

**TESTIMONY OF ANNE D. STUBBS
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**BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES
“COMPETITION FOR INTERCITY PASSENGER RAIL IN AMERICA”
JUNE 22, 2011**

Chairman Mica, Ranking Member Rahall, Members of the Committee:

Thank you for the opportunity to appear before you today to discuss the committee print of the *Competition for Intercity Passenger Rail in America Act of 2011*.

The CONEG Policy Research Center, Inc. is the staff arm of the Coalition of Northeastern Governors (CONEG), a non-partisan association created by the northeast governors in 1976 to encourage intergovernmental cooperation among the states on shared issues relating to the economic, environmental and social well-being of the region. Members include the governors of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont. CONEG works on regional transportation and rail matters with all the Northeast and Mid-Atlantic states.

The CONEG governors have long supported the Northeast Corridor (NEC) and the larger regional network of existing and planned passenger rail corridors as a transportation **and** economic artery for the Northeast. This network encompasses the Main Line connecting Boston, New York City, Philadelphia and Washington, D.C., and the branches that extend service to Harrisburg, PA; to Albany and points beyond including Vermont and Canada; to Hartford, CT, Springfield, MA, and Vermont; and to Portland, ME and points beyond. It is a vital component of an integrated transportation system that provides economic competitiveness, employment opportunities, and community revitalization through the safe, efficient, and environmentally sound movement of people and goods. The northeast region is uniquely positioned to become the American showcase for the application of advanced intercity passenger rail systems that incorporate high speed rail segments as well as improved connectivity.

The shared CONEG goal for the Northeast Corridor is improved, expanded passenger rail service and significantly increased ridership for both intercity and commuter rail service – on the Main Line and the critical branch lines. Achieving that goal for all users will require a quality and range of services that can entice travelers away from congested highways and airports and onto an intercity and commuter rail network that provides:

- intercity service, including regional service and world-class higher speed premium service, with reduced travel times, more frequent service, and better on-time performance;
- more frequent and reliable commuter rail services with expanded coordination between commuter railroads and intercity service as well as upgraded equipment and stations; and

- enhanced intermodal linkages for more seamless travel with coordinated informational services, compatible fare collections, integrated facilities, and coordinated operations.

CONEG Principles Guiding the Future of the Northeast Corridor (NEC) Network

Because of the vital regional economic and transportation importance of the Northeast Corridor, the northeast states have outlined several basic principles for its development, management, operations, and funding.

NEC is a Critical National and Regional Joint Use Asset: The Northeast Corridor is a nationally significant transportation asset that has been developed with considerable federal and state investments. It must continue to be managed as a public transportation corridor, with access for critical intercity, commuter and freight services where shared trackage is vital to economic development. Public oversight and control of the NEC infrastructure is essential to ensuring safe, secure and reliable passenger services.

States Are Vital Partners: To ensure that the NEC Network is strategically developed to its highest and best public use, states must have a meaningful role in and responsibility for intercity and commuter rail policy-making. The northeast states share in the ownership, financing and operations of passenger rail service on the NEC and its regional branches. They have invested billions of dollars in improvements to the Network that benefit intercity passenger rail. They are actively engaged in the Northeast Corridor Infrastructure and Operations Advisory Commission created by action of this Committee. They worked jointly with Amtrak and freight railroads to update an NEC Master Plan that included all users on the Main Line and its critical branches. They are currently working with Amtrak and the Federal Railroad Administration to develop a NEC passenger rail corridor service development plan which includes related National Environmental Policy Act compliance actions for improved service on the NEC.

Therefore, any changes in governance, funding and management that affect the states or their commuter and intercity rail operations, including the allocation of costs and modification of services, must result from collaborative processes with the states and should provide neutral mechanisms to resolve disagreements. Federal policy should recognize states' long-standing role as joint funders, owners and operators of passenger rail service. It should encourage states, the federal government, and railroads to work together to improve planning and management of the NEC Network across ownership, jurisdictional and modal boundaries. Investments made by states, particularly in state-owned territory, should be recognized, acknowledged and accounted for in any funding scenario where a state contributes (or may be asked to contribute) to the cost of intercity passenger rail infrastructure. The charge given to the NEC Advisory Commission to develop a standardized formula for the allocation of costs, revenues and contributions among the NEC commuter railroads and Amtrak for use of each entity's facilities and services tacitly acknowledges this principle.

