost allocation method for the Information & Reservations Subfamily.

Table 7-26: Information & Reservations Subfamily Overview

Subfamily	Information & Reservations - #402		
Subcategory	Information & Reservations - General (402_0)		
FY 2007 Expenditures (Mil.)	\$83.6		
Business Types To Which Costs Are Allocated	NTS		
Number of ResCens	8		
Top 5 Functions by Expenditures (Dollars, Mil., FY07)			
Function	Code Number	Expenditures	Percent of Family
Reservations	1221	\$42.0	50.2%
Reservations Management Administration	1220	\$25.4	30.4%
Corporate Service Centers	1121	\$5.4	6.4%
Reservations Special Services	1219	\$3.5	4.2%
Ticketing-CTO and TBM	1223	\$0.6	0.7%
Top 2 Allocation Statistics by Expenditures (Dollars, Mil., FY07)			
Statistic	Code	Expenditures	Percent of Family
RSCC Talk Time	RSO	\$77.9	93.2%
Direct (Unallocated)	NON	\$5.7	6.8%

7.4.3 Marketing Subfamily

Family: Sales and Marketing - #400
Subfamily: Marketing - #403

Johnson Declaration

EXHIBIT D

**PRIIA Section 209 Cost Methodology
Frequently Asked Questions June 10, 2011**

PRIIA Section 209 Cost Methodology
Frequently Asked Questions
June 10, 2011

1. *What States are impacted by PRIIA Section 209?*

ANSWER: On February 4, 2011, Amtrak sent a letter to the Department of Transportation, or equivalent agency, in all States served by Amtrak to inform them of the status of the routes passing through their State. By our determination, the states affected by Section 209 are California (Caltrans and CCJPA), Connecticut, Illinois, Indiana, Maine, Massachusetts, Missouri, New Hampshire, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Texas, Vermont, Virginia, Washington, and Wisconsin. (Some of these States may not currently be State partners, but all have routes meeting the criteria of Section 209. Other states may join this list over time as future investments and intercity passenger service development plans are implemented.)

2. *Is this the final Section 209 Policy? What if I have questions or concerns – is it too late to comment?*

ANSWER: Section 209 Draft Policy presented to the States on June 10, 2011 is the result of extensive discussion between the Amtrak Section 209 team and the State Working Group (SWG), based on input provided by States. It has been reviewed by the Amtrak Board of Directors, however it is still a draft. During this two week comment period, States have an opportunity to carefully review the Policy draft and communicate any concerns or questions to the State Working Group. Suggested changes/comments will be considered by the SWG and Amtrak. After a final round of discussion, the policy will be presented to the Amtrak Board of Directors for final ratification in July. After the Amtrak Board of Directors formally adopts the policy, it will be forwarded to States currently served by an Amtrak route meeting the criteria of Section 209 for acceptance and approval.

3. *If I approve the PRIIA Section 209 Policy, am I agreeing to pay a specific contracted price?*

ANSWER: No, the numbers included with the draft policy are preliminary and are intended to provide an estimate of costs for each route using the 209 methodology. Approval means that the State concurs that the Policy adopted by the Amtrak Board represents a standard, national model which fairly allocates to States costs incurred for the benefit a particular route and fairly allocates a proportionate share of costs incurred for the common benefit of more than 1 route. Individual States and Amtrak will meet regularly to discuss costs related to specific routes and determine annual pricing based on the 209 methodology. Final costs for state-supported services will be determined through contract negotiations between each state and Amtrak.

4. What happens if a State does not approve/adopt the Section 209 Policy as submitted by the Amtrak of Directors? What recourse does a State have and what impact would this have on the overall timely implementation of Section 209?

ANSWER: Once the period for State approval of the Pricing Policy has passed, Amtrak will notify the Surface Transportation Board (STB) that a Policy has been approved by its Board, indicating which States have agreed to adopt and the methodology. According to paragraph (c) of Section 209, if any of the States or agencies does not approve and adopt the final Section 209 policy, the criteria will not be met and “the STB shall determine the appropriate methodology” and require full implementation. Under such a circumstance, Amtrak and those states supporting the Policy will request that the STB endorse the Policy and implementation schedule as the methodology to be imposed by the STB on Amtrak and the states.

