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SURFACE TRANSPORTATION BOARD

HEARING ON AMTRAK OPERATIONS

IN GULF COAST

DOCKET NO. FD 36496

PUBLIC HEARING

Wednesday, February 16, 2022 -- Day Two

9:30 a.m.

Via Zoom

The above-entitled matter came on, pursuant to notice, at 9:30 a.m., Chairman Martin Oberman, presiding.

1 P R O C E E D I N G S

2 CHAIRMAN OBERMAN: All right good morning  
3 everybody and welcome to the second session of the  
4 first part of our hearing in the Amtrak Gulf Coast  
5 matter. We will continue with the public  
6 participation part we began yesterday. A reminder  
7 for people who are not on a panel speaking to mute  
8 your microphones, mute your cell phones, if your  
9 microphone is on.

10 And we're going to begin with people who  
11 were unfortunately unable to stick with us yesterday.  
12 I understand that J.W. Madison is available this  
13 morning by telephone. Let me just mention there were  
14 three other people who did not appear yesterday who  
15 were on the list, and I want to ask if any of them  
16 are available. If they are we will hear them first,  
17 after Mr. Madison. Barney Bishop, Michael Hines,  
18 Julio Fuentes and John James.

19 Are any of them on the program this  
20 morning? All right. Well if they do eventually come  
21 we will still be happy to call on them. In the  
22 meantime let us start with Mr. Madison from Rails,

1 Inc. Mr. Madison proceed.

2 MR. MADISON: Yes can everybody hear me?

3 Hello?

4 CHAIRMAN OBERMAN: I can hear you.

5 MR. MADISON: Okay how about now? Thank

6 you can you hear me?

7 CHAIRMAN OBERMAN: Yes sir.

8 MR. MADISON: Oh okay. Well so I can start

9 now?

10 CHAIRMAN OBERMAN: Go right ahead.

11 MR. MADISON: Okay. My group Rails

12 Incorporated is from New Mexico. It's a bunch of

13 so-called ordinary citizens who have learned some

14 great things about passenger rail and don't like what

15 we've been missing for at least 50 years.

16 You've heard about the many advantages of

17 modern passenger rail. I would add almost

18 unbelievable fuel economy, that is a smaller carbon

19 footprint, greater passenger safety, comfort and

20 peace of mind, and popularity with people of all

21 ages, colors and income levels. The demand for more

22 and better training is there, and it's increasing.

1                   Supply was strangled for decades. We  
2 think however, that a new day may be dawning for  
3 Amtrak and national passenger rail in general, so we  
4 hope. Examples of this are the Connect US 2035  
5 initiative, which to us is a modest step in the right  
6 direction, and of present interest the proposal we're  
7 talking about today.

8                   CSX says that accommodating both freight  
9 and passenger service here requires various  
10 improvements to the right of way. Everybody seems to  
11 agree on this, including us. But things like overly  
12 long freight trains need to be factored in here to  
13 really get anywhere. What really troubles us is the  
14 huge difference between two concepts that we've seen.

15                   The FRA to 118 million dollars versus  
16 CSX's 2.3 billion. Here's an example from my career.

17                   I'm a small scale electrical and general contractor  
18 by trade. If you're collecting bids for  
19 improvements on your house and these bids range from  
20 about \$700 bucks to maybe \$1,300.00, and I come in  
21 demanding almost \$20,000.00 wouldn't you smell at  
22 least one rat?

1           Whatever CSX is trying to pull here in my  
2 group's opinion, there's no resemblance to any  
3 workable negotiating process I ever heard of. If we  
4 accept the FRA's process, which my group considers to  
5 be at least a ballpark baseline for sitting down in  
6 good faith, what does CSX plan to do with all that  
7 extra money?

8           Giving in to CSX's predatory demands would  
9 hold the rest of our sketchy passenger rail network  
10 hostage to further sacrifice by a few big freight  
11 entities, and their preferred shareholders. We also  
12 feel that if the taxpayers across our country are  
13 going to shell out for these improvements, we should  
14 own them, and that this policy be an early step  
15 towards conversion of all our major track segments  
16 into a national public utility, with lots of room for  
17 both public and private moving parts, and even for  
18 the profit motives.

19           My group calls this green system the rail  
20 interstate. We thought of interstate rail system,  
21 but we figured another IRS might not resonate quite  
22 like we wanted to. Although Rails, Inc. being from

1 New Mexico concerns itself primarily with western  
2 rail and transit matters, we're involved in this  
3 southern issue because we believe that how the STB  
4 handles this case will reverberate for better or  
5 worse all across America for decades to come.

6 Thanks to PRIIA the connectivity of our  
7 passenger rail system is skimpy enough. If cheaper  
8 freight gets its way in these proceedings national  
9 passenger rail will be further balkanize in our  
10 country. This is a major opportunity for the STB to  
11 strike a blow for good transportation and a cleaner,  
12 safer environment in America for generations to come.  
13 Thank you for your time ladies and gentlemen.

14 CHAIRMAN OBERMAN: Thank you very much Mr.  
15 Madison, and thank you for your persistence in  
16 staying with us, so we could hear your very pleasant  
17 remarks, much appreciated.

18 MR. MADISON: Thank you sir, I appreciate  
19 that we're all kind of feeling our way through this  
20 brave new world of virtual everything.

21 CHAIRMAN OBERMAN: I think you have spoken  
22 for all of us, thank you on that point.

1 MR. MADISON: Thank you. Should I stay on  
2 the line or mute myself?

3 CHAIRMAN OBERMAN: You're welcome to  
4 continue to attend the hearing, but if you would  
5 please mute yourself that would be helpful.

6 MR. MADISON: Thank you sir.

7 CHAIRMAN OBERMAN: Thank you. All right.  
8 Now I'm going to call up Panel 11, and I'm going to  
9 read off everybody to see if they are here. Charles  
10 Moorman. I understand Thelma Drake may not be on yet,  
11 is Miss Drake on?

12 MS. DRAKE: Yes, yes I am on.

13 CHAIRMAN OBERMAN: Oh you are here, okay  
14 very good. Alex Ayers, Ray Chambers, Theodore  
15 Stalnos, Timothy Lee, Gerard Scimeca, Virgil Payne.  
16 Aha! There's another Drake, that was my mistake,  
17 Alan Drake I think may not be with us. And Patrick  
18 Cagle. And if Mr. Drake is able to come later we'll  
19 certainly try to hear from him. So with that Wick  
20 Moorman it's our honor to have you here, former CEO  
21 of both Amtrak and NSR, the unique platform from  
22 which to enlighten us on this matter. All yours.

1 MR. MOORMAN: Well thank you. Hopefully  
2 there's at least a modest amount of enlightenment Mr.  
3 Chairman.

4 CHAIRMAN OBERMAN: We'll take whatever  
5 enlightenment you can give us.

6 MR. MOORMAN: Good morning Chairman  
7 Oberman, Vice Chairman Schultz, and Board members  
8 Primus, Fuchs and Hedlund. Good to see all of you  
9 virtually. I am Wick Moorman, and I'm delighted to  
10 be with you today even if it's not in person, and I  
11 do appreciate you giving me the time to speak.

12 I will start because I've met many of you,  
13 with just a bit about my background. I worked for  
14 the Southern Railway as an engineering co-op student.  
15 In 1970 I started while I was studying civil  
16 engineering at Georgia Tech. I graduated in 75. I  
17 joined Southern's engineering department and worked  
18 in maintenance of way, the track department, for 12  
19 years.

20 Left what was by then Norfolk Southern in  
21 1987 to attend business school. And after I received  
22 by MBA in 89, I returned to Norfolk Southern where I

1 held positions in transportation and corporate  
2 planning, HR and IT. I was appointed Norfolk  
3 Southern's President and CEO in 2005, and I served in  
4 that position until my retirement in 2015.

5 A year later I joined Amtrak as its  
6 President and CEO. I will say to my wife's total  
7 disgust I did that on an interim basis and served as  
8 CEO and then Co-CEO for about 16 months. Since 2020  
9 I've been a member of the Board of the Virginia  
10 Passenger Rail Authority, which was created to  
11 oversee and advance Virginia's very ambitious efforts  
12 to expand passenger rail service throughout the  
13 state.

14 And the reason for my speaking today is  
15 not to take any particular side in this issue, but  
16 rather to hopefully help give some perspective on to  
17 how it should be resolved. And I feel that I'm  
18 qualified to do that because during the time I was  
19 CEO of Norfolk Southern, we were able to reach  
20 agreements with Amtrak, Virginia and North Carolina  
21 that resulted in significant expansion of Amtrak  
22 service in those states.

1           This included the new Amtrak route from  
2 Norfolk, that operates over Norfolk Southern between  
3 Petersburg and Norfolk. A new train from Washington  
4 to Lynchburg that was later extended to Roanoke, and  
5 additional Amtrak Service on North Carolina's  
6 Piedmont corridor between Raleigh and Charlotte.

7           And I felt then, and I still feel now that  
8 these agreements were a win/win for Norfolk Southern,  
9 Amtrak and the people who live in Virginia and North  
10 Carolina. The Amtrak services have been very  
11 successful, attracting high ridership, and leading to  
12 additional service increases, and very importantly,  
13 there has been significant public investment in  
14 Norfolk Southern's rail lines as a result of the  
15 Amtrak services.

16           I first became involved with the proposed  
17 Amtrak service along the Gulf Coast in 2017, and that  
18 was after the conversation had been going on for a  
19 few years before I got there. I was Amtrak CEO as I  
20 said at the time, and I did make a commitment to the  
21 Southern Rail Commission, and to Senator Wicker, who  
22 I understand you heard from earlier that Amtrak would

1 support the restoration of service along the Gulf  
2 Coast.

3           At the time CSX was seeking over 2 billion  
4 dollars in infrastructure investments to restore  
5 service from New Orleans all the way to Jacksonville,  
6 and add a second train from New Orleans to Mobile.  
7 And CSX was also claiming that it was virtually  
8 impossible to add Amtrak service because they  
9 couldn't meet the 80 percent on time performance  
10 standard in the Passenger Rail Investment and  
11 Improvement Act.

12           I was optimistic at that time that Amtrak  
13 would be able to reach agreement with CSX, given the  
14 experience I've already had working out agreements  
15 with Amtrak and the states at Norfolk Southern. I  
16 reached out to Hunter Harrison who I knew fairly  
17 well, who was then CSX's CEO. I had known Hunter for  
18 a number of years, and I suggested that we get  
19 together to talk.

20           He agreed, but unfortunately that never  
21 happened. This was during the period when Hunter was  
22 very ill, and of course sadly he died a few months

1 later. By the time I left Amtrak at the end of  
2 2017, it seemed increasingly apparent that there  
3 wasn't going to be an agreement with CSX.

4 And now of course, four years later, it  
5 appears at least to me that little if anything has  
6 changed. And that's very unfortunate. While  
7 negotiations over these types of projects are never  
8 easy, they shouldn't take forever. If you have  
9 reasonable people on both sides they can get done, as  
10 I have seen many times.

11 And it does seem clear to me that a  
12 neutral party needs to step in and come up with a  
13 resolution, and it's also very clear to me that the  
14 STB is the right entity to do that. A few extra  
15 additional comments about this issue. The first is  
16 my belief that there is a real need for passenger  
17 rail service, particularly in the south.

18 As we all know our highway system is  
19 overcrowded in many areas, and in an increasing state  
20 of disrepair, and the appetite for good, alternative,  
21 environmentally friendly transportation as  
22 alternatives to driving is growing. A great example

1 is the train Amtrak added from Washington to  
2 Lynchburg while I was at NS, and which serves  
3 Charlottesville where I lived.

4           It's been enormously successful, and I  
5 used it regularly to commute to Washington while I  
6 was CEO of Amtrak. Its early success -- that train's  
7 early success has been one of the drivers of  
8 Virginia's really audacious plan to spend 3.7 billion  
9 dollars on improving rail passenger service in the  
10 state, including, and the bulk of the funding is for  
11 this, a new rail bridge over the Potomac River, along  
12 with increased service to Richmond, which will  
13 provide some relief to the long-suffering drivers who  
14 have to get on I-95.

15           And new service all the way to the New  
16 River Valley in Virginia Tech. And all of this by  
17 the way was done with agreements with CSX, and with  
18 Norfolk Southern, and with additional investments for  
19 capacity in both railroads. A second point is until  
20 the Amtrak Lynchburg train on Norfolk Southern  
21 started in 2009, Virginia had very little Amtrak  
22 service other than a few long-distance trains.

1           And one thing that I've seen in Virginia  
2           is that once states and communities see the benefits  
3           of passenger rail service, they can't get enough of  
4           it. I expect that will also be the case on the Gulf  
5           Coast, and I particularly encourage that as in  
6           Virginia there's strong bipartisan support there for  
7           passenger rail service. It's one of the major  
8           reasons that passenger rail in Virginia has been able  
9           to secure the funding that has enabled its growth.

10           A third point I'd make is that Norfolk,  
11           where Norfolk Southern was headquartered while I was  
12           CEO, has a lot in common with Mobile. Both cities  
13           have ports that are crucial to their economies, and  
14           are heavily dependent on rail service. Norfolk  
15           which is a substantially larger port than Mobile is  
16           one of the most important terminals on Norfolk  
17           Southern's network.

18           It's the eastern end point of Norfolk  
19           Southern's heartland corridor in both intermodal and  
20           export coal shipments are exchanged there between  
21           ship and rail. And I understand that yesterday, and  
22           I understand why, some of the speakers were

1 concerned about the impact of Amtrak service on  
2 freight rail service to Mobile's port.

3           We had similar concerns about the impact  
4 along Norfolk, but I can tell you we worked  
5 collaboratively with Amtrak to identify what capacity  
6 was required for the additional trains. That  
7 capacity was installed, and the initiation of Amtrak  
8 service in Norfolk in 2012 over the NS line did not  
9 have any detrimental impact on the port's rail  
10 service.

11           I'll close by addressing for a couple of  
12 minutes another issue mentioned I understand again,  
13 by some of the speakers yesterday. Rail line  
14 capacity modeling, so called RTC modeling. Let me be  
15 clear at the outset, I am not familiar at all with  
16 the modeling that was done by the parties in this  
17 case.

18           I do however, have a lot of experience  
19 with capacity modeling including the RTC model from  
20 the years I've spent in transportation and strategic  
21 planning positions at NS, and in particular I've been  
22 involved with capacity modeling studies for

1 passenger rail operators and public entities in  
2 connection with proposed increases in passenger or  
3 freight service.

4           For that process, and it is a process, to  
5 use the model to develop an agreement there must be  
6 some essential steps taken. First, the parties to  
7 the modeling studies must be in agreement on the  
8 assumptions and the inputs that will be used. There  
9 must also be transparency, and when I say  
10 transparency, I'm talking about transparency between  
11 the parties involved, not necessarily the general  
12 public.

13           Most of the information that's required  
14 for capacity modeling, such as physical  
15 characteristics, rail line, and the details of the  
16 freight operations over it is known only to the rail  
17 line's owner. Some of that information is  
18 proprietary, but that can be addressed by  
19 confidentiality agreements that don't inhibit the  
20 sharing of data among the parties to the modeling.

21           And then using those initial inputs the  
22 model can, and should be calibrated to make sure that

1 it accurately reflects the existing operations and  
2 the delays that are encountered on the existing  
3 operations before any passenger trains are run. You  
4 then add the additional proposed trains, and continue  
5 to run the model to determine the average passenger  
6 train delay, and the additional freight train delay  
7 if any with no additional investment.

8           And then finally with that analysis in  
9 hand, the model can be used to analyze the impact of  
10 various proposed capacity improvements, and the key  
11 concept here obviously is bang for the buck.  
12 Maximizing daily reductions at the lowest possible  
13 cost.

14           The key in all of this is you cannot  
15 effectively use a capacity modeling tool like RTC  
16 unless there is a commitment to a fair process, and a  
17 willingness to negotiate on both sides. The results  
18 of that modeling must be shared and transparent as I  
19 said before to both parties, and this is particularly  
20 important in Amtrak's case as agencies like the FRA  
21 insist upon showing that projects are efficient, and  
22 that all of the investments for which funding is

1 sought are necessary to achieve the project's purpose  
2 before they'll ever award grants.

3           And one other important point to make  
4 about capacity modeling it isn't just about tallying  
5 up a list of capital projects. When railroads are  
6 looking to address capacity issues, building  
7 infrastructure is always the last choice because of  
8 its expense, both in terms of capital and ongoing  
9 maintenance.

10           And that holds true even for railway  
11 engineers like me who think rail infrastructure is a  
12 wonderful thing. Effective modeling involves  
13 figuring out not only what to build, but what you  
14 don't need to build. And often there are  
15 alternatives such as tweaking schedules, or  
16 implementing operational efficiencies that will  
17 minimize the need for expensive infrastructure  
18 investments.

19           And if all the parties aren't invited to  
20 the table during capacity modeling, such alternatives  
21 are likely to be ignored. And by the way this isn't  
22 only true about discussions on passenger service, at

1 Norfolk Southern we used RTC modeling extensively  
2 when evaluating additional intermodal train service  
3 on our Crescent corridor.

4 And our intermodal department was  
5 intensively involved in the decisions about where to  
6 spend money on capacity improvements as well as how  
7 to best design the service to minimize such  
8 expenditures. I appreciate the opportunity that  
9 you've given me to share my thoughts today, and I  
10 look forward to your decision. I'm optimistic that  
11 there will be Amtrak service from New Orleans where  
12 I was born, to Mobile in the not too distance future,  
13 thank you.

14 CHAIRMAN OBERMAN: Wick thank you very  
15 much. Very, very insightful. I think Board members  
16 may have a few questions for you. Are there any  
17 Board members who have a question?

18 BOARD MEMBER HEDLUND: I do Mr. Chairman.

19 CHAIRMAN OBERMAN: Karen go ahead.

20 BOARD MEMBER HEDLUND: Mr. Moorman thank  
21 you so very much for joining us today, and for your  
22 significant insights into the process. I was when I

1 was Deputy Administrator first to Counsel and Deputy  
2 Administrator at the FRA, participated in some of  
3 those negotiations regarding the expansions in  
4 Virginia.

5           And thank you for commenting on the lively  
6 viewpoint of FRA as a grantor in this process. Could  
7 you comment a little bit more about why that process  
8 was successful? What did the parties bring to the  
9 table that allowed them to ultimately reach a good,  
10 negotiated arrangement that was also acceptable to  
11 the funding partner?

12           MR. MOORMAN: I think that's a great  
13 question, and as I look back I think that it's to a  
14 large extent because Norfolk Southern was always open  
15 to conversation and negotiation. We had a mantra for  
16 a long time that if anyone wanted to run passenger  
17 service of any kind, be it Amtrak, be it Virginia  
18 Railway Express, be it any of those people, we were  
19 happy to talk, and there was some threshold things  
20 that had to happen.

21           The first was something that's not of  
22 concern with Amtrak were the liability issues. And

1 the second was that it could not cause any additional  
2 delay doesn't mean that passenger trains wouldn't  
3 delay freight trains occasionally, but on average  
4 that their capacity would be added to prevent the  
5 freight railroad from being delayed.

6 And those were and continue to be  
7 reasonable positions. And the second once we got  
8 there, and everyone understood what we were talking  
9 about, it was then a very iterative really, almost  
10 collegial process of where everyone, as you know, had  
11 a seat at the table, and we shared the data, we  
12 shared alternatives.

