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202-906-2820

Chief Operating Officer
AmeriStarRail
600 North King Street, Suite
400 Wilmington, Delaware
19801

VIA FIRST CLASS MAIL AND

E-MAIL July 19, 2022

Dear Mr. Spencer:

Bruno Maestri
Vice President
Government Affairs and



Corporate Communications

Mr. Scott R. Spencer

I am responding on behalf of Stephen Gardner, Amtrak's Chief Executive Officer, to your most recent letter dated June 10. In that letter, you requested a meeting with Mr. Gardner to discuss your claims that Amtrak's failure to enter into an agreement with AmeriStarRail (ASR), the company with which you are associated, constitutes "discrimination" and "denial of accommodations" on Amtrak's part.

Your letter indicates that you only recently received Mr. Gardner's March 2 response to your February 4 letter stating that Amtrak saw no need for another meeting. The March 2 letter was mailed on that date via first class mail to the address on your letterhead. We do not know why you did not receive it.

As you indicate in your June 10 letter, your proposal to replace Amtrak's *Acela* and *Northeast Regional* services with a standardized fleet of 160 mph trainsets, to be financed and operated by companies with which you were or are affiliated, was first communicated to Amtrak more than six years ago. Since that time, senior Amtrak executives, including Mr. Gardner, have met with you in-person or virtually on numerous occasions. You have been afforded multiple opportunities to present information on your proposal, and Amtrak has examined it in detail.

As Amtrak has made clear in its previous correspondence, we have concluded that your proposal is not financially viable and would not achieve the unprecedented levels of ridership and revenue needed to attract and sustain the investment it would require. You have also not demonstrated that your recently formed company, which has no identified assets, funding commitments, employees (other than yourself)

or other business activities, would be capable of attracting the billions of dollars in funding your plan would require, acquiring the high-speed trainsets you propose to purchase, or replacing Amtrak as the operator of high-speed service on the Northeast Corridor (NEC). Abandoning Amtrak's carefully developed and well underway plans for improving NEC high-speed rail service in favor of a proposal that is not viable and turning over Amtrak's statutory responsibility to provide NEC service to a company without any of the necessary resources or qualifications would jeopardize continued operation of NEC



Mr. Scott R. Spencer
Page 2

July 19, 2022

services and the jobs of thousands of Amtrak employees in Delaware and elsewhere along the Northeast Corridor.

In your most recent letters, you have accused Amtrak of "discriminatory operating practices" because it does not provide Coach seating on its premium *Acela* high-speed trains. There is no basis whatsoever for this claim.

Let me begin by assuring you of Amtrak's commitment to equity and diversity. We recognize the importance of attracting a diverse and inclusive customer base, and meeting the transportation needs and travel preferences of all who choose to travel with us. We also strongly share your view that *Acela* service should be made available to many more passengers than we are currently able to accommodate.

The NEC is the only high-speed rail line in North America. Amtrak operates two high-speed NEC services. Our *Acela* service offers Business and First Class seating, operates at a maximum speed of 150 miles per hour (mph), and makes limited intermediate stops. *Northeast Regional* has Coach and Business Class seating, operates at a maximum speed of 125 mph, makes more intermediate stops, and provides service to points beyond the electrified NEC using diesel power. Because *Acela* trains make fewer stops and operate at higher speeds in some places along the NEC, their trip times are somewhat shorter than for *Northeast Regional* trains. Between Wilmington and New York City, *Acela* is on average about 15 minutes faster.

Both *Acela* and *Northeast Regional* provide more frequent service, and operate at higher speeds, than any other Amtrak route. Prior to the COVID-19 pandemic, *Acela* trains operated hourly between New York City and Washington; *Northeast Regional* trains operated even more frequently; and additional 125 mph *Keystone* trains with Coach seating operated on a near hourly basis between New York City and Philadelphia. Service on the NEC was reduced at the outset of the COVID-19 pandemic, and full service has not yet been restored due to reduced travel demand and staffing and equipment shortages attributable to the pandemic. Nonetheless, Amtrak passengers traveling from New York City to Washington currently have a choice of 27 trains each weekday (17 of which are *Northeast Regionals*), and passengers from New York City to Philadelphia are served by 38 weekday trains (including 28 *Northeast Regionals* and *Keystone* trains).

Amtrak is required by federal law to operate and be managed as a for-profit business. Like the private airlines and buses with which we compete, we offer different levels of service in the NEC, with prices that vary based upon class of service, travel time, passenger demand for each train, and when tickets are purchased. Passengers who book in advance, and/or travel during non-peak periods, generally receive the lowest fares. Offering a wide range of fares allows us to maximize ridership by attracting passengers seeking low fares, while also maximizing revenues by charging higher fares to passengers willing to pay

more for additional amenities and a faster trip.

Mr. Scott R. Spencer

July 19, 2022

Page 3



While *Acela* fares are usually higher than *Northeast Regional* fares, the difference is often relatively small. Between Wilmington and New York City, the lowest *Acela* fare is only \$45, which is less than the average *Northeast Regional* fare. Amtrak also offers discounts on *Acela* tickets to senior citizens, disabled persons, active-duty military personnel and students and runs periodic sales offering discounted *Acela* seats to all passengers.