It is not possible to predict how the STB will proceed at that point, but the STB’s adoption of the collaboratively developed Policy provides the greatest level of certainty and predictability for all parties. In the absence of consensus agreement between Amtrak and the states, the STB may choose to develop its own methodology rather than use the Policy recommended to the STB by Amtrak and the adopting States. In this case, under paragraph (c) of Section 209, the STB shall develop that methodology “in accordance with” section 24904(c) of title 49, which calls for users to be assigned “a proportionate share of all other costs” [emphasis added] which may be interpreted as requiring the States to pay fully allocated costs. In contrast, the Amtrak-SWG policy does not charge fully allocated costs to States. Thus the STB, if it is called upon to define methodology for implementing Section 209, could establish a policy that would actually result in higher costs to the States than represented in the Amtrak-SWG proposal.

In addition, paragraph (c) calls for the STB methodology to be implemented within 1 year of the STB decision. It is not possible to predict how long it will take the STB to issue a decision, but the STB could require an accelerated timeframe for policy implementation than the timeframe that is included in the Amtrak-SWG proposed Section 209 policy.

5. If a State were to assume the operating costs and the use of capital assets/capital charges associated with the implementation of Section 209 Policy, but could only afford to pay for a portion of the route frequencies and/or Amtrak services, what options are available to that State?

ANSWER: If after the transition period a State is not able to support the route as it is currently structured, Amtrak will work with that State to develop alternative service plans and budgets on the condition that the results of that process are agreed to and implemented prior to the fiscal year for the proposed change. New service plans could include variations in route frequencies; route length; fare structure; consist; food service options; and also to the mix of States and Agencies supporting the route.

It is important to note that if service or frequencies are reduced, the cost of restoring services or frequencies at a later date may be significant. Mobilization, training, equipment availability and

staffing must be considered and slot-availability on host railroads may become an issue as the capacity once utilized for intercity passenger trains may be subsequently utilized for freight services.

6. Can a State outsource or bid out the services that Amtrak currently provides a State for these Intercity Passenger Rail (IPR) Corridor trains? Are there limitations (federal, institutional, or other) on this outsourcing?

ANSWER: Currently, some States outsource components of their operations to other vendors instead of using Amtrak. For example, the *Downeaster* has a non-Amtrak food service provider and the *Piedmont* has a non-Amtrak mechanical contractor servicing its state-owned equipment, so there are cases where this approach has been successfully implemented. However, there are likely to be limits to outsourcing, particularly for routes where there are shared Amtrak facilities that also serve Long Distance trains or for routes utilizing the Northeast Corridor. Options vary considerably over the network and Amtrak should be consulted early-on regarding any services for which a State is interested in seeking an alternate provider so that a clear understanding of the options, costs, and impacts of such arrangements can be developed. Alternative services remain subject to FRA and other applicable standards that are followed by Amtrak, and all services that receive capital funding from the FRA's HSIPR grant program must have operations that comply with applicable grant conditions relating to the application of railroad labor, retirement, and safety laws.

7. What date must a State start to assume the full operating costs and use of capital assets/capital charges for the IPR routes under 750 miles? Can the date of FY2014 (October 1, 2013) be changed? Are there limitations on the source of funds that States can use to pay Amtrak?

ANSWER: With respect to the implementation date, according to paragraph (a)(1) of Section 209, "within 5 years after the date of enactment of this Act" the results of the methodology must be implemented. Since PRIIA was passed on October 16, 2008, five years from that date, October 16, 2013, is the mandated date for implementation. Because this is only 16 days after the start of the Federal and Amtrak fiscal year, October 1, 2013 has been selected as the implementation date to simplify the process for all parties.

With respect to the ability to change the date, neither Amtrak nor the states have the ability to alter the statutory deadline. A change in federal law is required to change this date.

Regarding funding sources, there is no stipulation within the Sec. 209 regarding the sources or types of funding that the States may use to meet their obligations. Additionally, under PRIIA Sec. 301, FRA HSIPR grant funding may be available to fund up to 80% of a state's capital charge and the Administration's FY12 Budget request proposes offering funding to states to assist them with additional operating costs associated with the implementation of Sec. 209 for a limited period.

8. Under Section 209, the states take over the responsibility of regional train operations subsidy. Did PRIIA also hand over the operating access to the track capacity that Amtrak utilizes today to run the regional trains along with the ability to solicit other train operators?