13 We talked about reasonable on time train  
14 performance. We talked about what needed to be built  
15 into agreements. Should there be additional freight  
16 trains in the future, you know, if traffic continued  
17 to grow. It was just negotiation in reaching a  
18 reasonable agreement. And I think NS was always, and  
19 always has been committed to that.

20 BOARD MEMBER HEDLUND: Thank you.

21 CHAIRMAN OBERMAN: Any other questions?

22 Michelle go ahead.

1                   VICE CHAIRMAN SCHULTZ: Okay thanks. Wick  
2 first thanks so much for your willingness to be here  
3 today, and for bringing your very unique perspective  
4 in this matter. I was wondering if you could just  
5 take a moment to address how much infrastructure you  
6 think is likely needed in these circumstances.

7                   MR. MOORMAN: The real answer is I don't  
8 know right? I haven't seen the studies. I am only  
9 somewhat familiar with the railroad across the Gulf  
10 Coast. I'm clearly more familiar with the six or so  
11 miles on the so-called Back Bay route of Norfolk  
12 Southern in New Orleans, which is a busy route,  
13 because it's the main interchange between the west  
14 and the east in New Orleans.

15                   You know when CSX said it was 2.4 billion  
16 to go from New Orleans to Jacksonville right, that  
17 was I mean, I say this with all due respect to my  
18 friends at CSX, that was laughable. But --

19                   CHAIRMAN OBERMAN: Is that all the respect  
20 that's due Wick?

21                   MR. MOORMAN: I beg your pardon?

22                   CHAIRMAN OBERMAN: Is that all the respect

1 that is due for that? Go ahead.

2 MR. MOORMAN: You know I've studied CSX for  
3 40 years and I never quite understood them, so but  
4 they're a good railroad. But I don't know, there's  
5 some number. It's not enormous, but it's not  
6 insignificant that's required. But I'll go back to  
7 this idea of there's a process, and there are tools.

8 The RTC model is the tool to understand  
9 how do you accomplish what you want to accomplish in  
10 terms of Amtrak's on time performance and reasonable  
11 freight train operations using the model with the  
12 idea let's spend the least we can to accomplish what  
13 we need to.

14 And I'll make one other point which I  
15 mentioned tangentially in the testimony, but it's  
16 true. It's true in Norfolk Southern. NS people  
17 would tell you that. Once you reach that point there  
18 are benefits to the Norfolk Southern from having  
19 additional infrastructure on the railroad that can  
20 benefit your freight train operations when passenger  
21 trains aren't out there, so that's why it can be a  
22 win/win.

1                   VICE CHAIRMAN SCHULTZ: Thank you,  
2 appreciate that.

3                   MR. MOORMAN: Sure.

4                   CHAIRMAN OBERMAN: Robert?

5                   BOARD MEMBER PRIMUS: Yes. Again I want  
6 to thank you for enlightening me Mr. Moorman. I  
7 think your comments were on time and well received.  
8 I just have two questions, actually two different  
9 sides of the room. Number one, when you were CEO of  
10 Amtrak, did you consider the Gulf Coast restart, and  
11 if so, you know what was the process? What sort of  
12 difficulties did you encounter with CSX at that time?

13                   The second question is just about growth.  
14 We heard yesterday from a number of participants  
15 about the growth of freight rail in that region, and  
16 they seemed to suggest that the growth of freight  
17 rail did not exist at the same time as the growth of  
18 passenger rail.

19                   And I just want to get your perspective as  
20 to you know from working on previous deals in  
21 Virginia and North Carolina, you know, how the growth  
22 of both passenger -- do you believe the growth of

1 both passenger rail and freight rail, you know, can  
2 coexist you know on those lines and in those areas?

3 MR. MOORMAN: In terms of the first  
4 question you know as you know, I wasn't at Amtrak  
5 that long, and there were a lot of other things to be  
6 done at Amtrak, which were in my mind more pressing  
7 in terms of kind of organizational alignment, and  
8 strengthening the corporation as a corporation, and  
9 as a business.

10 But I looked, the Gulf Coast matter has  
11 been going on for a while. I did meet with the  
12 Southern Rail Commission, actually I visited with  
13 Senator Wicker, and I guess a couple of other people  
14 reached out to Hunter, and I thought at the time and  
15 as I said, I grew up in that part of the world, so I  
16 understand at least something about the railroad  
17 across the Gulf Coast.

18 That New Orleans and Mobile were the kinds  
19 of city pairs that ultimately Amtrak wants to address  
20 in terms of where there's clearly a ridership base,  
21 and interest from the local folks, and so it seemed  
22 like a good idea to me that it was the kind of place

1 we wanted to do it, and therefore I took at least  
2 some initiative in trying to move it forward.

3 I think that this whole issue of growth  
4 either in passenger or in freight is something that's  
5 easily dealt with right, and has been dealt with at  
6 Norfolk Southern in terms of here are the existing  
7 conditions, here are the however many trains you  
8 run, they run across the Gulf Coast, 8, 10 or 12  
9 trains a day, or whatever it is, and then agreement  
10 is made, and then the Amtrak trains start to run.

11 And there are triggers in the agreement if  
12 it gets to the point where traffic is growth X  
13 percent, freight traffic has grown X percent, you run  
14 the modeling. You know, you have triggers that  
15 initiate further response in terms of what actions  
16 are required. You don't. You don't have to just  
17 build an agreement that's set in stone forever.

18 You build an agreement that has some  
19 flexibility in what might happen, and the steps that  
20 both parties will take if it does happen. It's not  
21 particularly hard to figure that out, at least it's  
22 not hard to figure out the triggers and the next

1 steps you would take.

2 BOARD MEMBER PRIMUS: Thank You.

3 CHAIRMAN OBERMAN: Any other Board members  
4 have any questions? Wick I have a couple of  
5 questions that I wonder if you dealt with in your  
6 experience either at NS or at Amtrak in terms of  
7 expanding passenger service.

8 One is do you have any sight, any  
9 experience with working with the Coast Guard to  
10 organize these bridge openings in a way that  
11 minimizes interference with train crossings you know  
12 beyond the statutory preference for both owners?

13 MR. MOORMAN: No we don't. There's no  
14 route. I mean there are bodies, I guess, who worked  
15 with the Coast Guard or probably ports in a couple of  
16 places. There are a couple of big drawbridges in  
17 Norfolk, but there are drawbridges in the way they  
18 are across the Gulf Coast line.

19 Our lines just go straight inland, and so  
20 that is you know an issue you have to work through.

21 CHAIRMAN OBERMAN: Sure. All right. And  
22 the other question I had was in the various

1 negotiations you've been in, and you pointed out that  
2 infrastructure improvements perhaps instigated  
3 because of passenger service sometimes benefit the  
4 freight operations regardless of passenger service.  
5 Was there any aspect of the negotiations you've been  
6 involved in where the cost of the infrastructure was  
7 apportioned between the freight carrier and Amtrak  
8 for that reason?

9 MR. MOORMAN: There may that's an  
10 excellent question, and I thought about it. I don't  
11 recall that, but that doesn't mean that we didn't do  
12 something at some point. I will say I know the bulk  
13 of the infrastructure investment has always been from  
14 whichever public entity was required.

15 And I think that's appropriate because yes  
16 there can be this incremental off peak kind of  
17 improvement in the freight operation, but the freight  
18 operation if it were in such a state that we really  
19 needed to improve it, we would have been out  
20 investing ourselves right?

21 It's nice, but it's not something that we  
22 would have paid for to get if that makes sense.

1                   CHAIRMAN OBERMAN: Well the last thing you  
2 said is a thought that has occurred to me frequently  
3 since I've joined this Board, and that is if there  
4 are infrastructure improvements, where are the  
5 investments from the freight carriers for their  
6 freight benefits? An important question.

7                   MR. MOORMAN: Yeah and just to provide a  
8 little coda to that, while I was CEO at Norfolk  
9 Southern we invested a lot of our own money in our  
10 infrastructure using, as I mentioned, a lot of times  
11 -- using almost every time the RTC model process.  
12 But in order to kind of you know enhance our  
13 reliability and streamline our train operations.

14                   So there was a lot of willingness for the  
15 freight for NS anyway, to invest in their own  
16 infrastructure where it was required, and there are  
17 places I think where investments we made around  
18 Roanoke would be one of them where later on when  
19 passenger service showed up it reduced the need in  
20 that particular area of Roanoke for further  
21 investment to facilitate passenger operations.

22                   So it's not a -- the freight railroads in

1 my experience, and my experience is NS, but also  
2 looking at the others, are very willing to invest in  
3 the lines where their performance is not adequate,  
4 and we were. But when the passenger operations come  
5 along if there's some tangential improvement that's  
6 just really great, maybe the freight would  
7 participate, but that wouldn't be the expectation.

8 CHAIRMAN OBERMAN: All right. Thank you  
9 very much.

10 MR. MOORMAN: Sure.

11 CHAIRMAN OBERMAN: Again I think we all  
12 have benefitted from you experience and insight. Are  
13 there any other follow-up questions for Wick? If not  
14 we'll thank him for his time and willingness to  
15 participate. And you may get called out again for  
16 your insight.

17 MR. MOORMAN: I'm always happy to help.  
18 Thank you so much everyone.

19 CHAIRMAN OBERMAN: Really thank you. Much  
20 appreciated.

21 MR. MOORMAN: Okay take care.

22 CHAIRMAN OBERMAN: So at this time I

1 understand that one of yesterday's speakers John  
2 James, Arizona is available, so we're going to switch  
3 to him, but I also want to alert who's listening  
4 that there is a phone number which we do not  
5 recognizing showing up as a participant. If this is  
6 from a person who was one of yesterday's speakers,  
7 and you can hear me, would you please email the Board  
8 at hearings, H-E-A-R-I-N-G-S @ STB.gov and tell us  
9 who you are, and if you still want to speak so we can  
10 accommodate you.

11 At this point I'm going to go out of order  
12 to accommodate Mr. James from yesterday's schedule if  
13 he's here. Yes? No? Maybe?

14 MR. JAMES: Yes sir I am. Sorry.

15 CHAIRMAN OBERMAN: There you are all  
16 right. You're on sir.

17 MR. JAMES: I've been having technical  
18 problems this morning, mostly with internet  
19 connections from the great State of Arizona. I don't  
20 know why. It only seems to act up when you need it  
21 most, and I'm sure we've all experienced that.

22 CHAIRMAN OBERMAN: No explanation

1 necessary, we all have the same problem, go right  
2 ahead.

3 MR. JAMES: I appreciate it sir. I'm a  
4 member of an advocacy group called All Aboard  
5 Arizona. We're very focused on promoting and getting  
6 passenger service in the great State of Arizona. Our  
7 biggest challenge here is large distances, and  
8 transportation corridors that are overflowing with  
9 capacity when it comes to the current alternatives.

10 I'm interested in this particular  
11 situation today because All Aboard Arizona asked me  
12 to speak about this particular condition. This  
13 particular situation between Mobile and New Orleans.  
14 But I supposed I wouldn't be able to add anything  
15 special or out of the ordinary compared to the kind  
16 of folks that have already been speaking to the  
17 Board, especially after Mr. Moorman, so I decided I  
18 would take a citizens approach to this particular  
19 hearing, and that basically focuses on this basic  
20 concept.

21 The position that I have personally, is  
22 that I know that passenger rail service is a huge

1 economic shot in the arm if you will for the  
2 communities that are served on that particular route.  
3 And for CSX I would think it's a good PR move for  
4 them to encourage people to use passenger rail on  
5 their lines.

6           The fact is that if it is an improving  
7 economic impact for the customers they serve, then  
8 that would indirectly, or directly improve their  
9 customer base and business base for the services they  
10 offer when it comes to freight. I have to tell you  
11 that out here in the west we see absolutely gigantic  
12 freight trains. I measured them between Yuma and  
13 Gila Bend, Arizona and most of them are two to two  
14 and a half miles long with multiple engines. Even  
15 now something that I've never really noticed before,  
16 but engines in the middle of a freight train.

17           These are gigantic machines, yet we're  
18 talking about a passenger train which relatively  
19 speaking in comparison is much lighter. I think a  
20 little bit more nimble, a little bit more quick to  
21 move through the systems. And I suppose the only  
22 real comment I have is that a large corporation that

1 has had many years of experience in scheduling and  
2 handling its own freight operations, should not  
3 necessarily have any challenges when it comes to  
4 scheduling in what is relatively a small train, a  
5 light train, a fast moving train, so that it can  
6 provide the services to the citizens of the United  
7 States.

8 More importantly I think the expansion of  
9 scheduling, making more opportunity for Amtrak to  
10 provide passenger service improves its ability to  
11 make it more viable for all passengers. If I may  
12 before I close I want to share with you I'm a  
13 broadcast television engineer. I do mostly  
14 television sports.

15 And I had a chance two years ago right in  
16 the middle of the pandemic to go to Houston to do I  
17 believe it was college football. And at the time I  
18 was very concerned about flying. We did not have a  
19 lot of knowledge at the time as to what exposure  
20 risks there were when you were flying.

21 So I asked my employer to take me on the  
22 train, and they said absolutely, we'd be happy to

1 take you on the train. The problem was the schedule  
2 did not allow for me to economically get to Houston  
3 from Arizona. The schedule only allowed me to get  
4 there a day early, and/or return home a day later,  
5 and the client did not want to pay for the extra  
6 hotel room nights.

7 And so I lost the job. It's a funny  
8 little thing, but it seems to me that more viability,  
9 more scheduling opportunities for passengers is a  
10 good thing for the system in total, and I certainly  
11 endorse Amtrak's position in expanding operations  
12 along this important corridor.

13 I appreciate the chance to visit, and I  
14 hope that I have added a little something, a  
15 different point of view from all the fine people who  
16 have been speaking to the Board this morning.

17 CHAIRMAN OBERMAN: Mr. James, every one of  
18 you who has spoken to us has added something to our  
19 knowledge base segment, and we certainly appreciate  
20 your taking the time. Are there any questions for  
21 Mr. James? All right sir, thank you very much. And  
22 we're glad you were able to work out your internet so

1 you could join us.

2 MR. JAMES: Oh thank you so. I appreciate  
3 it very much.

4 CHAIRMAN OBERMAN: All right. So we're  
5 now going to go back to the panel, and I mean to  
6 alert everybody at the outset that it is my plan when  
7 the Panel 11 is completed to break for approximately  
8 a half an hour as we have some business that we have  
9 to attend to, and then we'll get back to hearing from  
10 Panel 12. And we will probably take a somewhat  
11 longer break after Panel 12 before we start  
12 pre-trial, so I just want to give a heads up to  
13 those participants, we'll see where we are in the  
14 morning.

15 So let us go back now to Panel 11. Our  
16 next speaker is Ms. Drake from Virginia. Ms. Drake.

17 MS. DRAKE: Thank you very much. Good  
18 morning, and I appreciate the opportunity to testify  
19 before you. I'm Thelma Drake. I'm a former member  
20 of Congress from Virginia's second district, which  
21 includes Norfolk. While there I served on the  
22 Transportation and Infrastructure Committee. I have

1 also served in the Virginia House of Delegates.

2 I've served as the Director of the  
3 Virginia Department of Rail and Public  
4 Transportation, and as an Assistant Director of  
5 Public Works in the Transportation Division for the  
6 City of Norfolk. You've heard a little bit about  
7 what we've done from Mr. Moorman. But as Director  
8 from 2010 to 2014, we expanded Virginia Railway  
9 Express into Spotsylvania.

10 We started the new Amtrak service that  
11 you've heard about to Norfolk. Mr. Moorman was on  
12 our inaugural train, and because of his help we were  
13 able to bring that service up in two years-time. We  
14 also entered into an agreement to expand intercity  
15 rail services to Roanoke, and during this time our  
16 Virginia General Assembly created the Intercity  
17 Passenger Rail Operating and Capital Fund to export  
18 the expansion of this intercity rail, and to fund  
19 projects needed to grow freight.

20 Working with CSX and Norfolk Southern for  
21 example, we worked to successfully return that  
22 service for the first time since 1977. It was quite

1 an important day in Norfolk that day. This project  
2 included state funded improvements to both CSX and  
3 Norfolk, southern rail facilities for the initiation  
4 of one train, and the capacity to add two additional  
5 trains over a ten year period.

6 We were ranked number three as best  
7 performing state sponsored service in the entire  
8 Amtrak system. During this time Virginia initiated  
9 new rail services to new or previously abandoned  
10 Amtrak serviced markets by making investments in the  
11 freight rail facilities prior to the implementation  
12 of Section 209. In 2013 Virginia entered into an  
13 agreement with Amtrak for the funding support for  
14 five Legacy regional train services.

15 This success in Virginia was because of  
16 careful planning and study, collaboration and a  
17 partnership with our railroads. Virginia's passenger  
18 rail uses existing freight corridors. Comingled rail  
19 traffic presents unique operational challenges and  
20 safety concerns.

21 Virginia developed robust framework  
22 agreements with CSX and Norfolk Southern that

1 facilitated the development of commuter and intercity  
2 passenger rail. We found that the rail traffic  
3 controller is the best tool for studying existing and  
4 proposed rail operations to determine what  
5 infrastructure investments are necessary to support  
6 desired changes.

7           It is standard practice to use RTC to  
8 study rail operations on congested, complex  
9 corridors. This is especially true when a corridor  
10 -- let me find where I am, oh, when a corridor is on  
11 a congested complex area. This is especially true  
12 when it experiences high variability and train on  
13 times and other performance metrics.

14           The Department of Rail and Public  
15 Transportation utilized the RTC for the studies of  
16 current and future freight operations when planning  
17 any new passenger service. An RTC study enabled us  
18 to protect the current and future viability of the  
19 entire rail network, both current and future freight  
20 and passenger service.

21           Virginia's goal was to ensure reliable  
22 passenger service that comes safely and

1 efficiently with freight traffic to provide  
2 sufficient infrastructure to support those services,  
3 and to fund and construct that infrastructure prior  
4 to introducing or expanding services.

5           An RTC study provided the information  
6 necessary to determine what, if any, infrastructure  
7 is needed to support a given service project. In  
8 Virginia we are very aware and respectful that the  
9 rail lines are freight lines, and railroads make  
10 their income from moving train. Both CSX and Norfolk  
11 Southern were willing to partner with us, work  
12 together, and through the studies to develop a system  
13 that met the needs of both freight operations and  
14 passenger movement.

15           The freight railroads engaged in good  
16 faith and worked hard to find collaborative  
17 solutions. During the development of Virginia's rail  
18 programs, our partnership with CSX included the  
19 national gateway freight intermodal corridor,  
20 expansions of commuter rail, and the initiation of a  
21 new intercity passenger rail. We found that the RTC  
22 control was an analytic tool that respected by both

1 CSX and the public agency to identify choke points  
2 and benefits of capacity improvements.

3           It's my experience engaging the CSX I  
4 found that CSX has always recognized that  
5 collaborative study and solutions oriented  
6 engagement with all stakeholders impacted by  
7 potential product is the only way to ensure the  
8 success of the rail project. My concern is that a  
9 decision to advance passenger rail service without  
10 the RTC will set a precedent for all future passenger  
11 rail projects, and not achieve the results that the  
12 current studies partnerships and collaboration  
13 generate.

14           I thank you for your time, and I'm happy  
15 to answer any questions.

16           CHAIRMAN OBERMAN: Thank you very much  
17 Miss Drake. I appreciate your particular insight and  
18 experience in this area. Are there any questions for  
19 Miss Drake? Okay.

20           BOARD MEMBER PRIMUS: I've got a quick  
21 one.

22           CHAIRMAN OBERMAN: I'm sorry Robert go

1 ahead.

