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VIA ELECTRONIC FILING

Hon. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street SW
Washington, DC 20024

January 28, 2009

Re: STB Ex Parte No. 683
Passenger Rail Investment and Improvement Act of 2008
Comments of Oklahoma Department of Transportation

Dear Secretary Quinlan.

Please accept this letter as a notice of the Oklahoma Department of Transportation ("ODOT") of its intent to participate in this proceeding

ODOT does not wish to speak at the hearing. However, it is submitting the enclosed written comments for the Board's consideration

Please let me know if you need any additional information.

Respectfully,



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Enclosure

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Before the
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 683

**PASSENGER RAIL INVESTMENT
AND IMPROVEMENT ACT OF 2008**

**COMMENTS OF
OKLAHOMA DEPARTMENT OF TRANSPORTATION**

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Dated: January 28, 2009

Before the
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 683

**PASSENGER RAIL INVESTMENT
AND IMPROVEMENT ACT OF 2008**

**COMMENTS OF
OKLAHOMA DEPARTMENT OF TRANSPORTATION**

The Oklahoma Department of Transportation ("ODOT") files these comments in response to the Notice of Public Hearing (the "Notice") served by the Board on December 23, 2008. Although ODOT has decided not to speak at the hearing, it does wish to participate in the proceeding, and to have these comments considered by the Board.

Background

As set forth by the Board in the Notice, the Passenger Rail and Improvement Act ("Act") was adopted by Congress and became law on October 16, 2008. The Act instructs the Board to consult with the Federal Railroad Administration and Amtrak to establish standards and metrics to measure performance and service quality, and gives the Board the power to investigate failures to meet the standards and to award damages in certain instances. The Act also provides for mediation of certain disputes between commuter rail providers and rail carriers.

ODOT is an interested party in this proceeding. Since June 1999, it has had a contract with Amtrak to support Amtrak's intercity passenger service between Oklahoma City, Oklahoma and Fort Worth, Texas. The service runs over the lines of BNSF Railway Company ("BNSF") ODOT provides operating support for Amtrak's service. Intercity passenger service would not have been re-established in Oklahoma without the financial support of ODOT.

The contract between Amtrak and ODOT (reflecting the agreement between Amtrak and BNSF) establishes negotiated standards for on-time performance, with appropriate incentives and penalties. While ODOT, Amtrak and BNSF work closely to maintain on-time performance of the passenger service provided, ODOT is participating in this proceeding, and filing these comments, to ensure that the views and interests of governmental agencies that provide support for intercity rail operations are considered by the Board

Comments

The Board has asked for comments on specific new responsibilities that have been assigned to the Board under the Passenger Rail Investment and Improvement Act of 2008 (the "Act:"). ODOT provides the following comments as requested by the Board.

Section 207 Section 207 provides that States are also to be separately consulted by the Federal Railroad Administration ("FRA") and Amtrak in determining metrics and standards for measuring the performance of intercity train operations. ODOT, either individually or through various associations of State transportation departments in which it is involved, expects to provide further comment on any specific metrics or methodology that is proposed by either the Board or by FRA, based on its experience with the standards adopted in Oklahoma.

Metrics and standards may well vary by state and route. ODOT believes that it important that any government agency that is providing funding support should be given input into the contracts between Amtrak and the host carriers and should approve the metrics contained therein.

Section 207(c) provides that Amtrak and host carriers shall include the metrics into their access and service agreements to the extent practicable. ODOT agrees that the metrics developed under the Act should provide the standards where the parties are unable to reach agreement amongst themselves. However, to the extent that there are existing contracts (or

renewals of existing contracts) with metrics that have previously been agreed to by a funding governmental agency, Amtrak and the host carrier (as is the case in Oklahoma), those contracts and the metrics contained therein, should be protected.

Section 213. With respect to any regulations that the Board adopts with respect to investigations of "substandard performance" under the Act, ODOT requests that the Board protect the interests of funding governmental agencies such as ODOT, and any contractual metrics that have previously been adopted. In particular, the Act provides that a complaint may be filed by "an entity for which Amtrak operates intercity passenger rail service," and that damages may be awarded to such an entity. See new sections 49 USC 24308(f)(1) and (f)(4). The Board should provide specifically that the definition of such entities includes any governmental agency (such as ODOT) that provides financial support to Amtrak for specific intercity passenger rail service.

Further, in establishing fees under Section 207(b), the Board should continue its current policy of waiving filing fees for government agencies.

Section 217. Since ODOT is currently contracting with Amtrak for service, this Section is not applicable to intercity operations in Oklahoma. ODOT reserves the right to provide future comments based on what may be proposed by the Board and by FRA.

Section 401. Since ODOT does not provide or financially support commuter rail operations, this Section does not affect ODOT, no specific comments are provided. ODOT reserves the right to provide future comment based on what may be proposed by the Board and by FRA.

Conclusion

As set forth herein, ODOT requests that the Board in carrying out its responsibilities under the Act, consider and protect the interests of governmental agencies such as ODOT that are providing critical funding to the operation of intercity passenger service over the lines of host rail carriers.

Respectfully submitted,



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