ANSWER: No. PRIIA did not transfer to the States the rights to track access from host railroads that Amtrak uses today. Amtrak obtained these rights as a result of the Rail Passenger Service Act of 1970 and these rights did not change under PRIIA. Partnering with Amtrak helps states gain access to host railroad tracks and other facilities needed to operate intercity passenger service, as part of existing business and operating relationships between Amtrak and host railroads. Amtrak's unique statutory rights of access to the rail network are the foundation of intercity passenger rail service in the nation and are not transferable to other entities. Key Amtrak Rights exclusively available to Amtrak on Host Railroads from Federal Law include:

Access to the National Rail Network

- Amtrak is granted access to the entire national rail network, including host railroad property such as station buildings, platforms, and other facilities. This access is not restricted to routes where Amtrak already has or previously had service.

Access at Incremental Cost

- There is no fee for the access to the national network granted to Amtrak; Amtrak reimburses hosts for their out-of-pocket costs for hosting Amtrak trains. This is a fraction of host railroad charges for non-Amtrak passenger service which include host profit and other fees.

Preference Over Freight Transportation

- Intercity and commuter rail passenger transportation provided by Amtrak has preference over freight transportation.

Additional Trains

- Additional Amtrak service may not unreasonably impair freight transportation, so new services may require capacity investments negotiated with the host railroad. However, hosts must engage in these negotiations, and cannot refuse new Amtrak service.

Accelerated Speeds

- If a host railroad refuses to allow accelerated speeds for Amtrak trains, Amtrak may apply to the Surface Transportation Board for an order requiring the carrier to allow the accelerated speeds. The Board will decide which improvements would be required to make accelerated speeds safe and practicable.

Eminent Domain

- Amtrak has condemnation authority over property owned by host railroads, if such property is needed for intercity passenger service.

In some cases, a State or Agency may have existing two-party agreements with a Host Railroad for providing access to track capacity. Section 209 does not change these agreements.

9. How are revenues and costs apportioned between state-supported and other Amtrak services that utilize the same corridor?

ANSWER: In many parts of the Amtrak network long distance trains operate along the same tracks as State supported routes for a portion of the network, although in some cases not all stations served by State supported trains are also served by Amtrak. The States pay for only the costs of the State-supported trains as offset by the revenues earned from passengers using State supported trains. Long distance trains carry fully allocated costs and only the revenues that are earned from passengers using the long distance trains.

10. Under the use of capital assets/capital charge, do states receive a credit for prior investment in Amtrak's rolling stock rehabilitation or purchase?

ANSWER: Yes. Amtrak will credit the net book value of a State's prior investment in Amtrak assets which is primarily related to rolling stock.

11. Would the Section 209 national pricing policy also apply to high speed train operations resulting from FRA HSIPR program investments?

ANSWER: Yes. If a route meets the criteria in Section 209, compensation to Amtrak for operation of future service—including high speed service—would be in accordance with the Section 209 policy. As the policy excludes the Northeast Corridor (NEC), new high speed train operations in the NEC would not be subject to Section 209 provisions but would be subject to Section 212 provisions.

12. What was the process used by Amtrak and the states to develop the national pricing policy?

ANSWER: The SWG, with input from Amtrak, has prepared an Issue Brief: *Establishing Standard Pricing Policies, Annual Operating Costs and Capital Charges*. This document describes the history and process used to develop the Section 209 policy.

13. Does FRA or any other federal agency or entity have to approve the Section 209 National Pricing Policy prior to sign on implementation with the states?

ANSWER: No. According to paragraph (a) of Section 209, in addition to consulting with the governors of each relevant State, the Amtrak Board of Directors shall also consult [emphasis added] with the Secretary of Transportation. No official approval is required by the U.S. Secretary of Transportation or the Federal Railroad Administration. However, the Secretary of Transportation, represented by FRA Administrator, Joe Szabo, is a member of the Amtrak Board of Directors and the policy must be an agreement that is ratified by the both the Board of Directors and the applicable States.

14. What if a State decides to terminate a route rather than participate in the new policy?

ANSWER: A state may cease support of an existing state-supported corridor route or decline to begin supporting a corridor route that now requires state-support under the policy. Upon such a decision, Amtrak may immediately terminate service and the state may be responsible for some of the demobilization costs associated with termination, depending on the contract terms between the parties. Additionally, the termination of a route may trigger the redistribution of certain costs to other routes that share facilities, staffing, or other shared costs and may also require Amtrak to reconsider the additive amounts contained within the policy, in accordance with the provisions of the policy.

It is important to note that if a route is eliminated, the cost of restoring services at a later date may be significant. Mobilization, training, equipment availability and staffing must be considered and slot-availability on host railroads may become an issue as the capacity once utilized for intercity passenger trains may be subsequently utilized for freight services.