2 BOARD MEMBER PRIMUS: If you don't mind.  
3 Thank you Miss Drake, and I do remember you from your  
4 time on the committee. My former boss, Mike  
5 Capuano served at the same time. Just a quick  
6 question in terms of your views of the importance of  
7 passenger rail, and also the need to grow that,  
8 what's in the State of Virginia. Can you just  
9 comment on the importance and the success of that?

10 MS. DRAKE: Oh it's been an incredible  
11 success in the Commonwealth of Virginia. As you  
12 heard from Mr. Moorman, starting with Lynchburg,  
13 moving for Norfolk, and one of the things that I did  
14 while there is sign the agreement for the service to  
15 go to Roanoke, and now they are working with the new  
16 rail authority to go beyond that, and hopefully as  
17 far as Bristol.

18 It's incredibly important, and local  
19 governments want it. Their concern for us was always  
20 how to pay for it, and local governments would think  
21 that we were going to look to them, and ask them to  
22 pay for the operations which we didn't do in

1 Virginia. We created a fund, intercity passenger  
2 rail operating and capital fund in the General  
3 Assembly in 2013, when we created it in 2011 and  
4 funded it in 2013 to help pay for those operating  
5 costs, and the improvement cost.

6           What was so critical to us was Norfolk  
7 Southern and CSX. And always amazed me that here we  
8 are getting in their way of running their freight  
9 services, and we're asking them to put passenger in  
10 the middle of it, but it has worked very effectively,  
11 and for us was interesting because it was one service  
12 out of Norfolk, one service going up the 95 corridor,  
13 and what we built in between to connect those two  
14 services, and they allowed us to do that. So I do  
15 think they act in good faith.

16           BOARD MEMBER PRIMUS: Thank you.

17           BOARD MEMBER FUCHS: I just want to echo  
18 your and Robert's remarks, and I appreciate very much  
19 learning more about the model in Virginia. Thanks  
20 very much Miss Drake.

21           MS. DRAKE: You're welcome, thank you.

22           CHAIRMAN OBERMAN: Any other Board member

1 questions? All right Miss Drake thank you so much.

2 Appreciate your taking the time.

3 MS. DRAKE: Thank you.

4 CHAIRMAN OBERMAN: All righty. Our next  
5 speaker is Alex Ayers, Family Business Coalition.

6 Mr. Ayers?

7 MR. AYERS: Thank you. Hello everyone.

8 Thank you for allowing me to speak today. As  
9 mentioned my name is Alex Ayers. I'm the Executive  
10 Director of the Family Business Coalition. So my  
11 group represents a diverse collection of  
12 organizations. We're talking about protecting family  
13 businesses across America.

14 It is really our goal to serve as the  
15 voice of family businesses across the country as an  
16 aid to improving job growth. We see family  
17 businesses as the backbone of the economy, and using  
18 them to create a stronger climate for American  
19 business. So it's in our support of our core message  
20 that I'm here to voice our concerns about the  
21 proposal that you're considering relating to  
22 Amtrak's plan to expand passenger rail service along

1 the Gulf Coast.

2 It's given the fragile state of our  
3 current American supply chain, and the economic  
4 recovery from the Coronavirus, that I don't think  
5 this is the right time that we can afford to make  
6 this decision. On the surface it may not seem like a  
7 major undertaking to add just a few trains to the  
8 rail lines that already exist along the Gulf Coast  
9 from Mobile to New Orleans.

10 But to anyone who has any understanding of  
11 the critical role freight rail plays in our global  
12 supply chain, and perhaps just as importantly for  
13 those small business like our members that rely on  
14 freight rail network to supply either their outgoing  
15 or incoming shipments it's clear that what's being  
16 suggested is a major undertaking that could very  
17 easily weaken our transportation infrastructure.

18 I want to point out that I am not here as  
19 an opponent of passenger rail, just as someone who  
20 views this as something being offered at the wrong  
21 time, and definitely in the wrong place. I know key  
22 questions remain unanswered even at this late stage

1 of planning, and so after literally years of being in  
2 development, we must take a look for instance, at the  
3 issues of ridership.

4 We still don't know how to project how  
5 many riders this route will attract. In fact the  
6 last public analysis I could find on the issue was all  
7 the way back in 2015 where it was said that Amtrak  
8 anticipated that this new service would handle less  
9 than 30 riders per trip.

10 That was before Amtrak's President  
11 testified before Congress during the pandemic that  
12 the current riders had slashed ridership system wide  
13 to 70 percent of its pre-pandemic levels. So while  
14 that 70 percent reduction is in no means going to  
15 continue post pandemic, we don't know that the amount  
16 of ridership will increase to that same level that  
17 was predicted back in 2015.

18 So are we supposed to believe that you  
19 know this proposed route which at it's loftiest  
20 estimates offered years you know before anyone had  
21 even heard of the idea of COVID-19 will attract even  
22 a fraction of the ridership it initially suggested?

1 Also we have no idea what the total impact of  
2 business along the line will be.

3 Our members are very concerned about being  
4 able to get their products on time to either their  
5 destination or to themselves. So with the published  
6 study that shows adding passenger rail service  
7 between New Orleans and Mobile without additional  
8 infrastructure will cause significant harm to freight  
9 service.

10 It's something that's very concerning to  
11 us. And so while Amtrak, which receives almost all  
12 of its funding from the federal government as opposed  
13 to freight rail operations who receive none, they're  
14 asking to move forward with starting new service  
15 without themselves even paying any of the needed the  
16 infrastructure improvements that would allay any of  
17 these possible supply chain issues.

18 So for me and my organization these  
19 question have to be answered in order for this  
20 project to move forward in a manner that we believe  
21 we're comfortable with. You wouldn't allow a private  
22 contractor to proceed with a major infrastructure

1 project without this kind of due diligence, and we  
2 shouldn't allow a taxpayer funded entity, such as  
3 Amtrak to do so either.

4 In fact, given that taxpayers are going to  
5 foot the bill for much of what's proposed, it seems  
6 that we need to me, the only fair way to do this is  
7 to have total transparency into what's at stake.  
8 It's simple, fiscal responsibility, not an  
9 unreasonable request. More practically speaking as  
10 someone who works closely with lots of businesses and  
11 organizations around the country, the efficiency of  
12 freight rail is something you can count on to get the  
13 job done.

14 And when you're working hard to make ends  
15 meet, make a dollar, or create more opportunity for  
16 your employees, every delay matters. This was true  
17 before the pandemic, and with today's supply chain  
18 stretched to levels that we have never seen before,  
19 this is even more relevant now.

20 I believe that Amtrak's project will make  
21 it harder for railroads in this region to deliver  
22 freight on time, and think this erosion of

1 reliability will be felt across the region's economy,  
2 and if you do green light this proposal, the  
3 precedent made would have a reverberating effect on  
4 others parts of the country.

5 Amtrak had been very public about their  
6 lofty goals to expand passenger service elsewhere.  
7 In this case we have data that says there will be a  
8 negative impact of freight rail, and we anticipate  
9 very low ridership on this passenger proposed project.  
10 What is to stop Amtrak from taking the new loose  
11 standard of harm on a new route to cause, and push  
12 that to create new passenger rail service elsewhere  
13 regardless of the negative effects.

14 I have big hopes for 2022, expanding  
15 business, remedying the supply chain challenges, and  
16 steadfastly recovering from the pandemic, both  
17 physically and financially. So on behalf of the  
18 employees and partners that make up the Family  
19 Business Coalition, I thank you again for allowing me  
20 to share what is at state with decision, and I  
21 greatly appreciate this opportunity.

22 CHAIRMAN OBERMAN: Mr. Ayers thank you for

1 that presentation. I have a couple of questions.  
2 When you referred to the data -- you said we have  
3 data concerning what would happen with the  
4 institution of passenger rail. Are you referring to  
5 the data that has been supplied by the parties in  
6 this case, or some of other data that you have access  
7 to?

8 MR. AYERS: Some public data that we found  
9 back in 2015. I can go back and find that study and  
10 make it available to you all.

11 CHAIRMAN OBERMAN: Yeah. No that's okay  
12 because we have a record that we have to you know  
13 preserve here because this is a hearing on the  
14 record. I was just wondering whether you were  
15 referring to the RTC studies that have been submitted  
16 in this case or something else.

17 MR. AYERS: I believe it is something  
18 else. I'm not positive about the studies that have  
19 been submitted in this record.

20 CHAIRMAN OBERMAN: All right. And the  
21 other question I had was are there any of your  
22 business members, or affiliations with your

1 organization who are actually served by the freight  
2 on service on this particular line, or were you  
3 talking just more generally about the issues that  
4 your members have?

5 MR. AYERS: I was speaking more generally,  
6 but we do have distributors across the south that  
7 rely on both the rail system, bringing things from  
8 the port, along with additional intermodal  
9 facilities that move it to trucks to get the final,  
10 kind of last mile delivery.

11 CHAIRMAN OBERMAN: All right okay. Any  
12 other Board members have any questions for Mr. Ayers?  
13 All right sir, thank you very much.

14 MR. AYERS: Thank you.

15 CHAIRMAN OBERMAN: I appreciate your  
16 participation. Before I go to the next speaker I  
17 wanted to alert everyone as to whether they have any  
18 slides to show us. If they do -- I should have said  
19 this at the outset, you have to let us know so our IT  
20 experts can arrange to have those shown, so please  
21 let us know if there are slides that you wanted to  
22 show us.

1                   Let us move forward. Our next speaker is  
2 Ray Chambers.

3                   MR. CHAMBERS: Hello. I am Ray Chambers,  
4 the Association of Innovating Passenger Rail  
5 Operations, or AIPRO. We are a non-profit  
6 organization composed of independent passenger  
7 railroads, and also labor. We are dedicated to  
8 advancing passenger rail operations in North America.

9                   We agree with the position of Senator  
10 Roger Wicker, that there are major benefits to be  
11 derived from re-establishing passenger rail service  
12 along the Gulf Coast. However, we do not take a  
13 specific position on the Amtrak petition, rather like  
14 several others, our testimony today simply puts  
15 forward a policy proposal promoting competition in  
16 the selection of operators for passenger corridors  
17 which are subsidized by the states.

18                   This process will drive down project  
19 costs, and it will introduce innovating operations,  
20 and permit the introduction of service at the  
21 earliest possible time, and we believe that the Gulf  
22 Coast is a good place to start. And in defense of

1 this competition agenda I offer six points.

2           The first point is that the huge IIFA  
3 opportunity for intercity passenger rail is beyond  
4 the capability of any one company to fulfill. The  
5 Biden Administration is a bipartisan infrastructure  
6 billions have created enormous potential. Neither  
7 Amtrak, or any other single company has the  
8 capability to achieve the goal of creating a high  
9 performance intercity network. This will take on a  
10 full on effort by states, local authorities, Amtrak,  
11 private passenger rail operators represented by  
12 AIPRO, host railroads and labor.

13           Two, the federal statutes explicitly  
14 authorize competition on intercity routes. The  
15 Congress ended Amtrak's monopoly in 1997. Since that  
16 time there have been a plethora of provisions that  
17 sanction competition of the intercity corridors,  
18 many of them interestingly enough were sponsored by  
19 Senator Wicker.

20           And in my submitted testimony and end note  
21 I missed all of those authorizations for competition.  
22 Three, there is sufficient federal funding now

1 available to the states and the commissions to  
2 initiate competitive operations.

3           If you look at just the 65 billion for the  
4 intercity passenger rail, there's at least 12  
5 billion, and we think a lot more that's available in  
6 discretionary grants to the states and commissions  
7 where they have equal access to this money, and the  
8 IIJA as I just noted, specifically authorizes teaming  
9 with independent operators and host railroads to  
10 provide innovative alternative services.

11           Four, the independent operators -- we  
12 represented that AIPRO can do the job. Together we  
13 run streetcars, commuter rail, intercity trains, high  
14 speed rail. In the United States and around the  
15 world we move billions of passengers. The individual  
16 companies, singularly and together exceed Amtrak in  
17 terms of the movement of trains and passengers.

18           And we provide a wealth of innovating  
19 experience on a global basis. And we believe that  
20 our member AIPRO companies individually would have  
21 the interest and the capacity to bid on the Gulf  
22 Coast service for some innovative solutions that will

1 produce excellent and efficient service.

2           Five, the regulatory enforcement of  
3 passenger metrics and standards is a broken model in  
4 our view, and we need something new. While the  
5 present system of mandatory track access has been a  
6 field day for consultants and lawyers, it has largely  
7 failed, and the results are an ugly set of  
8 relationships that are often counterproductive.

9           We submit there is an alternative based on  
10 commercial negotiations, but it is the commuter model  
11 that has worked well for our members across the  
12 nation, that the program should be centered on direct  
13 stakeholder negotiation, while the states will have the  
14 primary role -- the states should have the primary  
15 role in these corridors that they support. We do not  
16 ask -- do not ask, that the Amtrak statutory  
17 authority and mandates, the Amtrak mandates be  
18 transferred to the states.

19           This has failed to work, and we need  
20 something new. Rather, there should be a new  
21 agreement between states and the operators and the  
22 host railroads to settle disputes by arbitration

1     overseen by the STB or FRA, and I think this  
2     conference is a good beginning on that discussion.

3             Sixth and lastly, the host railroads should  
4     become true partners in intercity passenger rail  
5     operations. I believe the exchange between Karen  
6     Hedlund and Wick Moorman as to how that took place  
7     successfully lays the groundwork. I think the  
8     win/win. It's exactly what we're talking about here.  
9     In addition to that I believe the significant  
10    billions that have just been added by the IIJA grant  
11    funding are going to smooth the way to deals that can  
12    accommodate expanded passenger rail service as well  
13    as improve freight throughput. And remember that  
14    both of those are in the public interest.

15            The competition to provide services will  
16    benefit the states, the host railroads, and create a  
17    vibrant market which we've seen in Europe, and it  
18    will also benefit Amtrak in our opinion. Amtrak will  
19    become a real operating marketplace competitor and it  
20    will solve a host of problems.

21            In closing, we suggest that the Surface  
22    Transportation Board with its responsibility for

1 economic regulation can contribute to the creation of  
2 a world-class urban and intercity rail network. We  
3 submit that the Gulf Coast has exciting potential,  
4 it's a good place to start. We humbly suggest that  
5 the competition framework we're proposing is the  
6 future of passenger rail.

7 I believe this hearing has been an  
8 important beginning into an important national  
9 discussion. Thank you.

10 CHAIRMAN OBERMAN: Thank you Mr. Chambers.  
11 You know mentioning the word competition always warms  
12 my heart in this arena. We obviously have to stay  
13 within our current statutory authority in dealing  
14 with the pending matter, but your ideas are thought  
15 provoking, and I appreciate your taking the time to  
16 share them with us. Karen Hedlund has a question for  
17 you.

18 BOARD MEMBER HEDLUND: Thank you very  
19 much, and Ray thank you so much for participating in  
20 this hearing. do you have a view as to in a  
21 competitive situation should the sponsor engage in  
22 the competition and select an operator, and then have

1 the operator along with them negotiate with the host  
2 railroad, or should the sponsors negotiate with the  
3 host railroad, and then when that's completed do a  
4 competition for an operator?

5 MR. CHAMBERS: Well that's the key  
6 question. And we are actually starting the formal  
7 process which is not -- does not have my Board  
8 approval, but I hope that it will. And it's going to  
9 be a formal process where we are going to attempt to  
10 list the potential candidates.

11 We'll be looking at the Amtrak Connects Us  
12 map, and we'll have conference calls a day with  
13 several agencies around the country who want to  
14 sponsor passenger rail service, and we're going to  
15 list them in a preliminary group as to those that we  
16 think are applicable for competition.

17 The question that you're asking is how we  
18 go about then trying to get answers. How do we try  
19 to see where these can work quickly, and my own view,  
20 which was open to discussion and again this is my own  
21 view, but it is a process that we're creating. I  
22 expect that we will have a series of what we call

1 market soundings, and in the market soundings we'll  
2 feel out the host railroads, the sponsoring agencies,  
3 labor, as to what is the correct process to come  
4 forward with some sort of a competitive proposal that  
5 really works, that's the state of the art.

6           So the answer is yes I think that we'll  
7 have a process in my view again. A lot of this would  
8 start with informal conversations between we'll look  
9 at what you might call sponsors of the commissions or  
10 whatever, but I think we might have some intense  
11 conversations between our members setting up  
12 compensative situation, start maybe initially with  
13 the host railroads to see kind of what might work,  
14 what kind of improvements there might be together,  
15 and if there's something that generally seems to work  
16 then you take it to the Commission or the state.

17           And then you put together the proposal and  
18 we go to the FRA and seek whatever the federal pending  
19 component is in all of this. So yes your question is  
20 absolutely key, we're working on it, but we do have  
21 an idea, and I will be glad since it's policy I  
22 guess I can send you guys stuff, and I'll be glad to

1 keep you informed as we develop this what we call the  
2 list.

3 BOARD MEMBER HEDLUND: Thank you very  
4 much.

5 CHAIRMAN OBERMAN: That will be very  
6 helpful. Patrick do you have a question?

7 BOARD MEMBER FUCHS: Yes sir. Thanks sir,  
8 Ray, very much for your insightful comments as  
9 always. You know you mentioned, and in response to  
10 Karen's question you elaborated on discussions with  
11 host railroads. I was wondering if you could  
12 provide a little bit more information on the status  
13 of your discussions, you know, sort of nation-wide,  
14 or in target routes with host railroads, but also  
15 with labor and the folks that may operate the routes.

16 MR. CHAMBERS: Okay let me hit labor  
17 first. Labor is key. I've worked in this business  
18 for years and years and years. I've been against  
19 labor, and I've been with labor. And when I'm with  
20 labor I do much better in the United States Congress.  
21 And really the labor unions are critical to the kinds  
22 of good jobs we produce.

1           There will be nothing that comes out of  
2           our organization that does not have some support from  
3           rail labor. We have on our Board of Directors the  
4           maintenance way and the BRS which are the most  
5           involved non-op's in the kind of construction that's  
6           going to take place.

7           And they're a key factor, key factor. So  
8           then the next question is -- and I have to be a  
9           little bit, let me think about this for a second. In  
10          terms of we have been reaching out around the country  
11          very informally. We have something we call market  
12          soundings, and we've had a number of them over the  
13          years, which are fairly formal procedures. They're  
14          under non-disclosure agreements so that we can have  
15          really candid conversations about how this might  
16          work.

17          All I can say about it is that we've had  
18          three or four state directors, or joint power  
19          authority directors in the market soundings. We've  
20          had several -- two, host railroads that talk about  
21          can all this be done and how can it be done? So  
22          we're trying to put together a process, or maybe a

1 whole series more of them, but I will be glad to  
2 provide you, you know, again I've got to get some  
3 Board approval.

4           There have been informal conversations  
5 that have taken place between my companies, like  
6 Herzog and Transdev and others with the host  
7 railroads on how this might work. But yes, it's all  
8 going to be part of a process moving forward, and  
9 we'll be glad to discuss it with you in any detail  
10 you might like.

11           BOARD MEMBER FUCHS: Thank you so much.

12           MR. CHAMBERS: Thank you. I left you  
13 speechless.

14           CHAIRMAN OBERMAN: Well that's never  
15 happened in the last 76 years so.

16           MR. CHAMBERS: It hasn't happen with me  
17 either, but.

18           CHAIRMAN OBERMAN: It's a first. Thank  
19 you Mr. Chambers really. Very, very insightful and  
20 worthy comments we appreciate it.