Federal Government Has a Lead Role in State of Good Repair: The federal government has the dominant responsibility to restore the Amtrak-owned NEC infrastructure to a state of good repair that incorporates normalized maintenance and eliminates the backlog of deferred investment.

Change Must Occur in a Timely and Orderly Manner: Changes in the current intercity passenger rail system must occur in a timely but orderly manner that involves close consultation with the states; reflects rigorous data and analysis; recognizes the complexity of the joint-use system and its integration with the branch lines. Any changes in funding, infrastructure, operations or institutional responsibility for the NEC Network should be undertaken in an orderly fashion that does not jeopardize current intercity, commuter and freight services.

Comments on the Discussion Draft

The following comments on the committee print of the *Competition for Intercity Passenger Rail in America Act of 2011* draw upon these principles. They identify a number of areas where it is unclear how the current provisions would incorporate these principles; the states' interest in the Northeast Corridor as a core component of an integrated, regional transportation system; and the continuation of the federal government as a strong public partner with the states in the future of the NEC.

Federal Role

- The bill provides that the Amtrak-owned assets of the Main Line of the NEC are transferred to the Secretary of Transportation, who then leases the assets to the NEC Executive Committee for 99 years; and for the Executive Committee to manage the infrastructure and operations of intercity passenger rail service on the Main Line. The Federal government continues to hold ownership of the assets and plays a role in the NEC. However, there is no clear reference to the scope and focus of the larger Federal role, other than the general provisions for the Secretary to coordinate transportation programs to ensure that the programs are integrated and consistent with high-speed and intercity passenger rail operations on the NEC. If new services or new rights of way are needed on the NEC Main Line, it is not clear if the Federal Railroad Administration would be involved in the service planning and environmental analysis of the corridor.
- The Northeast Corridor is a joint use asset – shared and used by the states and Amtrak – for public benefit **and** private commercial purposes. It is an integral part of the transportation system of the Northeast. The bill retains the Federal government's underlying ownership rights for a significant portion of the NEC. However, it is not clear that the Federal government retains an ongoing role to ensure that the public interest is served by continuing oversight and financial contribution for its support.

Role of the States

- The Northeast Corridor Executive Committee is charged to “promote mutual cooperation and planning pertaining to the rail operations and related activities of the Northeast Corridor.” The states have two opportunities (direct and indirect) to have a voice in the selection of the Executive Committee membership. However, the northeast states have a special and unique status regarding the NEC since they share in the ownership, financing and operations of passenger rail service on the Northeast Corridor and its regional branches. *Changes must be developed in close consultation with the affected states*, not just representational membership on the Executive Committee. A significant state role in the

determination of the routes, stations and services and public funding alternatives must be included in any determination of the NEC future. Performance measures for the NEC should be determined with the states that comprise the NEC and contribute to its intercity services.

Existing Services and State of Good Repair

- The Northeast Corridor requires significant resources to bring the existing infrastructure to a state of good repair (SOGR). The bill does not acknowledge the need for such SOGR investments and their importance to future capacity and reliability of express and non-express service on the NEC. The bill gives the NEC Executive Committee the authority to provide for improved, high speed service. However, it is not clear that this authority includes responsibility to ensure that the existing NEC infrastructure is brought to a state of good repair. A bill to address improved, higher speed intercity service on the NEC should address how a state of good repair on the NEC system will be achieved and maintained. The infrastructure investments needed to accomplish the SOGR and the proposed source of funds should be delineated.

Public Financing and Risk

- Any major change in the funding and governance of the NEC infrastructure, operations and services entails potential legal and financial risks, as existing responsibilities may be transferred among the various affected parties. These potential risks are less clear when responsibilities may shift from the public sector to a private entity. Therefore, any public-private partnership structure for the NEC must be developed to minimize both the risks and costs to the states.
- The bill contains evaluation criteria for the solicitation and selection of proposals that specifically address a criterion for the “least amount of Federal support.” However, it does not address whether that decrease in Federal support might be achieved in part by transferring greater costs (directly or indirectly) to the states and local governments that use and rely upon the NEC for passenger rail services. *The objective should be to minimize the amount of any public funding needed to develop a high performance NEC intercity passenger rail system.* Therefore, a solicitation and evaluation criteria should address the least amount of Federal, state and local government support.
- The bill does not clearly address how the proposers would handle the insurance and liability issues. The evaluation criteria should allow the ability to *determine whether the risk and exposure has been passed to the Federal, state or local governments.*
- The northeast states have made and continue to make major investments in the NEC infrastructure that contribute to the overall performance of the NEC for its multiple users. In addition to having a long-term vested interest in these infrastructure investments, the bill should include language to address the *continuation of those intercity rail projects on the NEC and branch lines which have been awarded under prior years appropriations.*