Charging higher fares for services that offer faster trip times is a common practice throughout the transportation industry. Airlines tickets for non-stop flights generally cost more than tickets for connecting flights with longer travel times. Passenger railroads in other countries, including Germany and Japan, charge more for travel on high-speed trains than for trains that operate at conventional speeds. By charging higher fares to NEC passengers willing and able to pay a premium for a faster trip, Amtrak generates additional net revenues that are used for capital investments that benefit all NEC passengers.

The operation of premium fare high-speed service on the NEC predates Amtrak, having begun in the late 1960s as part of the federal government-led high speed rail project that produced the *Metroliner*, predecessor of the *Acela*. Capital investments since Amtrak acquired the NEC in 1976, and the business and pricing strategies Amtrak has followed, have reduced trip times for all NEC travelers and produced large increases in NEC ridership and revenues. Since the introduction of *Acela* service in 2000, Amtrak's share of the air-rail market (passengers traveling by plane or train) has increased from 37 percent to 84 percent between New York City and Washington, and from 20 percent to 73 percent between New York City and Boston.

The greatly increased demand for Amtrak service on the NEC strained the limited capacity of our current *Acela* equipment fleet, which consists of only 20 trainsets that each have a capacity of just 304 passengers. Sold out *Acela* trains became a frequent occurrence. Limited *Acela* capacity inhibited ridership growth and resulted in higher fares for *Acela* passengers who traveled during periods of peak demand.

In 2017, the Federal Railroad Administration (FRA), which administers and oversees federal grants to Amtrak, completed a comprehensive, multi-year study of future NEC service, called NEC FUTURE, that reflected extensive analysis and input from states, elected officials, and other NEC stakeholders. Among the proposals FRA considered was your proposal to acquire a standardized fleet of trainsets, operating at a maximum speed of 160 mph and offering Coach, Business, and First Class Service, to replace both the existing *Acela* and *Northeast Regional* equipment fleets and services. FRA decided instead that Amtrak should continue to provide separate, premium priced, operating at speeds of 160 to 220 mph and making limited stops, and non-premium service similar to the current *Northeast Regional* service.

Amtrak's acquisition of 28 next generation, premium service *Acela* trainsets was included in FRA's Selected Alternative for NEC FUTURE. These new trainsets, which will begin to enter service next year, will initially be able to operate at 160 mph on about 7 percent of the NEC where track conditions allow.

Mr. Scott R. Spencer

July 19, 2022

Page 4



However, they have a design speed of 186 mph, enabling them to operate at higher speeds in the future when planned dedicated high-speed tracks are constructed along segments of the NEC.

The new *Acela* trainsets will allow Amtrak to make premium high-speed service available to many more passengers. The number of *Acela* trainsets will increase by 40 percent, enabling more frequent *Acela* service, and each of the new trainsets will have will 386 seats, a 27 percent increase over the current trainsets. More trainsets with more seats operating more frequently will increase *Acela* capacity and seat miles by over 75 percent, allowing Amtrak to offer more lower priced *Acela* tickets and carry many more *Acela* passengers.

Amtrak has also recently contracted to acquire new Intercity Trainsets (ICTs) that will replace the *Amfleet I* cars that currently provide *Northeast Regional* service. The new ICTs will operate at a maximum speed of 125 mph. Some of the new ICTs will have dual-mode propulsion that will enable them to operate under both electric and diesel, eliminating time consuming locomotive changes and reducing trip times for *Northeast Regional* passengers traveling to points south of Washington and north of New Haven.

The new trainsets Amtrak is acquiring for our *Acela* and *Northeast Regional* services are urgently required to meet the needs of our NEC passengers, improve accessibility for disabled passengers, and offer a viable service in a competitive marketplace. The current *Acela* trainsets have insufficient capacity, are technologically obsolescent and have exceeded their commercial life. The *Amfleet I* cars operating on our *Northeast Regional* trains are nearly half a century old, well beyond the service life of passenger rail equipment.

Amtrak has already expended or committed billions of dollars to acquire these new trainsets. Construction of some of the *Acela* trainsets has been completed, and they are undergoing testing before entering revenue service next year. Our passengers deserve new equipment, and the additional capacity, service frequency and accessibility it will provide. It would be a major mistake to consign our *Acela* service to a maximum speed of 160 miles per hour, less than the maximum speed of high-speed services in many other countries, for decades to come. Both Amtrak and the FRA's NEC FUTURE plan contemplate future operations at higher speeds at which the new *Acela* trainsets are designed to operate.

In addition to acquiring new equipment for our NEC services, Amtrak is making many other investments in the NEC. These investments will reduce trip times, improve reliability and provide an improved customer experience for all NEC travelers, while enhancing equity and diversity and benefiting the communities we serve. To give just a few examples:

- § The Delaware Third Track Project, completed in 2020, added a third track to a segment of the NEC between Wilmington and Newark, Delaware, that had only two tracks, improving on-time performance and reducing delays for all Amtrak trains and DelDOT commuter trains.