21           MR. CHAMBERS: Thank you.

22           CHAIRMAN OBERMAN: And the next speaker is

1 Theodore Stalnos of the Calumet Area Industrial  
2 Commission. Mr. Stalnos.

3 MR. STALNOS: Good morning.

4 CHAIRMAN OBERMAN: The Calumet Area, my  
5 Calumet Area in Chicago that you represent?

6 MR. STALNOS: Yes.

7 CHAIRMAN OBERMAN: All right.

8 MR. STALNOS: Chairman fellow Chicagoan,  
9 I'm speaking to you from the Pullman community.

10 CHAIRMAN OBERMAN: There you go.

11 MR. STALNOS: Our south side so. Thank  
12 you.

13 CHAIRMAN OBERMAN: All right proceed.

14 MR. STALNOS: Thank you Mr. Chairman and  
15 members of the Board. My name is Ted Stalnos. I am  
16 the President of the Calumet Area Industrial  
17 Commission. Our mission is to support healthy  
18 industrial growth employee training and job creation in  
19 this region to benefit the rest of the country.

20 I have worked as a union leader in the  
21 steel industry, and have led organizations to help  
22 people, communities and businesses. The Calumet

1 region extends from northwest Indiana through the  
2 south and the southwest suburbs and the City of  
3 Chicago. We are reliant here on a resilient supply  
4 chain for our automotive plants, other manufacturing  
5 industries, and port interests.

6           What happens at key interchanges in  
7 Chicago, Memphis, St. Louis, New Orleans, matters to  
8 us here in the Calumet Region. We believe that with  
9 the right investments, passenger and freight rail  
10 can be successful in their operation. We are not  
11 against passenger rail.

12           In fact the Calumet Area Industrial  
13 Commission has been a consistent supporter of the  
14 CREATE program here in Chicago, which I'm sure Mr.  
15 Oberman is very familiar with, a planning,  
16 engineering and construction projects that allow  
17 Chicago's 700 daily passenger trains and 500 daily  
18 freight trains to be number one in North America  
19 where freight rail volumes while still expanding  
20 passenger rail here.

21           It's been very successful working in  
22 harmony with each other. Amtrak has been a big

1 beneficiary on this program. In fact as I'm speaking  
2 to you here in the heart of Pullman neighborhood  
3 which we were among many to support the development  
4 of a new national park. George Pullman built his  
5 rail car empire where passenger rail is really the  
6 heart of it started it. Few places on a national map  
7 are more representative of passenger rail in this  
8 country than where I'm speaking from now.

9           But Amtrak's requests for immediate access  
10 to freight rail in the Gulf zone or anywhere for that  
11 matter puts the supply chain at great risk, not just  
12 the freight rail industry, but end users, intermodal  
13 terminals, ports and of course manufacturers. It is 180  
14 degree opposite method of the freight planning  
15 process which is forged with the partnership of  
16 government, freight, and passenger rail.

17           The Calumet region is served by six of the  
18 seven Class 1 railroads including direct routes of to  
19 the Gulf region. There are ports in northwest  
20 Indiana and the Port of Illinois which is I can see  
21 right outside my window where I'm sitting, and they  
22 link to the Gulf Coast, New Orleans, Montgomery and

1 Gulfport. Whether you're in our Ford assembly plant,  
2 or our concrete plants, all of have faced hiring and  
3 labor challenges that have caused disruptions in  
4 their operations.

5 Of all the times that I can recall in my  
6 long career, now would be one of the most risky times  
7 to access the supply chain without a final agreement  
8 or study at such an important interchange. Again, we  
9 appreciate the mission of the Surface Transportation  
10 Board. It promotes necessary redundancies for a  
11 fluid national transportation network, which is so  
12 important to us here on the South side of Chicago.

13 What is done in Gulfport surely affects us  
14 here. I truly hear about it from my members, my  
15 Board of Directors, and I thank you for your time  
16 today to address this hearing, and I would be happy  
17 to answer any questions. Thank you.

18 CHAIRMAN OBERMAN: Thank you Mr. Stalnos  
19 much appreciated. Are you involved at all with Joe  
20 Zavo and the Pullman Organization?

21 MR. STALNOS: Yes I sat on the historic  
22 Pullman Foundation Board for about seven years, and I

1 asked Joe to -- he asked me what would I like to do  
2 next? I said find me your replacements, so I  
3 transitioned off. I served for seven years in fact,  
4 my next -- my March luncheon will be at the historic  
5 Pullman exhibit hall.

6 I grew up in the West Pullman  
7 neighborhood, so I'm very, very, very familiar with  
8 it. And I didn't move far. I live in the 10th floor  
9 now in Hegewisch, so and so and by the way I am a  
10 serious promoter of Amtrak. I have taken it many  
11 times myself. I take the CGA. It's on my Facebook  
12 page, and I promote both.

13 CHAIRMAN OBERMAN: Good. Tell me about  
14 Metra.

15 MR. STALNOS: I just I make sure to post  
16 it on there, and then I leave the car at home once in  
17 a while, so it's important. I'm a great supporter of  
18 that.

19 CHAIRMAN OBERMAN: All right.

20 MR. STALNOS: I'll jump on the South Shore  
21 also, but I don't want to see my work plan shut down  
22 because it's missing supplies, and the same with the

1 concrete plants and other key employers that  
2 we have here, or the port missing things, so. What  
3 happens down in New Orleans is key to what happens  
4 here in Chicago, Northwest Indiana and the South  
5 suburbs.

6 CHAIRMAN OBERMAN: Thank you. Thank you  
7 so much. Any questions for Mr. Stalnos?

8 CHAIRMAN OBERMAN: All right. Thank you  
9 very much sir.

10 BOARD MEMBER HEDLUND: I have one Mr.  
11 Chairman.

12 CHAIRMAN OBERMAN: Oh sorry Karen.

13 BOARD MEMBER HEDLUND: Sure. Thank you  
14 Mr. Stalnos. I also grew up on the south side of  
15 Chicago, and I am very, very familiar with the  
16 Calumet region. And one thing that Chicago has  
17 always done well is planning as the great Daniel  
18 Burnham once said, "Make no little plans, for they  
19 have no magic to stir the hearts of men," or words  
20 to that affect.

21 And in terms of rail of course the CREATE  
22 efforts have been, and I know that when I

1 was at FRA we did a lot of work which continues today  
2 on the south of the lake area seeking to enhance  
3 passenger rail and speed up passenger rail through  
4 that area. My question for you is I mean are you  
5 familiar with the years of planning that have gone  
6 into studying the Gulf Coast situation?

7 MR. STALNOS: I'm somewhat familiar that  
8 studies have been done, but when I hear about freight  
9 rail at this time being interrupted, when I know the  
10 supply chain problems that we're having around the  
11 country, that makes me very, very, leery because  
12 we're having not only at the Ford plant, which is you  
13 know blocks from my home, but we're having  
14 thousands of people laid off.

15 And it's not just for you know the chip  
16 problem that we have, but there's so many different  
17 issues that can affect an automobile's IG, but  
18 everything from water meters and other things that  
19 unbelievable what's being held up in the supply chain  
20 right now that's coming through the Gulf Coast, and  
21 I'm hearing from our members.

22 I get very, very uptight about what can

1 affect here in Chicago, and what I hear from the Port  
2 system, so what I'm hearing about freight rail being  
3 disrupted at all at this critical time it's just a  
4 strong, strong concern, whether it's the St. Louis or  
5 anywhere. It's just a large concern and my members.

6

7 We want to keep people in Pullman and  
8 Hegewisch working, and in Highland, Indiana and other  
9 places in Kankakee.

10 CHAIRMAN OBERMAN: All right. Any further  
11 questions? All right thank you again Mr. Stalnos,  
12 much appreciated.

13 MR. STALNOS: Okay. Salute to the north  
14 side.

15 CHAIRMAN OBERMAN: We're still here, thank  
16 you. Our next speaker is Timothy Lee.

17 MR. LEE: Can you hear me well?

18 CHAIRMAN OBERMAN: Yes sir.

19 MR. LEE: Great thanks. Well I've got  
20 in-laws from the south side of Chicago, and I'm a  
21 fourth generation railroading family member, so this  
22 is certainly something that touches my heart as well.

1 My name is Timothy Lee. I'm Senior Vice President of  
2 Legal and Public Affairs at the Center for Individual  
3 Freedom which has about 300,000 members, and  
4 supporters and activists across the country,  
5 including Louisiana and Alabama.

6 We were founded in 1998 to safeguard the  
7 principles of free markets and rule of law, and that  
8 includes good governance and sound fiscal policy,  
9 which is one reason why I'm speaking today, and I  
10 appreciate this opportunity. We've also at CFIF  
11 discussed funding operations at Amtrak throughout our  
12 history.

13 So our belief that America's fragile  
14 supply chain warrants additional attention in today's  
15 landscape makes us eager to offer this perspective.  
16 CFIF's position is simple. We shouldn't rush into  
17 this, and I think a lot of the testimony you've  
18 heard from people with skin in the game, whose bottom  
19 lines are affected by this, sort of confirms what I'm  
20 about to say.

21 There are four overarching reasons that we  
22 want to speak on this issue. Number one, the lack of

1 due process and empirical study that would confirm  
2 the fairness and efficiency of this proposal. Number  
3 two, the cost to taxpayers. Number three, as we  
4 heard just a moment ago, and throughout the last  
5 couple of days, supply chain disruptions due to the  
6 effect on freight rail.

7 And finally the negative precedent that  
8 this would set going forward. So first of all  
9 speaking with regard to empirical studies. As other  
10 people have mentioned, and is readily available for  
11 anybody in the public wanting to look into this, the  
12 studies don't confirm that this is a wise maneuver to  
13 follow Amtrak's proposal. The last public study was  
14 2015. This is from Amtrak itself, and this is all  
15 part of the record easily searchable to anybody.  
16 That accounted 38,400 passengers, which would be 26  
17 riders per trip.

18 And as other have also said in recent days  
19 Amtrak President Stephen Gardner told Congress that  
20 ridership won't even reach those levels for years  
21 to come. They estimated about 70 percent right now.  
22 That would be 18 riders per trip. And so we don't

1 think that justifies you know a cost benefit scenario  
2 proposal.

3           Number two, the cost it's important to  
4 note that Amtrak as an individual entity won't pay this  
5 bill, rather it will be paid by the public and  
6 private parties in addition to taxpayer billions  
7 that have already been required by Amtrak. CFIF has  
8 again written extensively on this in the past.

9           Third, the supply chain disruptions, and  
10 there's little that I can add in addition to people  
11 that have skin in the game, and whose businesses are  
12 on the line, but we would add that this proposal  
13 challenges freight railroads, which are already  
14 operating in the area, which adds another dynamic to  
15 the supply chain issues that we're all facing  
16 throughout the country, but specifically in those  
17 areas as well.

18           This would eat into the margins for business  
19 as they've said themselves. I would note that a lot  
20 of the people who are criticizing some of the private  
21 entities speaking on this issue, aren't the ones with  
22 skin in the game. They like to tell CSX, or other

1 private entities how they could best run their  
2 business.

3 But it's easy to say, but it's harder to  
4 do when they're the ones with actual skin in the  
5 game. Finally, just the lack of ridership, the cost  
6 and the impact on the supply chain means that this is  
7 a bad precedent if Amtrak's proposal -- and they  
8 receive this as a favorable vote from the Board as a  
9 blessing to extend this new precedent into other  
10 markets around the U.S.

11 We think that's a terrible precedent going  
12 forward, especially as we've said before with all the  
13 supply chain disruptions, so I know I've gone a  
14 little bit over my time, here, but we urge the STB to  
15 carefully, and more soberly review these concerns,  
16 and avoid the prospect of self-inflicted harm amid a  
17 precarious moment in America's economic recovery.  
18 Thank you very much.

19 CHAIRMAN OBERMAN: Thank you much Mr. Lee.  
20 And no problems, your exceeding your time limit was  
21 not a problem.

22 MR. LEE: Santa Fe Railroad privilege

1 going back to my great-grandfather.

2 CHAIRMAN OBERMAN: Yeah well, I come from  
3 Metra where six minutes either way is allowable, and  
4 you were only one and a half, so you're fine.

5 MR. LEE: Perfect. Thank you very much.

6 CHAIRMAN OBERMAN: All right thank you  
7 sir. Any questions for Mr. Lee? All right. Our  
8 next speaker is Daniel Savickas.

9 MR. SAVICKAS: Yes I'm here, can you hear  
10 me?

11 CHAIRMAN OBERMAN: Yes sir.

12 MR. SAVICKAS: Fantastic. So my name is  
13 Dan Savickas. I serve as Government Affairs Manager  
14 for the Taxpayers Protection Alliance, and a frequent  
15 rider of Amtrak myself. I use it occasionally to  
16 commute from D.C. to visit my family in Northern New  
17 Jersey.

18 For TPA's part we're a national  
19 non-profit, non-partisan, taxpayer, consumer advocacy  
20 org. dedicated to educating the public through  
21 research, analysis, and dissemination of information  
22 on the government's affects on the economy. Amtrak

1 already receives billions of dollars in funding from  
2 the federal government, and thus the American  
3 taxpayer.

4 That's because a vast majority of Amtrak's  
5 lines are unprofitable, and in fact recent analyses  
6 show only lines in the northeast corridor connecting  
7 Washington, D.C. and Boston, run at an actual profit.  
8 The rest typically requires subsidies ranging  
9 anywhere from \$81.00 to a whopping \$417.00 per  
10 passenger, and American taxpayers bear that burden.

11 The proposed line from Mobile to New  
12 Orleans will almost certainly yield similar results.  
13 A 2015 Amtrak analysis on such a route has shown the  
14 proposed line would lose roughly 4 million dollars  
15 annually, while drawing only a paltry 26 passengers  
16 per trip. It's important to note that the financial  
17 losses for the service is likely much higher today  
18 given rampant inflation, and the detrimental effect  
19 that the Coronavirus pandemic has had on ridership  
20 habits.

21 It's safe to assume there will be fewer  
22 riders and thus more required subsidies coming from

1 the American taxpayer. In the years since the public  
2 report, Amtrak has also failed to provide any  
3 evidence that there is sufficient demand for such a  
4 passenger route.

5 Driving along I-10 between the two cities  
6 does not take more than a few hours. Additionally,  
7 there exists bus routes from companies like Mega Bus  
8 and Greyhound that can complete that trip for far  
9 less cost to consumers and taxpayers than Amtrak  
10 would. And while there are no direct flights  
11 currently between the two cities for an even shorter  
12 trip, both cities have the airport infrastructure in  
13 place to change that reality if in fact there is  
14 demand for it.

15 In fact, the existing Amtrak routes in the  
16 Gulf Coast have already demonstrated lack of demand.  
17 Mississippi currently has a number of routes  
18 connecting New Orleans, New York and Chicago. From  
19 2011 to 2019 ridership in Mississippi along these  
20 routes increased by less than 5 percent, lagging far  
21 behind the state's overall growth and income.

22 Costs, and the potential for train delays

1 show that consumers in the area do not find Amtrak to  
2 be a suitable option for them. The precedent set by  
3 allowing this expansion to go forward is potentially  
4 devastating for freight rail in the U.S. According to  
5 a more recently completed impact study this route  
6 would cause severe disruptions to the supply chain  
7 along the Gulf Coast adding to the disruptions that  
8 have already taken place due to the global pandemic  
9 and the economic restrictions that are tied to it.

10 Without significant changes, Amtrak routes  
11 would disrupt freight rail lines, and cause delays  
12 and congestion, only exacerbating the issues that  
13 we're already seeing play out globally. If Amtrak is  
14 allowed to move forward without making necessary  
15 improvements it will set the precedent that they may  
16 start new services and routes across the nation  
17 without first ensuring the supply chain is not  
18 disrupted, or demonstrating that there is any pent up  
19 demand for the service in the first place.

20 As an organization that's dedicated to  
21 protecting the interests of taxpayers and consumers  
22 across the nation, TPA is understandably concerned

1 about this project because American taxpayers will  
2 bear the cost of the new service, subsidize the lack  
3 of ridership, and feel the pains of the supply chain  
4 disruptions that will result.

5 We urge the Board not to allow it to go  
6 forward until the necessary improvements are made,  
7 and sufficient demand for such a route is  
8 demonstrated. I appreciate your time and for your  
9 patience in allowing me to go a few seconds over.

10 CHAIRMAN OBERMAN: All right. Thank you  
11 very much Mr. Savickas. I just have one question.  
12 Is it your organization's position that public  
13 transit should never be subsidized? It should only  
14 be instigated at a pace for itself?

15 MR. SAVICKAS: We currently believe that  
16 subsidies should be at a bare minimum, and Lord  
17 willing one day there will be no need for public  
18 subsidies of transit.

19 CHAIRMAN OBERMAN: Well, and when you say  
20 transit, do you include city buses and subways,  
21 things of that nature as well?

22 MR. SAVICKAS: Again in a perfect world

1 TPA would love to see all subsidies of public transit  
2 go away, and have it be left to the private market.

3 CHAIRMAN OBERMAN: Is it your  
4 organization's view that such a perfect world is  
5 attainable in the foreseeable future?

6 MR. SAVICKAS: We've existed for a little  
7 over a decade right now, and we're working towards  
8 that goal and baby steps.

9 CHAIRMAN OBERMAN: All right. I admire  
10 your idealism. Are there any questions for Mr.  
11 Savickas? Karen?

12 BOARD MEMBER HEDLUND: I have one. Mr.  
13 Savickas do you understand that STB plays no role in  
14 deciding whether this line should be funded?

15 MR. SAVICKAS: I can't say that I  
16 understand the exact logistics of how this would play  
17 out. I'm expressing opposition in whatever way I can  
18 at this point. I appreciate the clarification.

19 BOARD MEMBER HEDLUND: Thank you.

20 CHAIRMAN OBERMAN: All right. Any further  
21 questions for Mr. Savickas? Okay. Thank you very  
22 much sir.

1 MR. SAVICKAS: Thank you.

2 CHAIRMAN OBERMAN: The next speaker is  
3 Gerard Scimeca. I hope I pronounced that correctly.

4 MR. SCIMECA: Gerard Scimeca yes.

5 CHAIRMAN OBERMAN: Scimeca, there you go.

6 MR. SCIMECA: How are you doing. Thank  
7 you --

8 CHAIRMAN OBERMAN: Had the accent ground  
9 in the wrong place, go ahead Mr. Scimeca.

10 MR. SCIMECA: I don't think there's a  
11 consensus on how it's pronounced, but thank you Mr.  
12 Chairman. I appreciate the Board having me to  
13 express our comments. I am the Co-Founder and  
14 Chairman of Case Consumer Action for a Strong  
15 Economy. It's a non-partisan, non-profit, free  
16 market oriented consumer advocacy organization.

17 And I'd just like to start our comments by  
18 saying as the STB considers America's Amtrak's  
19 proposed expansion of passenger rail service on the  
20 Gulf Coast, the project's potential impacts on the  
21 region's existing freight rail network must be front  
22 and center. We are all aware that the global supply

1 chain is in the midst of considerable instability.

2           Businesses large and small, families and  
3 communities nation-wide witness this reality on a  
4 daily basis through empty store shelves, longer waits  
5 for goods and supplies, and of course rising  
6 inflation. With these pressures mounting, we believe  
7 the Board's focus should be on sound policy and  
8 support for investments that strengthen existing rail  
9 infrastructure in a manner that facilitates a more  
10 dependable and efficient supply chain.