- Careful consideration must be given to the balance between state and local authorities and laws, and the powers and responsibilities of any new entity with development and management control of the federally-owned segments. For example, the bill vests in the NEC Executive Committee the authority to condemn and otherwise acquire any interest in real property that it considers necessary to carry out its statutory goals. This is a broad authority, and does not appear to exclude condemnation of publicly held real property, including property of a state or local government or government authority. This broad authority is particularly troublesome since portions of the NEC are owned by states.

Connectivity with Other Rail Services

- The joint use of the NEC is central to its effectiveness as a public transportation corridor that serves other rail and transportation modes on the Main Line, as well as state-supported intercity service that originates off the Main Line. The bill clearly specifies performance standards that are designed to ensure that commuter rail and freight services that depend upon rail access, maintenance, and dispatching are to be continued at no less than the levels of service at the time of enactment. However, the bill does not address whether similar provisions will be available to intercity services that originate off the NEC Main Line, but whose service and ridership is contingent upon similar access to facilities and services on the Main Line. The language should also *recognize the interface with other intercity passenger rail services connecting to the NEC infrastructure and facilities.*
- The bill allows for the separation of the ownership of the NEC Main Line and the branch lines which are integral part of the larger regional rail network. However, it provides no details on the terms and conditions associated with such a transfer to the affected state, or, if a state decides not to seek title, the implications for continuing ownership, control, and integrated passenger rail service on the branch line.

Interaction with NEC Infrastructure and Operations Advisory Commission

- The Northeast states are active participants on the NEC Infrastructure and Operations Advisory Commission as it acts on its statutory responsibilities to develop goals for the NEC; develop specific recommendations; and develop a standardized formula for the allocation of costs, revenues and contributions among the NEC commuter railroads and Amtrak for their use of the other entity's facilities and services.

The draft legislation does not repeal Section 212 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) which establishes a Northeast Corridor Infrastructure and Operations Advisory Commission (NEC Commission). It makes no mention of how the responsibilities of the NEC Commission interact with the Northeast Corridor Executive Committee. It is not clear if Section 212 of PRIIA will be retained and how some of the duplicative responsibilities would be addressed.

Thank you for the opportunity to share these comments on behalf of the northeast states and the CONEG Policy Research Center. I hope that these comments will be helpful to the Committee.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name: Anne D. Stubbs

(2) Other than yourself, name of entity you are representing:
CONEG Policy Research Center, Inc.

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES

If yes, please provide the information requested below and attach your curriculum vitae.

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:



Signature

June 21, 2011
Date

BIOGRAPHY OF ANNE D. STUBBS

Anne Stubbs is the Executive Director of the CONEG Policy Research Center, Inc. (Center), the staff arm of the Coalition of Northeastern Governors (CONEG). Through CONEG, the northeastern governors work cooperatively to share information and develop constructive responses to current and emerging issues affecting the member states.

As director, Anne works with the governors and senior state officials to develop and implement cooperative regional programs on priority regional concerns identified by the governors; and to communicate the governors' regional interests to the Congress, Administration, other states and regions and the private sector.

Anne has been directly engaged in the Center's work with the states on surface transportation authorization and regional passenger rail. She works with state members Northeast Corridor Infrastructure and Operations Advisory Commission as well as regional organizations of state transportation commissioners. She developed the Center's report on states' investment in intercity passenger rail.

In addition to working on regional transportation, Anne has been engaged in the Center's work and reports on:

- The Low Income Home Energy Assistance Program (LIHEAP),
- States' roles in alternative fuels infrastructure as part of a Northeast Clean Fuels Corridor,
- States' role in electric utility restructuring, and
- A state, private sector and environmental collaboration to reduce waste from packaging.

Prior to joining CONEG, Anne was:

- Program Director for the Environmental Resources program at The Council of State Governments in Lexington, Kentucky,
- Environmental Policy Assistant to the Governor of Rhode Island, and
- Research Assistant with The Council of State Governments.

Anne holds a Masters in Political Science from the University of North Carolina-Chapel Hill, N.C., and is a graduate of Agnes Scott College in Atlanta, Georgia.