11           Amtrak's proposal would introduce  
12 significant additional pressures on the supply chain,  
13 and as we've heard from several other speakers, it  
14 was nearly 7 years ago when the last public report  
15 was released outlining passenger traffic estimates  
16 for this proposal. That analysis prior to the  
17 disruption of the pandemic found the new service  
18 would mean a maximum of additional 26 riders per  
19 trip.

20           And we further considered the December  
21 Congressional testimony of Amtrak's President Gardner  
22 who stated that ridership remained at only 7 percent

1 of the pre-pandemic levels, and would take years to  
2 return. We questioned then, given the low volume on  
3 some of the Amtrak's more popular lines, if a  
4 legitimate need exists to push forward with this  
5 service right now, the question at the center of  
6 this.

7           What we do know is that adding any new  
8 passenger changes with the running of a few dozen  
9 people a day or fewer, would burden host railroads  
10 operated by companies such as CSX and Norfolk  
11 Southern, dropping more traffic and congestion onto  
12 an already stressed network. The result would be a  
13 substantial reduction in key performance metrics like  
14 on time delivery and speed.

15           The disruption would create unwelcome and  
16 costly burdens on our railroads, but the pain would  
17 also be felt by countless businesses and consumers  
18 that depend on reliable freight rail. The issues of  
19 Amtrak's proposal are exacerbated by a lack of  
20 collaboration and joint planning, with host railroads  
21 and communities along the route.

22           On shared rail lines, deep integration of

1 partnerships are essential. Amtrak's failure to  
2 thoughtfully engage with other stakeholders sets a  
3 concerning precedent. At a minimum, the Board  
4 should insist that Amtrak return to the negotiating  
5 table for more meaningful engagement with the many  
6 stakeholders impacted by their plan.

7           Beyond being ill timed to nil defined,  
8 Amtrak's proposal is also financially concerning.  
9 Amtrak regularly operates at a loss and relies  
10 entirely on public funding by taxpayers to maintain  
11 its existing service. It took in billions of  
12 additional funding from the infrastructure bill  
13 passed through Congress last year as well. This  
14 total dependence on taxpayer money is not new, but  
15 the Gulf Coast proposal underscores a need for better  
16 stewardship of this funding.

17           It is not clear, and in fact it's quite  
18 unlikely that support may even exist for the Gulf  
19 Coast project. Given the pandemic's ongoing impact  
20 on public transportation, it is careless to embark on  
21 a massive capital investment with such disruptive  
22 implications without a far more thorough review of

1 the impact on commercial and the consumer landscape.

2 Finally, although the proposal in front of  
3 you is focused on the Gulf Coast, we are concerned  
4 that if the Board allowed Amtrak to proceed without  
5 addressing the glaring infrastructure needs, the  
6 consequential negative impacts it would bring to the  
7 freight system in the Gulf, the Board will have  
8 established a new, relaxed precedent that Amtrak could  
9 apply elsewhere.

10 Allowing passenger service with anemic  
11 interest and demand to take priority over critical  
12 freight networks is a dangerous and troubling new  
13 standard we would hope the Board would avoid  
14 establishing. We believe that Amtrak should focus on  
15 improving its existing operations, rather than  
16 spending even more to expand service of dubious need,  
17 but subsequently requires private companies to  
18 negatively impact their own operations.

19 As an organization focused on, and  
20 committed to sound responsible economic policies, we  
21 cannot support Amtrak's plans, and we strongly urge  
22 the members of the Surface Transportation Board to

1 recognize a proposal's impact on our economy,  
2 consumers and regional supply chain, and to reject  
3 the proposal in its current form, and thank you so  
4 much for your time.

5 CHAIRMAN OBERMAN: Thank you Mr. Scimeca.  
6 Are there any questions from the Board? All right.  
7 Thank you much for your thoughts and your  
8 contributions.

9 MR. SCIMECA: Thank you.

10 CHAIRMAN OBERMAN: Our next speaker is  
11 Virgil Payne. Mr. Payne.

12 MR. PAYNE: Thank you Chairman Oberman,  
13 can you hear me all right?

14 CHAIRMAN OBERMAN: I can hear you yes sir.

15 MR. PAYNE: Great. My name is Virgil  
16 Payne. I want to outline amicable, determinable  
17 metric is my personal opinion. I'm a professional  
18 engineer, I know how high volume manufacturing  
19 relies on highway and rail logistics. Previously I  
20 supported AMDOT coordinating highway projects as an  
21 example, from design to construction to FHWA and  
22 prior to that I worked to railroad operations.

1           So I want to give a perspective from both  
2 sides of the fence centered on true financial  
3 resource efficiency. I believe the Board should  
4 clarify the minimum baseline infrastructure first  
5 needed for freight transportation, and that would  
6 allow engineers to work to provide an amicable  
7 solution to find efficient infrastructure.

8           It appears the most recent data  
9 Commissions have diverged further from a publicly  
10 discernable test, building more questions, and  
11 ultimately citizens are being hindered for providing  
12 informed opinions to elected representatives, without  
13 a macro level -- not a fine level, but a macro level  
14 used for its railroad main line performance.

15           Especially allowing a veto to be inserted  
16 into the process outlined by public law economic  
17 bids, namely. As a metric similar to a highway  
18 minimum level service the main line capacity model  
19 would never converge on an objective division, and  
20 this is important as you must have numerical  
21 functioning in the models from the baseline.

22           Such a baseline metric might be an MOS of

1 40 to 60 daily average freight train minutes of waste  
2 for 100 train miles which has been discussed in many  
3 papers. This would be only for revenue adequate  
4 revenues with 15 million GT or more. And this would  
5 be a way to functionally trade off between main line  
6 capacity and terminal operations, and really to be  
7 able to evaluate that.

8           Absent such a metric that you might fit,  
9 what's the throttle future operations that the public  
10 would simply pay for infrastructure, it might have  
11 less disciplined operations, such as to recruit  
12 trains to the main line. And while these analytical  
13 capacity models are helpful with new computers, I  
14 grew up with earlier capacity curves that were a  
15 metric of nature, and they actually demonstrate less  
16 freight train delays as we simply ran trains less  
17 with the lower shortages, sorter lanes than currently  
18 exist, so I'll share my screen quickly.

19           This is an old 1975 FRA document. It's  
20 important to note macro level data was given to  
21 produce this, and you can see by curb slope changes  
22 that you're entering an unstable range when you get

1 above a certain point that you allow in your model as  
2 your starting point.

3 This is an important distinction to even  
4 make, and this is public data from 1975 in a  
5 different era when we had a lot more collaboration so  
6 to speak. I did also want to speak about another  
7 one. We do need to have at least two-fifths in time.  
8 You need to have it perhaps 2019 and 2014 to really  
9 to figure out how a change in system is working  
10 within the current if it's actually true or not  
11 essentially.

12 So we need to also talk about unstable  
13 regions because other parts of my written testimony  
14 talks about figure 2. We do have trains being  
15 operated very lengthy sitings, yes you enter into a  
16 very unstable region. And again, I grew up on  
17 toppers, different things like that. There are  
18 metrics, but the barometric curves helped to  
19 understand what we're talking about.

20 You see right here this red highlighted  
21 region is an unstable area. It's not a public good  
22 to be operating in this region. So this is a way to

1 essentially set the discernable test for the Board to  
2 consider. And as well there's another way, and I'll  
3 talk about this in figure 3 in my written testimony.

4           There's a way to do a capacity building  
5 curve which is C square times a unit of movement,  
6 whether or not, and then you can actually go in and  
7 then set the same MOLS metric from that. It would  
8 provide sensible public rationale for what you might  
9 do. All has to be said, these are all really good  
10 ideas about how the Board can actually allow  
11 engineers to work in an agreeable manner.

12           Now the other way to do this is simply  
13 just a net present value for what the operational  
14 changes needed to operate shorter trains might be for  
15 that capital. It's a conversion right? So all of  
16 the points made for public scrutiny I will have to  
17 say there is a need also for public investment to the  
18 general railroad system simply because interstate  
19 highways can be very high publicly funded financial  
20 gaps from incremental fuel taxes and revenues, and  
21 financial costs and instruction making acts, higher  
22 than HGA studies have presented.

1           I have an actual reference in my paper  
2 original research I did. I actually did a six decade  
3 analysis, first ever that I can find. And so this is  
4 one of the things the Board might understand. I  
5 would urge the Board of this particular case to  
6 approve Amtrak's original request on their terms with  
7 the knowledge that the public is actually investing  
8 95-some million, that's pretty close with what FRA  
9 actually recommended as well, and they of course did  
10 a study as well, an analysis.

11           And this would be a way to support small  
12 industry shippers, along with how many passenger  
13 train operations they increased interstate,  
14 intermodal freight operations, they're all asking a  
15 line goal. And I believe in this case it's really  
16 true that they would promote a greater resource and  
17 true financial efficiency. Thank you.

18           CHAIRMAN OBERMAN: Thank you Mr. Payne.  
19 That was a very nice presentation, and unfortunately  
20 it surpassed some of my ability to understand the  
21 math, but I get the point, and I thought it was very  
22 helpful. I appreciate it. Are there any questions

1 for Mr. Payne? All right. Thank you sir. Our next  
2 speaker is Alan Drake. Mr. Drake?

3 MR. DRAKE: Good morning. And my  
4 apologies for not having video, but such as it is.

5 CHAIRMAN OBERMAN: That's all right.

6 MR. DRAKE: I may be the only unaffiliated  
7 person on the list of the service areas speaking. I  
8 live in New Orleans, and I would like to speak to a  
9 ride safety and a health issue that the Amtrak  
10 service would benefit. And you know your decision is  
11 partially weighed on a cost versus benefits, so I  
12 would like to elaborate on two benefits.

13 One of those is that many of those who  
14 died or suffered immensely from the Hurricanes,  
15 Katrina and earlier Camille, were both on the Gulf  
16 Coast, were people that were unable to evacuate.  
17 They did not have access to a car, and often times  
18 they were mobility impaired. With proper planning  
19 New Orleans is an Amtrak depot and additional cars  
20 and concepts could be put together and pull out  
21 additional people from wherever the looming hurricane  
22 is expected to hit.

1           Only New Orleans has made provisions. And  
2 they have made those after Katrina for people that  
3 are mobility limited to evacuate in case of a  
4 hurricane. This service would have the potential to  
5 significantly improve this. And I can speak from  
6 personal knowledge that many people that lived  
7 through Hurricane Katrina, even though they lived,  
8 they were impacted for many years afterwards by the  
9 trauma of doing so.

10           So there is a significant probably  
11 measuring thousands of people of benefit to having  
12 this service that can be used for hurricanes and  
13 evacuations, and I think that that should be  
14 included in your benefits. The other one is that is  
15 accidents to premier medical services. Within a  
16 short streetcar ride from New Orleans UPT we have  
17 both University Medical Center, and across the  
18 street from it a large VA medical center.

19           University Medical is home to not one, but  
20 two medical schools, Tulane and LSU, and it provides  
21 a premier level of care that is not available  
22 anywhere else along the route. And for people that

1 do not have easy access to a car, and that includes  
2 many people whose illnesses prevent them from  
3 driving. This service could provide them access to  
4 medical care that would not otherwise be available.

5           It's my understanding that the VA Hospital  
6 provides cancer service for a multi-state area for  
7 veterans that have cancer for example. So this is a  
8 benefit to the entire population that lives along  
9 this route for those that do not have easy access  
10 through a car, even if they can drive today, a future  
11 illness may prevent them from driving when they need  
12 premiere level care.

13           You know those are you know, any  
14 questions?

15           CHAIRMAN OBERMAN: All right. Thank you  
16 Mr. Drake. Do any Board members have questions for  
17 Mr. Drake? All right. Thank you. Thank you for our  
18 attendance, I appreciate your comments. All right.  
19 We will next go to Patrick Cagle.

20           MR. CAGLE: Thank you. My name is Patrick  
21 Cagle, and I'm President of the Alabama Mining  
22 Association. I was also born in Mobile, and the Gulf

1 Coast is near and dear to my heart. I want to thank  
2 the Surface Transportation Board for the opportunity  
3 to express our concerns to you regarding Amtrak's  
4 proposed Gulf Coast passenger rail service between  
5 New Orleans and Mobile.

6 The Alabama Mining Association is a  
7 501(c)(6) non-profit trade association located in  
8 Montgomery, Alabama. Our organization represents all  
9 types of mining operations in Alabama, but my  
10 comments here today are specifically related toward  
11 members of Mining Metallurgical Society which is  
12 often referred to at Met Coal.

13 Before I tell you what Met Coal is let me  
14 first tell you what it's not. It's not the thermal  
15 coal sometimes called steam coal that's burned to  
16 make electricity. While thermal coal plays an  
17 important role in a diversified energy portfolio of  
18 power generated resources, the reality is the demand  
19 for thermal coal is currently declining, and will  
20 continue to do so in the future.

21 Now that I told you what it's not, let me  
22 tell you about metallurgical coal. Metallurgical

1 coal is less abundant, both domestically and globally  
2 than thermal coal, and it's a required input from  
3 primary steel production. Steel makers around the  
4 world seek out Alabama's high quality metallurgical  
5 coal, and it's demand is expected to increase in the  
6 coming years.

7           Members of the Alabama Mining Association  
8 produce and ship on average an average of 11 million  
9 short tons of metallurgical coal through the Port of  
10 Mobile annually. According to a 2019 economic impact  
11 study commissioned by our Association, the  
12 production and export of metallurgical coal has a 2  
13 billion dollar impact on Alabama's economy.

14           And the mining of metallurgical coal  
15 supports thousands of very high-paying jobs. And I  
16 want to take a moment and set aside my notes and tell  
17 you these aren't just numbers on paper. These are  
18 Alabama families. Men and women who woke up and went  
19 to work today, working hard to produce metallurgical  
20 coal, load a unit train, and have no idea this  
21 hearing is going on.

22           You know I feel an enormous weight to be

1 their advocate, their voice to make clear that these  
2 again are not jobs on paper, these are livelihoods  
3 that can be impacted here. The Alabama Mining  
4 Association members rely on McDuffie Coal Terminal  
5 located at the Port of Mobile to remain competitive  
6 in a global commodities industry.

7 A key competitive advantage for Alabama's  
8 metallurgical coal producers is their ability to  
9 transport their products quickly and cost-effectively  
10 using both freight rail and inland waterway. Over  
11 reliance on just one method of transporting  
12 metallurgical coal to the Port of Mobile would add  
13 delays and increase costs, making it more difficult  
14 for Alabama companies to compete against foreign  
15 competitors.

16 The Alabama Mining Association does not  
17 oppose Gulf Coast passenger rail service, and  
18 expresses no opinion on the merits of that service.  
19 However, it's important that the introduction to  
20 passenger service does not decrease the quality of  
21 freight service provided by freight rail carriers  
22 that use the CSX corridor to access the seaport.

1           It's unfair for Amtrak to insist on  
2     operating the passenger rail service without regard  
3     to the businesses that share the corridor. If  
4     Amtrak's permitted to commence passenger service  
5     without analyzing the seaport's terminal railway  
6     utilization of the CSX corridor, or without paying  
7     its own way, the cost of adding the obviously needed  
8     infrastructure will inevitably fall on the shoulders  
9     of shippers, including our members.

10           Much has been said about Amtrak's grants  
11     that would invest in the corridor. We encourage the  
12     Board to explore that statement. Amtrak advised our  
13     elected officials that these funds would be used to  
14     improve passenger stations, platforms, in service or  
15     storage tracks to support passenger rail operations,  
16     not train.

17           Based on doing nothing to secure the  
18     efficient freight mobility on a mostly single track  
19     corridor. I'd also like to address the comments by  
20     passenger rail advocates hailing from across the  
21     country. While they mean well, and they're  
22     passionate about passenger rail, it struck me that

1 many do not fundamentally understand how bulk freight  
2 over dimensional and containerized products made in  
3 this country.

4           Some also didn't understand the Port of  
5 Mobile's services. It services distant parts of the  
6 country and even North America. I think it's worth  
7 noting in this proceeding what Mobile and the U.S.  
8 Gulf of Mexico seaports do for the U.S. economy.  
9 Half of our nation's total tonnage that moves through  
10 U.S. seaports and inland ports moves through Gulf of  
11 Mexico ports.

12           This nation moved 2.5 billion tons of  
13 goods through the ports in 2019, which is the last  
14 year of publicly available federal statistics,  
15 published through the U.S. water born commerce  
16 center's website. 1.25 -- half, 1.25 billion tons of  
17 that volume moves through the U.S. Gulf port. Let me  
18 repeat this very important statistic. Half of the  
19 2.5 billion tons of U.S. commerce in 2019 moving  
20 through ports, moved through a U.S. Gulf port.

21           Of the top 20 seaports in the United  
22 States by volume, 12 of those ports are U.S. Gulf

1 ports. The Port of Mobile is the 11th largest. This  
2 port has an obligation to protect the interest of  
3 all parties that rely on the national rail network,  
4 not just those of passenger rail. Amtrak's desire  
5 for access to the Gulf Coast corridor with no strings  
6 attached is not only harmful to freight rail service,  
7 but it's indefensible given the substantial funding  
8 Amtrak received from Congress last year.

9           The Alabama Mining Association requests  
10 that this Board deny Amtrak's petition as it stands,  
11 and compel Amtrak to work with our seaport and the  
12 stakeholders to affect and fund the necessary  
13 improvements to ensure that both freight rail and  
14 passenger rail operate efficiently and cost  
15 effectively. I appreciate this opportunity to speak  
16 on this important matter on behalf of our members,  
17 thank you.

18           CHAIRMAN OBERMAN: Thank you Mr. Cagle.  
19 We appreciate your effort here, and I noticed with  
20 envy your Peloton in the background you probably use.  
21 So are there any questions for Mr. Cagle? All right.  
22 Thank you very much. That concludes Panel 11. We

1 are going to take a recess, but before we do that I  
2 want to make one last inquiry about people who were  
3 not able to be with us yesterday.

4           Barney Bishop, is he available? Michael  
5 Heinz? And Julio Fuentes? All right. Well that  
6 then concludes all of the panels up through Panel 11.  
7 As I indicated earlier, we're going to take  
8 approximately -- well not approximately, we had  
9 better be specific, a half an hour break at this  
10 point, and we will convene at noon Eastern with Panel  
11 12.

12           At the conclusion of Panel 12 I expect to  
13 take a little bit longer break that will allow us for  
14 lunch, probably one hour. We'll see how long Panel  
15 12 goes, and then we will reconvene for the pre-trial  
16 conference part of this proceeding. So with that we  
17 will recess. I will see you all in 31 minutes.

18           (Break.)

19           CHAIRMAN OBERMAN: Alright. But I do want  
20 to remind you all that we have at least two days.  
21 We're going to talk about that this afternoon of  
22 trial set for March 9 and 10th where everybody on

1 this panel will be a full participant, with an ample  
2 opportunity to talk to us, so and we have business to  
3 do this afternoon.

4 So I don't know if we really have the need  
5 to respond to everything that happened, but I'm sure  
6 there's some things you want to tell us, and I think  
7 we all very much want to hear them. So with that  
8 Jim, the floor is yours.

9 MR. FOOTE: Great. Thank you Mr. Chairman  
10 and members of the Board for the opportunity to share  
11 my views with you today. Let me begin with a simple  
12 and clear message. CSX is not against the  
13 introduction of new passenger rail service on the  
14 Gulf Coast. In fact, I am confident new service can  
15 be introduced, but it must be done in a safe and  
16 efficient manner, which will require sufficient  
17 infrastructure investment.

18 To achieve this there must be a  
19 partnership between Amtrak and the host railroads,  
20 with the support and input of key parties, including  
21 federal, state and local governments, affected  
22 stakeholders and communities. CSX hopes the Board

1 can help facilitate just such a partnership. I am  
2 urging the Board to be a voice of reason here.

3 Amtrak is seeking to force its way onto  
4 our rail lines without consideration of any of the  
5 impacts it would have on our existing and future  
6 customers and the local communities. There is a very  
7 real need for new infrastructure to accommodate  
8 Amtrak's proposed new passenger rail service that  
9 should not be ignored.

10 Instead of working together as we have  
11 successfully done in the past, Amtrak has apparently  
12 decided it would be more politically advantageous to  
13 petition this Board to require us to initiate service  
14 without first providing for needed infrastructure to  
15 accommodate new Gulf Coast service, or to reach any  
16 agreement on a proposition.

17 This case is about far more than just  
18 getting 20 to 40 people per trip from New Orleans to  
19 Mobile. It's about a new national agenda, and  
20 Amtrak's desire to change the law and create a new  
21 roadmap for imposing new passenger service without  
22 working with host carriers, or local communities to

1 first add necessary capacity.

2 It is hard to resolve a dispute when the  
3 other side has a different agenda. CSX would like  
4 nothing more than to reach an agreement with Amtrak,  
5 rather than expending time and resources on  
6 litigation. Time and resources that would be better  
7 directed to our working together to initiate new  
8 service.

9 As the Board knows, CSX hosts passenger  
10 service all over our network. No other carrier  
11 handles more long distance passenger service than  
12 CSX, but unlike anywhere else in our network  
13 involving passenger service, serious concerns have  
14 been brought to your attention from customers, short  
15 line railroads, elected representatives, state  
16 agencies, and a variety of community interest.

17 Stakeholders are rightly concerned as are  
18 we, and you heard from concerned parties that  
19 represent areas beyond the Gulf Coast, including  
20 hundreds of customers that signed a petition, or  
21 submitted letters expressing the concern that  
22 Amtrak's approach here of forcing itself on freight

1 lines, without addressing needed infrastructure to  
2 accommodate such expansion would be replicated  
3 across the country.

4 Let me be clear, Amtrak is asking the  
5 Board to require us to add four passenger trains  
6 daily, 28 additional trains weekly during peak hours  
7 onto a very busy corridor, one that navigates mostly  
8 single line track, and has eleven drawbridges between  
9 two important rail terminals, the Port of Mobile and  
10 New Orleans, without any consideration to the  
11 infrastructure that such new service necessitates.

12 If Amtrak's approach prevails here, it  
13 will be at the expense of the nation's freight rail  
14 network and the customers who rely on us. I want to  
15 briefly describe to you what is going on in the  
16 freight rail network in the Gulf Coast. Mobile is a  
17 thriving and busy rail terminal.

18 It is a marvel of growth and new  
19 opportunities, and a cornerstone of the Alabama  
20 economic resurgence. In fact, just two weeks ago the  
21 port announced it will construct a new inland terminal  
22 facility that CSX will serve. As for New Orleans, it

1 is the third largest rail gateway in America in  
2 volume.

3 As I said, CSX knows from experience that  
4 passenger service can work in harmony with freight  
5 service. There is no reason that Amtrak and the host  
6 railroads here cannot find a workable way to add new  
7 passenger service over this line. Even service  
8 between these two busy and growing terminals. To  
9 date, Amtrak has refused to commit to any additional  
10 infrastructure investments to accommodate its new  
11 service.

12 Yet Amtrak is in an enviable position in  
13 that it could help address the infrastructure needs  
14 it requires, having recently received billions of  
15 dollars in the recent Infrastructure Bill, and there  
16 are billions of additional dollars that can apply to  
17 projects like this.

18 One should be asking what level of  
19 investment, if any, is Amtrak willing to provide to  
20 support its new service? Is this new service a  
21 priority for Amtrak or not? In my view there is a  
22 right way and a wrong way to add new passenger

1 service to a busy rail line. Virginia is a great  
2 example of the right and responsible way.

3 CSX, Amtrak, the Commonwealth of Virginia,  
4 and Virginia Railway Express, all studied current  
5 freight and passenger operations as well as  
6 reasonably anticipated growth. With that background  
7 we were then able to successfully reach an agreement  
8 that will lead to 3.9 billion dollars in new  
9 infrastructure investment to help support that  
10 service.

11 This new investment will provide for  
12 additional capacity constructed in both the  
13 Commonwealth and the District of Columbia. Through  
14 this negotiation the parties were able to agree on  
15 how to bring new passenger trains online in a way  
16 that would not cause impairment to freight service.  
17 It is a perfect example of what is possible when all  
18 parties work together with a common objective.

19 Amtrak's approach to service in the Gulf  
20 Coast, however, has been very different from the  
21 approach taken in Virginia. Amtrak officials here  
22 have not sought a collective solution, and in some

1 cases completely ignored the desires of local  
2 stakeholders. Amtrak's insistence for a station in  
3 downtown Mobile is a perfect example of this.

4           You heard directly from the Mayor of  
5 Mobile, the Mobile Airport Authority, Senator Shelby  
6 in Tuberville, and the entire Alabama Congressional  
7 Delegation, as well as members of the Southern Rail  
8 Commission that the Brookley Field commercial airport  
9 just outside of downtown, is the ideal location. The  
10 only one left insisting for a downtown location is  
11 Amtrak.

12           Alabama stakeholders have also expressed  
13 concerns that they will ultimately have to pay for a  
14 new service that it doesn't want. In Louisiana,  
15 Senator John Kennedy, and the Port of New Orleans,  
16 have also expressed concerns about the proposal. A  
17 joint study by an independent consultant that Amtrak  
18 selected and hired, had been underway that was  
19 supposed to address concerns such as those I just  
20 mentioned, regarding the proposed new service.

21           But in December 2020, during the study's  
22 final phase, Amtrak suddenly abandoned it. We even

1 offered to pay for its completion. Amtrak has said  
2 it withdrew from the study because they didn't think  
3 enough information was being shared with them, but we  
4 did not withhold information. We provided all the  
5 information to Amtrak's consultant, which is a  
6 standard practice in Board proceedings, and one that  
7 Amtrak has followed many times.

8 I also want to clarify another important  
9 point. It has been stated repeatedly during this  
10 hearing that the Gulf Coast has been without  
11 passenger service since 2005. After Hurricane  
12 Katrina, CSX spent over 300 million dollars to repair  
13 the rail line in just six months. Since then, Amtrak  
14 has had the contractual right to restore the Sunset  
15 limited service, but they never have.

16 The new service that Amtrak is proposing  
17 is not a restoration of the Sunset Limited. That  
18 service was completely different from what is being  
19 proposed today. The Sunset Limited was six trains  
20 per week that ran in the middle of the night, and  
21 had a schedule of almost six hours between New  
22 Orleans and Mobile before continuing on to Orlando.

1           Six trains per week is very different than  
2 what Amtrak is proposing today, with some 28 trains  
3 per week during peak times with a schedule of three  
4 and a half hours. Nevertheless, I am trying to  
5 remain optimistic that together we could still find a  
6 responsible path forward. First, we have provided  
7 Amtrak and the Board with a completed study supported  
8 by a number of experts who use the best modeling  
9 tools available. The study is complete. Everyone  
10 knows what needs to be done.

11           Second, we have talked to everyone who has  
12 a stake in starting this new passenger service,  
13 including Amtrak, the port, and state and local  
14 community leaders. We believe we have a solution  
15 that will work for everyone. We've done everything  
16 in our power to get this resolved. The Board knows  
17 that we are all capable of working collaboratively to  
18 find a balanced solution.

19           If helpful, CSX would agree to participate  
20 in Board sponsored mediation to resolve as many  
21 issues as possible, but to get to a better, balanced  
22 and reasonable solution, one that takes into account

1 the concerns of those that appear before you during  
2 this hearing, or submitted written comments, we ask  
3 the STB to exercise its independence and put an end  
4 to the extreme position being advanced by Amtrak.

5 This is the only way we will reach a  
6 consensus that is agreeable to Amtrak, the host  
7 railroads, the port of Mobile, our customers and  
8 interchange partners, and the citizens who will  
9 ultimately bear the cost of both the state sponsored  
10 route, and any harm to freight rail service. Thank  
11 you Mr. Chairman and Board members for your interest  
12 in this matter. Our nation's freight rail network is  
13 the envy of the world. It can continue to be so  
14 while growing and enhancing passenger traffic, but it  
15 requires a rational and balanced approach.

16 You have my personal commitment to  
17 continue working towards a practical solution in the  
18 days and weeks ahead, thank you.

19 CHAIRMAN OBERMAN: Thank you Jim. And I  
20 appreciate everything you've said, and I am not going  
21 to limit any of the other speakers, and I do not want  
22 interrupt you because I wanted to present to us what

1 you wanted to say this morning, but I think we all  
2 recognize that there's a number of issues that you  
3 raised are subject to ongoing parts of the actual  
4 litigation that we're going to hear on March 9 and  
5 10.

6           And I imagine these are arguments that the  
7 lawyers are going to want to make, and we're going to  
8 have to make rulings on, and so I didn't -- what I'm  
9 trying to articulate is that we are going to hear you  
10 from your impassioned plea as to how ultimately you  
11 would like to work with Amtrak, but a lot of the  
12 specifics as you know, are disputed that you've  
13 mentioned, and are matters that have to be determined  
14 by us in the litigation phase of this matter, which  
15 will really start during the pretrial after this  
16 session.

17           So for what it's worth to the others, if  
18 you want to respond, we're not going to make any  
19 rulings, or deal with the discovery issues and those  
20 things at this point, but I appreciate you had to say  
21 about it. And Ray, I don't know if you want to add  
22 anything, I don't know if Board members have

1 questions for Jim or not, Ray did you want to ask?

2 MR. ATKINS: No, no, Chairman Oberman we  
3 have nothing further to add.

4 CHAIRMAN OBERMAN: Okay. Are there  
5 questions for Jim from Board members? Jim I have a  
6 question that is only -- is not part necessarily of  
7 the decision making process, but you're here and I  
8 have been diligently perusing the record, and there  
9 are some aspects of -- which I found in the RTC  
10 study, which I wanted to ask you to comment on, which  
11 I have found of concern in general.

12 You know, and everything in this hearing  
13 knows that the Board, and particularly me, I have  
14 been raising service issues involving CSX and NS  
15 specifically over the last few months, and we've had  
16 a lot of back and forth on that subject, and I hope  
17 progress is being made.

18 A lot of it has to do with --, but I was  
19 struck by the paragraph, and I want to emphasize I  
20 haven't made any decisions about this case, and I  
21 don't know what I'm going to ask you is relevant to  
22 come up in this case, but it is relevant to our

1 general issues about service in general on yours, and  
2 everybody else's network.

3           There's a description at page 19 of the  
4 RTC report. And I'm going to read it, so I don't  
5 incorrectly paraphrase it. It's just a paragraph.  
6 "CSX's Gentilly yard is immediately to the east of  
7 the industrial canal. CSX's traffic from the east  
8 and interchange traffic from New Orleans terminates  
9 at Gentilly yard, the main line of the north and  
10 south at Gentilly are often occupied by yard trains,  
11 blocking the main line when switching cars.

12           Activities from these yard trains,  
13 industrial canal bridge, and other main line  
14 interchange activities, can result in delays to the  
15 interchange traffic from NS, interchange trains  
16 traveling from UP, BN, and CN often experience delays  
17 in route to Gentilly yard regularly resulting in  
18 multiple hours of main line delays.

19           That has nothing to do with Amtrak trains.  
20 And I look back today at the last 11 years, long  
21 since Katrina, CSX has paid the shareholders nearly  
22 30 million dollars in stock buy backs and dividends.

1 NS has paid nearly 27 million dollars, and I'm  
2 wondering does Amtrak disappear tomorrow, why CSX  
3 hasn't spent any infrastructure to solve what your  
4 own report says are regularly resulting in multiple  
5 hours of many line delays at Gentilly yard, and there  
6 are other parts of the RTC report that refer to  
7 infrastructure limitations for freight service having  
8 nothing to do with passenger.

9 And because you're here, and because it's  
10 in that report, I wanted to ask you to address that  
11 today. As I said there's no determination that  
12 that's related to how this case should be decided  
13 involving Amtrak. That's of great concern I think to  
14 all of us about better service on your network.

15 MR. FOOTE: Yes sir Mr. Chairman, yes  
16 you've expressed yourself to me about the service  
17 levels I guess yes, over the last two years quite  
18 frequently, and I think my response has been about  
19 our service levels during that period of time  
20 unfortunately. It's called a pandemic. It's called  
21 a pandemic.

22 There are issues in every industry. There

1 are issues in every form of transportation globally.  
2 Logistics is tied up globally. Auto plants are shut  
3 down globally. Restaurants can't find people to  
4 serve coffee in Lincoln Park. This is a problem  
5 everywhere. Schools can't find, nurses can't be  
6 found, everybody is out of work, everybody doesn't  
7 want to come back to work, it's been caused by a  
8 pandemic, and I've expressed that to you repeatedly  
9 over the last two years.

10 And God forbid I wish we hadn't had to go  
11 through that. I wish we were back where we were  
12 operating in 2019. When the railroad was running at  
13 the best in its history, and despite the pandemic we  
14 have continued, our metrics have continued to lead  
15 the industry in terms of performance metrics that you  
16 put out that measure us on how we're doing.

17 It is not acceptable, it is not the way we  
18 want to run the railroad, but our employees -- 6,000  
19 of them who have gotten the disease, 35 of them who  
20 have died from the disease, have worked their butts  
21 off for the last two years to serve our customers,  
22 and will continue to do so. And hopefully we don't

1 have another variant, and we have to go through the  
2 same thing again.

3 As to the level of capital investment. We  
4 have a 50 billion dollar physical plant that we work  
5 very diligently at to maintain. We spend two billion  
6 dollars a year in capital investments -- two billion  
7 dollars. So during that same period of time I guess  
8 we'll pay dividends. We spent a lot more money in  
9 capital back into our physical plant and our  
10 infrastructure than we did in share buy backs and  
11 dividends.

12 Over half of that goes right directly into  
13 the infrastructure of the railroad, rails, ties, to  
14 improve the condition, speed, and overall safety of  
15 the network. Number one the safety of the network,  
16 and to expand capacity. And yes, this year we're  
17 spending 62 million dollars north of Mobile because  
18 we see the traffic growth coming out of Mobile, and  
19 moving up into our network in the eastern half of the  
20 United States, up to Birmingham, through Nashville,  
21 into Louisiana, to the east, over to -- or to  
22 Atlanta into the Carolinas.

1                   We maintain all of that infrastructure  
2 with our own private money, and that railroad  
3 condition continues to improve year after year after  
4 year after year. We put tons of money into the yard  
5 capacity of this railroad in the last four years, and  
6 that level of investment has increased significantly  
7 in the last four years since I've been here than what  
8 was traditionally spent on yards across the CSX.

9                   So our railroad is safer. Our railroad is  
10 in better condition, and is running better today than  
11 it ever has in its history, and at the same time  
12 struggling to deal with the impacts of a pandemic.  
13 So I can't comment specifically on a footnote, on  
14 whether or not we spent the appropriate amount of  
15 dollars in Gentilly yard, but I have Mr. Boychuk  
16 right here who can directly answer the question.

17                   BOARD MEMBER PRIMUS: I don't understand  
18 why you can't answer that question.

19                   CHAIRMAN OBERMAN: Let me follow-up with  
20 Jevon, I would like to hear from Katie. Jim, with  
21 all due respect regarding that footnote it's a  
22 centerpiece of the RTC report, and what we are being

1 told in the case, and I don't want to get into the  
2 case, is all of the restrictions on this line.

3 But the restriction that I just read to  
4 you, and it's only one of several, but it's the one  
5 that really stuck out to me, was it has absolutely  
6 nothing to do with the pandemic. It appears that the  
7 limitations of the use of the main line causing  
8 multiple hours of main line delays. That's your  
9 consultant's words, not anything that Amtrak came up  
10 with.

11 Has been there apparently for a long time,  
12 long before the pandemic, and according to the  
13 numbers filed with us you haven't spent more on  
14 capital than stock buy backs and dividends, it's  
15 about 6 billion dollars less over the last 11 years  
16 on capital, and I have no doubt that you have spent  
17 money on capital.

18 But if this line is such a problem, and  
19 from what I know the network New Orleans is a  
20 centerpiece for all of the Class 1's to meet, why  
21 have you not spent money to solve the problem that  
22 your own consultant says is caused by freight traffic

1 having nothing to do with Amtrak, and maybe Jamie can  
2 comment on that, but I don't see that this has  
3 anything to do with the pandemic.

4 MR. FOOTE: I think what we did, and you  
5 guys were extremely impressed with Mr. Moorman's  
6 presentation this morning in which he described how  
7 the study is done in these circumstances, and that is  
8 the exact -- that is the exact process that we are  
9 going through in this case.

10 That is exactly when I sit down with Mr.  
11 Anderson immediately upon my getting the job as CEO,  
12 flew out and met with Senator Wicker and discussed  
13 this new issue of the Gulf Coast service. We  
14 immediately got together with Mr. Anderson and said  
15 Mr. Anderson you know we've got noise all over the  
16 place. We've got studies from a long time ago  
17 putting on passenger trains to Orlando, passenger  
18 trains to Jacksonville, 2 billion dollars, 1 billion  
19 dollars.

20 We don't have a real study here about what  
21 needs to be done to put on service between New  
22 Orleans and Mobile. Let's get a study going. That's

1 exactly what we did. We started the RTC study  
2 immediately to work forward to get to the solution of  
3 where we are today. What is presented in the RTC  
4 study, and there might be discussions about whether  
5 or not there are delays in Gentilly yard, there might  
6 be a switch that moves this way and that way, in  
7 another part of the railroad.

8 That is the base case. What we did was  
9 laid it out the base case.

10 CHAIRMAN OBERMAN: That was my  
11 understanding, and we were told that the RTC study is  
12 the gold standard of the industry, and it's used by  
13 the railroads repeatedly, not just when Amtrak brings  
14 a case in order to keep your networks up to date, and  
15 that all of the railroads, including Amtrak, use  
16 that.

17 And so I am wondering as a matter of  
18 ongoing management of CSX why an RTC study has, I  
19 assume they have been done over the years, have  
20 revealed these infrastructure inadequacies for  
21 freight service, and they have not been remedied  
22 given all of the money that CSX, and the other Class

1 1's have been taking out of the system.

2 That's the concern. I've raised it before  
3 repeatedly, but I've rarely been shown the inadequacy  
4 of the infrastructure by your own consultants as we  
5 have with the RTC, so that is the reason for my  
6 question.

7 MR. FOOTE: Okay. I don't know that's an  
8 infrastructure issue, ask Mr. Boychuk to explain what  
9 the operational challenges are at Gentilly.

10 MR. BOYCHUK: So Gentilly yard if you look  
11 at a map of Gentilly yard, it is sandwiched between  
12 multiple other yards, so on either side you've got  
13 the state DOTs who are operating, and besides them  
14 you have the NS yard, you have the CN yard, you have  
15 multiple yards that are all sandwiched together.

16 So in order to do any type of  
17 infrastructure with respect to building more trackage  
18 around that is not possible to do that. Where we see  
19 any type of delay in some circumstances today is  
20 planned delay because you may have a coal train that  
21 is dumping at McDuffie Island.

22 And if you have a coal train dumping at

1 McDuffie Island, and you have another coal train  
2 coming in behind it, it will sit there for an hour or  
3 two waiting on the main line, or waiting in a yard  
4 track for that coal train to be finished. It's a  
5 single track structure between downtown and McDuffie  
6 Island. That's what multiple people have been  
7 talking about.

8           We don't have double track there. We  
9 don't have triple track there, and we don't feel that  
10 we need to with the way that today is running. If  
11 Amtrak was to run downtown, if Amtrak was to run to a  
12 station in Mobile, which I think has been mentioned  
13 by a number of people throughout the last two days,  
14 that would cause delay on a single main line track,  
15 which would then could considerably back trains up.

16           You have one bridge, the canal bridge,  
17 which opens and closes for switching operations.  
18 When we switch in that yard, which was probably built  
19 well over 100 years ago, we have to switch over top  
20 of a moving bridge. We have to get permission. We  
21 occupy it, we switch, we clear, and then we start  
22 bringing trains in and out throughout the canal.

1           So this isn't an issue with respect to  
2 continued growth in the area. We have a good plan  
3 for that because the growth, as everyone has  
4 mentioned, is heading north more than anything. It's  
5 the multiple trains that could occupy the single main  
6 line track downtown. It's a very busy yard.

7           CHAIRMAN OBERMAN: You're telling me  
8 apparently that the delays that are spelled out in  
9 the RTC report currently, and I don't mean to single  
10 out only Gentilly, it's just I don't want to spend  
11 the whole day on every part of the report, that's  
12 just one of them, is the way you're going to run the  
13 railroad.

14           Many hours of delay. And I think we  
15 should wait to hear this at the trial, there's no  
16 place for infrastructure improvements. Your proposal  
17 in the RTC report is to spend nearly 30 billion  
18 dollars to build a bypass track around Gentilly yard,  
19 so there must be room for something.

20           But I think rather than dwelling on this,  
21 we should deal with this at the hearing, and where  
22 the experts could get on and tell us -- answer some

1 of these questions and put maps up.

2 MR. BOYCHUK: Yeah my apologies. I was  
3 talking about Mobile, and the Gentilly yard which is  
4 New Orleans.

5 CHAIRMAN OBERMAN: Yeah.

6 MR. BOYCHUK: So my apologies there  
7 because what I described for you was the problems  
8 with Mobile, and where we have a single track. So  
9 Gentilly yard, you will hear I am sure from the NS  
10 right away, they're going to tell you exactly what  
11 happens on the back belt, which is where we have  
12 congestion, which is on the back belt, getting around  
13 to the multiple railroads, so why don't we let them  
14 probably speak to that.

15 CHAIRMAN OBERMAN: Jamie the question is  
16 not what NS is going to do, but whether CSX is going  
17 to spend some of the billions it sends back to the  
18 shareholders to solve that problem even if Amtrak  
19 disappears tomorrow. That's my question.

20 MR. BOYCHUK: But you have a drawbridge  
21 that's just outside as well, so that drawbridge also  
22 causes a problem from getting across, but at the same

1 time with Gentilly yard, the back belt is where your  
2 congestion happens at times. Yeah, you can have a  
3 couple of trains that sit beside each other waiting  
4 for clearance to get through the back belt, but again  
5 we'll let the NS speak about the problems that  
6 they're having on the back belt because it's not our  
7 railroad where the issue is, where we're holding  
8 back.

9 So the NS I believe will probably be able  
10 to speak to this better than anyone since they are  
11 looking for some type of funding as well.

12 CHAIRMAN OBERMAN: All right. Well let's  
13 finish with your part of the panel at this point, and  
14 other -- I don't want to dwell on this anymore. It's  
15 a matter of interest obviously relating to service in  
16 general, and not the subject of this case. It may  
17 come up in this case when we get to the trial.

18 I had cut you off Robert, I'm sorry, I  
19 just wanted to follow-up.

20 BOARD MEMBER PRIMUS: No I think you said  
21 what I said. I mean I'm a little disappointed at the  
22 response. I think it you know, a lack of

1 transparency, I do think the red herring of COVID  
2 and the pandemic you know is hiding a true response  
3 about service. You know I didn't hear, and correct  
4 me if I'm wrong, anything about the back belt may  
5 describe the problem of Gentilly yard.

6 So you know I just want to get you know  
7 answers, and direct answers, and I don't think we've  
8 got them, so like I said this is not part of this  
9 trial, so I look forward to a time where we can  
10 actually sit down, actually get some real answers. I  
11 don't want to hear from NS, I want to hear CSX, so at  
12 that time you know we can do so. Thanks Marty.

13 CHAIRMAN OBERMAN: All right thanks  
14 Robert. Other Board members questions for Jim,  
15 Karen?

16 BOARD MEMBER HEDLUND: Thank you, and this  
17 is a question you don't have to answer here, but  
18 given the existing congestion on the freight  
19 railroads, have you analyzed what additional benefits  
20 there would be to the fluidity of your system from  
21 the improvements that you are requesting be made on  
22 behalf of Amtrak?

1           In other words, is this just going to  
2 solve the Amtrak problem, or will there be benefits  
3 to the fluidity of the freight system that also flow  
4 from the 400 or 900, or billion dollars in  
5 improvements that you want to see before Amtrak can  
6 access your lines. So I don't expect an answer here,  
7 but that's a question in my mind.

8           MR. ATKINS: So member Hedlund we won't  
9 answer it here. We'll defer that to the March  
10 hearing. We appreciate the line of inquiry.

11           BOARD MEMBER HEDLUND: Thank you.

12           CHAIRMAN OBERMAN: All right. Any other  
13 questions for Jim or Ray? Okay. Yeah stand by both  
14 of you if you would because as we go through the  
15 other members of this panel we may come back to you.  
16 I would just ask you to mute yourselves, but that  
17 would be appreciated. Next up Bill Mullins.

18           MR. MULLINS: Well thank you Mr. Chairman,  
19 Vice Chairman Shultz, Members Primus, Fuchs and  
20 Hedlund.

21           CHAIRMAN OBERMAN: Bill let me at the  
22 outset again apologize for delaying your trip after

1 our last public hearing. Hopefully you will learn  
2 not to make any airline reservations in close  
3 proximity.

4 MR. MULLINS: I have learned my lesson Mr.  
5 Chairman. Thank you. No trips today. You want me  
6 to midnight I'm here.

7 CHAIRMAN OBERMAN: I can't control only my  
8 own questioning, which is some of you may think is  
9 not controlled, but why don't you proceed.

10 MR. MULLINS: Sure thank you. And please  
11 don't ask me a bunch of questions about Gentilly  
12 yard. I won't be able to answer it.

13 CHAIRMAN OBERMAN: That was why I diverted  
14 the questioning because I was sure you couldn't, so  
15 go ahead.

16 MR. MULLINS: But you know on behalf of  
17 Norfolk Southern we want to thank the Board for  
18 holding this hearing, and for allowing all sides to  
19 have their views heard. Throughout this proceeding  
20 NS has always supported full public comment. We  
21 twice requested the Board to allow public comments  
22 from everybody, and so we really appreciate the fact

1 that the Board held this hearing, and allowed all  
2 sides to have a view.

3 And I listened to this hearing, there  
4 appears to be a little bit of misconception about the  
5 freight railroads decision, especially with respect  
6 to NS. NS desires to make it clear that NS supports  
7 Amtrak service, including on the Gulf Coast. The  
8 issue is the process by which Amtrak service is  
9 implemented.

10 As you heard earlier, NS has a long  
11 history of working with Amtrak, and with state  
12 sponsors of Amtrak service. You heard from NS's  
13 former CEO about the service to Norfolk, to  
14 Lynchburg, and in North Carolina. He also mentioned  
15 the new Virginia agreement, the so-called Western  
16 Rail Initiative in Virginia, which was announced in  
17 May, and was accomplished through a relatively  
18 expeditious process.

19 As you've heard this will bring Amtrak  
20 service to the New River Valley for the first time  
21 since 1979. The initiative calls for 168 million  
22 dollars in infrastructure investments along the NS

1 corridor, with many more millions to be spent on the  
2 line that Virginia will purchase.

3           Improvements include better access to  
4 Roanoke yard, siting extensions and improvements  
5 along the I-81 corridor. These improvements are not  
6 dissimilar from the infrastructure improvements  
7 identified in the Gulf Coast modeling. The expansion  
8 of passenger service in Virginia compliments the  
9 existing Amtrak Northeast Corridor service, and two  
10 Northeast Corridor round trips will be extended from  
11 Roanoke to Christianberg upon completion of  
12 infrastructure improvements in 2025.

13           Indeed the state will shortly be making  
14 it's STB filings. The point is that new and extended  
15 Amtrak service can be implemented through  
16 negotiation, working together, and relying upon  
17 models, such as the RTC model which was used in the  
18 west rail initiative, and which you have heard from  
19 Mr. Moorman and Miss Drake that has been the accepted  
20 model used for years when examining passenger service  
21 in determining what infrastructure is needed to  
22 ensure fluidity of both freight and passenger

1 service.

2 As the western initiative shows the  
3 process can work. Such a process can work here, and  
4 was working until Amtrak pulled out. In this case NS  
5 remains willing to sit down with Amtrak at any time  
6 and discuss a way to move forward together in a  
7 positive, cooperative manner.

8 Yesterday I was particularly encouraged by  
9 the comments of Senator Wicker and Chairman DeFazio,  
10 both of them expressed a need to work cooperatively,  
11 the need for infrastructure, and the availability of  
12 funding to facility increased passenger service.

13 NS shares those goals and commits to  
14 working to implement those goals for the Gulf Coast  
15 Service. NS intends in the March hearing to  
16 establish why its requested infrastructure needs are  
17 required to ensure the continued validity of the Gulf  
18 Coast service for both freight and passenger rail.  
19 And for the ports and Amtrak as well.

20 Perhaps we can reach agreement before that  
21 hearing with dialogue, discussion and cooperation.  
22 Perhaps via Board sponsored mediation, we remain

1 willing to discuss all of these issues. Again, thank  
2 you for holding this hearing. Mr. Chairman I believe  
3 you're on mute. Are you speaking?

4 CHAIRMAN OBERMAN: Thank you yes.

5 MR. MULLINS: Thank you.

6 CHAIRMAN OBERMAN: No questions for Bill?

7 All right. Thank you much Bill.

8 MR. MULLINS: Thank you

9 CHAIRMAN OBERMAN: Stay tuned as well  
10 while we finish this panel and of course we'll see  
11 you this afternoon.

12 MR. MULLINS: Yes sir.

13 CHAIRMAN OBERMAN: Bob Wimbish.

14 MR. WIMBISH: First of all I just want to  
15 make sure. Technical issues here, can you see me and  
16 hear me?

17 CHAIRMAN OBERMAN: I can.

18 MR. WIMBISH: Excellent, thank you very  
19 much. Well both good morning Chairman Oberman, you  
20 and I are in the same time zone here, and good  
21 afternoon to the other members of the Board. I want  
22 to thank you for extending the port a brief

1 opportunity to offer responsive comments in this  
2 phase of the proceeding, and I will be brief, but  
3 hopefully not ineffective.

4           The Alabama State Port Authority and it's  
5 rail common carrier operating division, the terminal  
6 railway Alabama state docks, or collectively the port,  
7 are grateful to the board. We are grateful. You  
8 have recognize the importance of this proceeding to  
9 the Port of Mobile, and to the railroad born commerce  
10 going from, to and through the port terminal area.

11           And it appears that you are genuinely  
12 sensitive to the critical role that the port plays in  
13 America's supply chain. Thank you for granting the  
14 port full party status, particularly in the fact of  
15 Amtrak's vigorous and ongoing efforts to diminish the  
16 port's role in this case, and it's calls to have the  
17 Board ignore us all together.

18           Finally, in permitting our intervention,  
19 we believe that the Board has recognized the very  
20 real distinction between the port's interest in this  
21 case, and those of Amtrak and CSX Transportation and  
22 Norfolk Southern Railway. Some of the commentors

1 advocating for Amtrak access have indicated that  
2 perhaps some railroad infrastructure measures would  
3 be appropriate to protect railroad freight service,  
4 including in and around Mobile.

5 That is a welcome, cooperative gesture of  
6 course, and it recognizes that Amtrak service has the  
7 potential to harm freight service along the proposed  
8 route, and that appropriate mitigation measures  
9 should be taken. But for now at least Amtrak has  
10 accepted nothing of the sort.

11 Rather, Amtrak used the position that no  
12 freight service protecting infrastructure is  
13 necessary. So the Board must take Amtrak's  
14 application as it exists, as an all or nothing  
15 proposition, and not as some passenger service  
16 proponents envision it to be, to be clear.

17 Amtrak's access demand lacks any definite  
18 commitment fund freight service protecting  
19 infrastructure. As such, it is not the proposal that  
20 some of Amtrak's supporters seem to think. Yesterday  
21 Congressman DeFazio noted that what is needed here is  
22 -- and I may be paraphrasing his language here a

1 little bit, a determination on what infrastructure  
2 costs are appropriate.

3 He stressed the need for the parties to as  
4 he put it I believe, come to a number. You have also  
5 heard the same things today from Mr. Moorman, but  
6 Amtrak has already offered it's number when it comes  
7 to freight service protections, zero dollars. Amtrak  
8 advocates may balk at CSXT's cost estimates, but  
9 Amtrak's lack of commitment to fund any freight  
10 protecting infrastructure initiatives, cannot be any  
11 better of a starting point for a Board ordered access  
12 proceeding.

13 Regarding yet another critical participant  
14 in this case, the port is disappointed that the U.S.  
15 Department of Transportation has been disengaged when  
16 it comes to freight service impacts in and around the  
17 Port of Mobile. As you heard yesterday, Mobile is a  
18 major supply chain node, a multimodal transportation  
19 hub for the region, and the nation. In fact, by  
20 tonnage, Gulf Coast ports handle more traffic volumes  
21 than all eastern seaboard ports combined, and the  
22 same goes for all Pacific coast ports.

1           Mobile by tonnage throughput is larger  
2 than all but two eastern seaboard ports, and is  
3 larger than all but two Pacific coast ports. Mobile  
4 handles more than twice the tonnage volumes of  
5 Oakland, Seattle, or Tacoma, and approaches the same  
6 tonnage throughputs at the Port of Virginia. I  
7 should note as an aside that Mr. Moorman remarked in  
8 his comments today about Amtrak service to Norfolk,  
9 that the Port of Norfolk was, as I think he put it,  
10 much larger than the Port of Mobile.

11           That isn't true by way of measurement of  
12 tonnage throughputs. We actually are approaching  
13 Norfolk's numbers right now when you measure it  
14 against the Port of Virginia. On the subject of FRA,  
15 the port objects to the authorized endorsement of  
16 the Amtrak's view, in a responsible interpretation of  
17 what constitutes unreasonable impairment of railroad  
18 freight transportation under 49 U.S.C. 24308-E.

19           And we have noted in this proceeding that  
20 FRA's interpretation of when and how Amtrak is to be  
21 afforded preference in dealing with railroad freight  
22 service generally, is legally unsupported. Endorsing

1 Amtrak's legal interpretation of Section 24308-E FRA  
2 would have Amtrak pursue its passenger service  
3 prerogative subject only to the most egregious harm  
4 to interstate freight commerce.

5           The legal esoteric aside, it would have  
6 been better had DOT or its modal administration FRA,  
7 sought to gain a meaningful understanding of the  
8 port's rail service concerns, and what is at stake  
9 for us. Unfortunately, neither has engaged with the  
10 port to discuss this matter, much less learn first  
11 hand the port's freight flows and TASD's operations  
12 across the CSXT main line to service seaport  
13 terminals, and neither has asked to.

14           U.S. DOT seems to be focusing its energies  
15 in getting Amtrak what it wants at the expense of  
16 freight carriers both large and small. We would have  
17 offered DOT a tour of the port's facilities. In the  
18 course of DOT's involvement in this matter it would  
19 have been better if transportation officials had  
20 taken steps to learn the scope and complexity of  
21 TASD's cross border operations, so that DOT could  
22 better appreciate why the Board is so active in this

1 proceeding, and why its interests here are unique  
2 among the parties.

3 Evidently DOT isn't interested, but where  
4 DOT has passed on the opportunity, perhaps the Board  
5 will not, specifically the port would be, excuse me,  
6 would be pleased to introduce the Board to the port  
7 facilities to give all of the Board members a first  
8 hand, in-person sense of T ASD's substantial terminal  
9 operations, to show you how we interact and depend on  
10 CSXT to facilitate cross border operations, and how  
11 that works, and how it sometimes doesn't.

12 And what introducing eight, yes eight,  
13 new Amtrak train movements in the Mobile terminal  
14 could do to T ASD operations. Perhaps this  
15 evidentiary process could be adjusted to allow for  
16 that to happen, with each of the parties entitled to  
17 be present and take part of course. It won't be the  
18 first time that you've been invited to Alabama during  
19 the past 24 hours or so, and we'd love to make it  
20 happen.

21 Thank you, and I will remain available for  
22 any questions.

1                   CHAIRMAN OBERMAN: Thank you Bob. You  
2 should note that Patrick and I and our attorney  
3 advisers have been to Mobile two and a half years ago  
4 and we didn't see the port, but we were in Mobile,  
5 and then we spent a fair amount of time in Alabama  
6 and McIntosh, so we're not adverse to coming to  
7 Alabama when the situation is correct.

8                   A couple of things I would like to mention  
9 quickly, and then see if the Board members have any  
10 questions for you. On I appreciate your kind words  
11 for what you describe as our actions in this case  
12 involving the port. And for the record, I want the  
13 record to be clear that the only thing the Board has  
14 done with regard to the port, and the only thing that  
15 we would characterize is what we stated in our order  
16 granting intervention.

17                   And I know you have characterized it, and  
18 you're entitled to do that, but for the record I  
19 didn't want to say yeah or nay, I just wanted to say  
20 the Board's position to date on the port's interest  
21 in this case is, as was stated in our formal  
22 decision, nothing more, nothing less at this point.

1                   Secondly, I do not speak for the  
2 Department of Transportation, but I would observe  
3 that I'm not sure where your characterizations come  
4 from. I have been personally very involved with John  
5 Precari DOT on all supply chain issues which have  
6 been very intensely involved in assessing and working  
7 with all ports, all intermodal issues, so I'm not  
8 sure why you feel Mobile has been ignored.

9                   And I would say in this case DOT has filed  
10 an amicus brief which is in the record, and of course  
11 we have a lengthy presentation from administrator  
12 Bose yesterday, so I wouldn't characterize it, and I  
13 don't want to accept your characterization of not  
14 being engaged, they've done what they've done, and  
15 the record speaks for itself in that regard.

16                   Now I thought they're not here to respond  
17 to what you said, and I just want to know what's in  
18 the record already. With that let me see if any  
19 Board members have any questions for Bob. I would  
20 say this Bob that --

21                   MR. WIMBISH: By the way Chairman it's Rob  
22 if you please.

1                   CHAIRMAN OBERMAN: Oh I'm sorry, sorry Rob  
2 I apologize, I should know better. I've got too much  
3 going through my head. It may be going right through  
4 it. And I would say that we look forward to your  
5 full presentation about impacts on the port at the  
6 trial, that's what it's there for.

7                   MR. WIMBISH: We do look forward to that,  
8 and again we thank you for giving us the opportunity  
9 to do that.

10                  CHAIRMAN OBERMAN: Yep. All right. if  
11 there are no questions for Rob, we will move to  
12 Amtrak Steve Gardner and Jessica Amunson, and I know  
13 there was a concern raised by Amtrak about the  
14 allocation of time on this panel. I purposely did  
15 not set any time on it for anybody, other than the  
16 admonition to try to keep your remarks limited in  
17 terms of issues that we know we're going to deal  
18 with at the trial, and at the pre-trial conference  
19 this afternoon.

20                  So Steve, Jessica, whatever you feel you  
21 need to present us with you're on.

22                  MR. GARDNER: Thank you Chairman Oberman,

1 Vice Chairman Shultz, Board members Fuchs, Primus and  
2 Hedlund. I'm Stephen Gardner, President and CEO of  
3 Amtrak. It's a great pleasure to be here. With my  
4 limited time, I'll focus my remarks on the issue in  
5 this case that Board members must decide.

6 As CSX and NS have proven that restoring  
7 Amtrak service between New Orleans and Mobile, would  
8 impair unreasonably their freight transportation  
9 unless the public provides 440 million dollars for  
10 capacity investments before the first train even  
11 leaves the station.

12 As Congressman DeFazio and Administrator  
13 Bose discussed yesterday, the Rail Passenger Service  
14 Act of 1970 creating Amtrak represents what the Board  
15 and the Supreme Court have called a bargain between  
16 Congress and the private railroads. Under this law,  
17 Congress relieved the private railroads who were then  
18 experiencing large financial losses which jeopardized  
19 their viability of their common carrier obligation to  
20 provide intercity passenger rail service in return  
21 for making their tracks available to Amtrak to carry  
22 out this obligation.

1           The railroads eagerly embraced that  
2 bargain, but not all lived up to it. Some quickly  
3 began to impede and delay Amtrak's efforts to add  
4 additional trains, and demanded what Congress called  
5 inordinate capital improvements. By 1980, Congress  
6 had enough of what it characterized as the railroad's  
7 intransigence.

8           It enacted Section 24308(e) to create an  
9 expedited procedure to allow Amtrak to operate  
10 additional trains unless the railroad proves such  
11 trains would cause "serious adverse impacts on  
12 freight operations." Since then, Amtrak has  
13 generally found a cooperative path for adding new and  
14 additional service with our partners, but we have now  
15 encountered exactly the circumstances which led to  
16 the creation of this law, and thus, bring our first  
17 case under this section to you, to ensure that after  
18 six years of delay our hosts abide by their  
19 obligation to accommodate Amtrak's needs on their  
20 network.

21           As you heard yesterday, and many  
22 communities and elected officials from both parties

1 are clamoring for expanded Amtrak service. In  
2 response, Amtrak unveiled last April it's preliminary  
3 vision, called Amtrack Connects Us for expansion of  
4 service across the nation.

5 It would bring our route network, which  
6 has not materially grown since 1971, even though the  
7 nation has added 120 million people, into the 21st  
8 century. An expandability and economic opportunity,  
9 all well helping to reduce highway congestion, and  
10 aviation congestion, and greenhouse gas emissions.

11 As Senator Wicker and Administrator Bose  
12 described yesterday, Congress and the administration  
13 have endorsed the vision of Amtrak expansion, and  
14 provided historic levels of funding for it. The  
15 Infrastructure Investment Jobs Act enacted just last  
16 year, includes 58 billion dollars for FRA and Amtrak  
17 intercity passenger rail investments.

18 Importantly, while crafting this bill,  
19 Congress did not alter the several statutory  
20 provisions that ensure Amtrak's access to host  
21 railroads remains on reasonable terms. A top  
22 priority, as we implement the IIJA, and the

1 partnership with FRA and our state partners, is  
2 addressing the needs for Amtrak service in the  
3 southeast, the region most glaringly underserved by  
4 Amtrak today.

5           Returning service to the Gulf Coast, which  
6 was suspended in 2005 following Hurricane Katrina, is  
7 both good transportation policy, and a matter of  
8 regional equity. You have heard from many speakers  
9 that expansion of the passenger rail service requires  
10 collaboration among Amtrak, states and freight  
11 railroads, and that's exactly what Congress intended  
12 when, in the Fast Act of 2015, it created the Gulf  
13 Coast Working Group, led by FRA to plan restoration  
14 of this service.

15           The other members of the working group  
16 included Amtrak, CSX, and Southern Rail Commission.  
17 However, as Administrative Bose and members of the  
18 SRC told you yesterday, CSX wasn't interested in  
19 that collaboration, and did not participate in good  
20 faith. CSX ultimately refused to join the working  
21 group's 2017 report to Congress which concluded that  
22 Gulf Coast service could resume with just over 5

1 million dollars for station improvements, and  
2 identified additional investments totaling 95 million  
3 dollars that would benefit both Amtrak and freight  
4 service over time, which we generally support.

5           In stark contrast to the working group's  
6 approximately 100 million dollar estimate, CSX  
7 demanded over 1.1 billion dollars, enough for an  
8 investment for operation of two, two daily round  
9 trips. NS, which owns less than four miles of a  
10 route over which there is one freight train per track  
11 mile every three hours, also insisted upon large  
12 capital investments.

13           After three more years of negotiation  
14 Amtrak agreed in February of 2020 to CSX's and NS's  
15 demands for capacity modeling analysis using RTC,  
16 rail traffic controller as a model. The agreement  
17 provided CSX's chosen consultant with a full year to  
18 complete the model. Unfortunately, it quickly became  
19 apparent that the RTC modeling would serve no purpose  
20 other than to obfuscate and delay.

21           CSX and NS instructed the consultants to  
22 use unilaterally determined assumptions and inputs,

1     which they refused to share, not only with Amtrak,  
2     but with FRA which was paying for the modeling.  
3     When the one year agreement expired, Amtrak was told  
4     the completion of the modeling was still many months  
5     away.

6             And FRA pledged to halt funding it because  
7     it was essentially useless to them without  
8     transparency into the model inputs. Given the clear  
9     Congressional directive to re-establish service along  
10    the Gulf Coast, and realizing that only the STB order  
11    can make this happen, Amtrak saw no choice other than  
12    to initiate this proceeding last month.

13            To be clear, Amtrak agrees with speakers  
14    who have characterized capacity modeling is a very  
15    useful tool to assess impacts of service changes on  
16    rail lines. We use RTC, and I would argue we have  
17    some of the best practitioners in the country. But  
18    contrary to the impression some have, modeling and  
19    capital investments aren't pre-requisites to ever  
20    increase in rail service. Amtrak has a required  
21    modeling of costly infrastructure investments each  
22    time a freight railroad, or a commuter authority

1 wanted to add trains on our northeast corridor, the  
2 busiest by far rail line in North America.

3 In many cases, additional trains can  
4 obviously be accommodated without the need for  
5 extensive analysis or infrastructure investments.  
6 Amtrak for instance, didn't demand RTC modeling, or  
7 drag out negotiations for years when NS wanted to  
8 operate four additional oil trains a day on the  
9 northeast corridor in 2013.

10 We found a way to accommodate those  
11 additional trains amidst the hundreds of trains a day  
12 we already host, without any capacity improvements.  
13 NS and CSX don't always use RTC modeling either. CSX  
14 agreed last year to allow NS to operate two  
15 additional 9,000 foot double stack trains a day  
16 between Albany, New York and Worcester, Massachusetts  
17 without any RTC modeling, or for that matter, any  
18 capacity analysis.

19 Like any analytic tool, RTC produces usual  
20 outputs when the inputs are accurate. Transparency  
21 in the process is critical. When Amtrak and its  
22 commuter partners do RTC modeling, they agree upon

1 the inputs and assumptions, and all data used in the  
2 modeling is shared.

3 As Ian Jefferies of the AAR and Wick  
4 Moorman have told you, that is also the standard  
5 practice in the freight railroad industry. But  
6 that's not what happened with CSX and NS here. They  
7 unilaterally selected inputs and assumptions, and  
8 wouldn't tell Amtrak or FRA what they were.

9 FRA has called their model an opaque black  
10 box with meaningless outputs. To use an analogy,  
11 imagine for a moment if one football team got to make  
12 up new special rules for the Super Bowl and not tell  
13 the other team, or even the referee what they were.  
14 Of course that team would win the game, and that's  
15 exactly what happened here.

16 The rules CSX and NS made up gave their  
17 team only eight downs on each possession, allowing  
18 them to run up the score in their favor. While CSX  
19 and NS refused to share with Amtrak and the FRA the  
20 data and assumptions they used in the model, thanks  
21 to this proceeding, they were required to provide  
22 that information to Amtrak's outside lawyers and

1 experts.

2 Here's what we found about their modeling  
3 in this proceeding. First, they invented freight  
4 trains that don't exist. Their modeling assumes 257  
5 percent more freight trains than their own data shows  
6 actually operated during the period on which it was  
7 purportedly based.

8 They assume that Amtrak would have to  
9 mitigate every minute of aggregate freight train  
10 delays, their flawed modeling attributed to Amtrak  
11 trains. They also ignored operational efficiencies,  
12 decreeing that no freight or passenger schedules  
13 would be adjusted, even slightly, to minimize  
14 conflicts. They assumed track capacity would be  
15 added until projected on time performance of Amtrak  
16 trains reached 95 percent.

17 A performance Amtrak trains achieved  
18 nowhere on their lines today, and have never  
19 requested here. And they decided Amtrak trains would  
20 never be routed through a siting. Artificially  
21 inflating delays, which caused them to propose  
22 building more sidings. But CSX and NS weren't done,

1 they then added projections of large, future freight  
2 traffic increases in 20 years, even though revenue  
3 ton miles on Class 1 railroads are decreasing.

4 This led them to demand even more  
5 infrastructure investments. So they insisted Amtrak  
6 should fund now to accommodate their speculative 2039  
7 freight traffic projections. Even with all of those  
8 flawed and hyperbolic assumptions, the RTC model only  
9 showed that our service started without any capital  
10 investments, would cause average train freight train  
11 speeds to decrease by just 7/10ths of a mile per  
12 hour. That is what CSX and NS claim is unreasonable  
13 impairment of their freight operations.

14 Based on that, CSX and NS are now  
15 demanding 440 million dollars in publicly funded  
16 infrastructure investments before we could run on a  
17 single train. And I would note just following-up on  
18 Mr. Foote's testimony that that's essentially a  
19 quarter of the amount of capital funding CSX  
20 apparently spends every year on its infrastructure to  
21 fund investments on what is something like 7/10th of  
22 the route network.

1                   This is exactly the sort of host railroad  
2 intransigence and inordinate capital demands that  
3 Congress intended the STB to expeditiously curtail  
4 when it enacted Section 24308(e). Now Amtrak agrees  
5 with the speakers today who have told you that adding  
6 Amtrak service on host railroads is best accomplished  
7 through agreement.

8                   And that it often requires investments in  
9 freight railroads infrastructure. In recent years  
10 Amtrak and it's state partners have entered into  
11 numerous agreements with freight railroads, and have  
12 funded billions of dollars in infrastructure  
13 investments. We all agree that that's necessary at  
14 times. And just recently we reached agreement with  
15 Canadian Pacific to add new trains, but some without  
16 additional capacity investments, some with.

17                   Amtrak and its state partners stand ready  
18 to fund reasonable infrastructure improvements all  
19 along the Gulf Coast corridor to improve Amtrak  
20 service, and address legitimate areas of concern.  
21 There's already more than 60 million dollars in  
22 federal and state funds committed or secured for that

1 purpose, however the 440 million dollars CSX and NS  
2 are seeking today is orders of magnitude different  
3 from any measure of reasonableness.

4 I'd like to address a few other issues  
5 speakers have raised. The railroad industry is  
6 hardly the only industry in which Congress has  
7 required that those who have control over critical  
8 assets provide access to those assets for the public  
9 good. For example, cable television companies must  
10 make available channels for public access and  
11 broadcast stations, and telephone companies were  
12 subject to universal service requirements that have  
13 made telephone service ubiquitous even in remote  
14 rural areas.

15 Some have suggested that given all of the  
16 IIJA funding, Amtrak should simply acquiesce to CSX  
17 and NS's unreasonable demands. But Congress didn't  
18 enact the IIJA to fund the gold plating of freight  
19 railroad lines in order for them just to live up to  
20 their legal obligations to permit Amtrak operations.

21 Finally, let me debunk myths you may have  
22 heard that there is something unique about this route

1 that triggers a need for massive capacity investments  
2 to restore Amtrak service. Most of the route is  
3 single track, but so is the vast majority of Amtrak's  
4 ground network. Yes it has drawbridges, but not as  
5 many per mile as Amtrak's northeast corridor in  
6 Connecticut, yet somehow we still accommodate 68  
7 trains a day over that route.

8 Mobile, of course has a very important  
9 port, but so does Miami where 34 recently added  
10 Brightline passenger trains a day, travel over the  
11 barrier rail lines serving it. I'll conclude by  
12 discussing one issue on which everyone agrees, which  
13 is this is a very important case. But first let me  
14 note what's not at stake here. Shippers along the  
15 Gulf Coast, or elsewhere in the United States have no  
16 reason for concern about this restoration service.

17 As we addressed in our filing, our short  
18 station stop in Mobile will not block traffic to and  
19 from a port. In fact, the New Orleans to Mobile line  
20 was able to accommodate three Amtrak trains a day, 25  
21 years ago when it had nearly twice as many freight  
22 trains as it does now.

1           Nationwide, Amtrak accounts for only about  
2   4 percent of the train miles on Class 1 railroads,  
3   and yet they have managed to flourish despite this.  
4   Even if we could implement the entire Amtrak Connects  
5   Us vision, our percentage of total rail traffic on  
6   host lines would increase only slightly, and such  
7   service expansion would be accompanied by billions of  
8   dollars in public investments in host railroad  
9   infrastructure.

10           What's really at stake here is the  
11   question of the carrier's obligation to continue to  
12   help us serve the traveling public, and whether  
13   Amtrak, U.S. DOT and our state partners will be able  
14   to carry out the administration's and Congress's  
15   direction to significantly expand Amtrak service in  
16   the U.S.

17           CSX's and NS's opposition in essence is  
18   that they should be able to decide where and on what  
19   terms Amtrak may add additional trains to their  
20   lines, but that's not what Congress said in 1970, in  
21   1980, or in the recently enacted IIJA.

22           It's not for CSX and NS to determine that

1 Norfolk may have Amtrak service, but Mobile and  
2 Mississippi should be left behind. The Court's  
3 decision in this case will send an important message  
4 to the railroad industry. The problem that led  
5 Congress to enact Section 24308(e) in 1980, has not  
6 gone away.

7 Amtrak hopes the Board will issue a  
8 decision that encourages railroads to fulfill their  
9 obligations under the Act, and work collaboratively  
10 when Amtrak seeks to exercise its rights to add  
11 service over their lines. If so, we believe this  
12 should be the last case the Board must decide under  
13 this section, and we can all get back to working  
14 together to grow the important role of rail, both  
15 passenger and freight, in our transportation system.  
16 Thanks very much for the opportunity to testify today  
17 and I'll note Mr. Chairman that our attorney will be  
18 saving her remarks for the March hearing.

19 CHAIRMAN OBERMAN: Thank you Steve. Two  
20 -- one observation, one question. The issues that  
21 you raised concerning access to data involving the  
22 RTC study we will be discussing this afternoon to the

1 extent we discuss it at all today, so I didn't want  
2 to get into it in this part of the session, some  
3 legal aspects of that.

4 I had one question for you. Earlier on in  
5 your remarks you in giving -- and it was very  
6 thoughtful, and I appreciate the history as always  
7 it's important and enlightening particularly to  
8 those of us who come late to your world. You quoted  
9 in talking about what Congress did back in 80, or in  
10 the late 70's, you quoted -- I noted, a serious  
11 adverse impact.

12 You said that we're supposed to order  
13 service unless there are serious adverse impacts.  
14 Are you quoting from a committee report because that  
15 language isn't in the statute. Where are you quoting  
16 from?

17 MR. GARDNER: Yes Mr. Chairman I am. I'm  
18 in fact quoting from the report related to issued by  
19 Mr. Staggers and the committee of commerce here which  
20 had accompanied HR 6837, so that's where the source  
21 is.

22 CHAIRMAN OBERMAN: All right. And are you

1 -- I don't have that obviously in front of me. Are  
2 you saying that that report is talking about 308?

3 MR. GARDNER: Correct. Subsection E.

4 CHAIRMAN OBERMAN: Subsection E.

5 MR. GARDNER: Correct yeah. It does  
6 describe exactly the situation that I tried to  
7 summarize in my testimony, which was Congress's  
8 response after the failures stemming in the 70's from  
9 implementation of the BI.

10 CHAIRMAN OBERMAN: All right. Thank you.  
11 That was all I had. Are there any -- Karen you had a  
12 question for Steve?

13 BOARD MEMBER HEDLUND: Mr. Gardner there  
14 is one point among I think probably a multitude where  
15 the parties appear to be talking past each other.  
16 And in the course of your putting on your case maybe  
17 you could elucidate it. We have heard from CSX that  
18 Amtrak has not made any commitment for the  
19 installation of new infrastructure that might  
20 accommodate its service, and yet other parties have  
21 said and spoken to the fact that there is whatever,  
22 66 million dollars at least, available to enhance

1     this project.

2                   And so not now, but perhaps in the course  
3     of presenting your case, if you would address what  
4     would be necessary for you to make a commitment with  
5     respect to the infrastructure that could be funded by  
6     that amount, or any other infrastructure that for  
7     example has been suggested by the working group  
8     report.

9                   MR. GARDNER:   Thank you Member Hedlund,  
10    and absolutely we'd be happy to cover that.   And to  
11    be clear we stand ready to make investments and to  
12    improve passenger service, and address issues as I  
13    mentioned that is something we have been open to and  
14    discussed, and of course making across the network.

15                   BOARD MEMBER HEDLUND:   Because improving  
16    passenger service again, you don't have to answer it  
17    here today, imply that at inception you might be  
18    running trains at less than optimal trip times.  
19    Again, don't -- you don't have to answer that now,  
20    but that's an issue I would like to understand  
21    better.

22                   MR. GARDNER:   We will follow-up in the

1 subsequent communities thank you.

2 CHAIRMAN OBERMAN: All right. Any other  
3 questions for Steve Gardner? All right. It is now  
4 1:13 by my clock. We're going to recess until 2:15  
5 Eastern. And we will expect all of the attorneys, at  
6 least the ones who are here I would assume will be  
7 with us if you have co-counsel that's fine.

8 I would say to Jim and Jamie and to Steve  
9 that if you would like to be present for the  
10 pre-trial conference, there may be questions that  
11 come up that you could facilitate, but I don't think  
12 we are requiring it at this point, but I just want to  
13 suggest to you that you're not excluded by any means,  
14 and if you think you can be helpful you know, that  
15 would be fine with the Board for you to be present.

16 The only other thing I am reminded that  
17 our tech person, Usha Naik is going to get on the  
18 screen for the moment and give you some direction  
19 about technical conference rejoining the pre-trial,  
20 technical information regarding the pre-trial  
21 conference, is that correct?

22 MS. NAIK: Yes that's correct Marty.

1                   CHAIRMAN OBERMAN: Usha there you are.  
2           Okay. Listen she's the most important person in this  
3           hearing, so everybody pay attention.

4                   MS. NAIK: I just wanted to remind  
5           everyone not everyone on this call is on the --

6                   (Whereupon the meeting adjourned for a  
7           break at 1:17 p.m.)

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<b>a.m</b> 396:12,20	<b>activists</b> 466:4	<b>advised</b> 493:12	490:6,8,9 491:7,18
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