Mr. Scott R. Spencer

July 19, 2022

Page 5



- § A recently initiated redevelopment project at Amtrak's Baltimore Penn Station will provide greatly improved station facilities, serve as an anchor for transit-oriented development of adjacent properties, and enhance the vibrant surrounding neighborhoods.

§ Amtrak has committed \$130 million this year for infrastructure improvements on the NEC between New York City and Washington, for which it has hired 500 additional workers. We recently secured an \$8 million federal grant for a new three-year apprenticeship that will provide training to over 600 employees at six training hubs, one of which will be located in Wilmington.

While we appreciate your interest in improving Amtrak's NEC service and wish you well in your business endeavors, Amtrak does not intend to pursue further discussions with AmeriStarRail.

Sincerely,



Bruno Maestri

Vice President, Government Affairs and Corporate Communications

cc: Stephen J. Gardner



AmeriStarRail

Transportation Innovation

July 22, 2022

Mr. Stephen Gardner
Chief Executive Officer
National Railroad Passenger Corporation
1 Massachusetts Avenue, NW
Washington, DC 20001

Dear Mr. Gardner,

The key reason a meeting with you was requested in our original letter on National Transit Equity Day, February 4, 2022 was to enable AmeriStarRail (ASR) and concerned stakeholders to begin a direct dialogue with you to help Amtrak improve Transportation Equity on the Northeast Corridor by eliminating the discriminatory operating practice of not providing Coach accommodations for seniors, students, families, disabled and low-income coach passengers on Amtrak's publicly supported high-speed trains.

Amtrak's July 19, 2022 letter from Amtrak Government Affairs executive, Bruno Maestri, unfortunately reflects a pattern of denying, delaying and deferring responsibility to resolve this Transportation Equity issue to other Amtrak officials who do not have direct knowledge of the issue and AmeriStarRail's solution. In fact, in the letter, Mr. Maestri never mentioned Transportation Equity and incorrectly stated AmeriStarRail was claiming that Amtrak's failure to enter into an agreement with us "constitutes "discrimination" and "denial of accommodation" on Amtrak's part." AmeriStarRail clearly explained in our February 4th letter that denying affordable and equitable access for Coach passengers to Amtrak's fastest trains is a discriminatory operating practice because the high-speed tracks for Acela trains, such as the recently completed half-billion dollar New Jersey High Speed Rail Improvement Program, are funded by all taxpayers.

Since less than 30% of Amtrak's Northeast Corridor passengers can afford Acela Business and First Class fares this is a poor utilization of limited federal funding. In fact, as stated in Mr. Maestri's letter, of the 38 weekday trains that Amtrak currently operates over these high speed tracks in

New Jersey, only 10 are high-speed Acela trains. Therefore, only 26% of Amtrak trains currently utilize the investment in 150 MPH tracks. AmeriStarRail's Transportation Equity solution of offering Triple-Class service of Coach, Business and First Class on a standardized Northeast Corridor fleet of 160 MPH high-speed trains means 100% of Amtrak passengers and 100% of Amtrak trains will utilize federal investment in high-speed infrastructure from Boston to Washington.

Amtrak's July 19th letter also tries to defer from its discrimination of Coach passengers by concluding that our Transportation Equity solution "is not financially viable" and that AmeriStarRail is not fit, willing and able to implement the most dramatic improvement and expansion of Amtrak's Northeast Corridor services as described on our website www.AmeriStarRail.com. We are unsure how Amtrak made this conclusion without reviewing AmeriStarRail's financial details.

Amtrak also knows that, in our proposal submitted December 11, 2019, we confidentially and conditionally identified one of our sources of private financing. As described in the terms and conditions of the proposal, our private financing is subject to completion of a mutually beneficial AmeriStarRail - Amtrak Operations and Maintenance Agreement which would generate hundreds of millions of dollars annually in additional revenues for Amtrak from track and station users fees.

Suite 400 600 N. King Street Wilmington, Delaware 19801 302-354-3577



Page 2: Mr. Stephen Gardner, July 22, 2022

Although private sector initiatives are not without risk, our private investors have much greater expertise than Amtrak to determine the financial viability of AmeriStarRail's proposal. In fact, we have discussed options to assist Amtrak with private financing since Amtrak's original plans to repay the \$2.45 billion federal loan for the new Alstom Acela trainsets with ticket revenues is no longer financially viable due to the chronic downturn in Acela business travel ticket revenues caused by the COVID-19 pandemic. AmeriStarRail's Transportation Equity solution reduces Amtrak's dependency on federal subsidies for the Acela trains and provides an innovative way to diversify ticket revenues by including Coach passengers on a standardized fleet of Alstom Avelia Liberty trainsets in a "stretch" version with 12 cars for Coach, Business and First Class.

This solution will also keep union jobs at Alstom's Hornell, NY plant building 76 more high-speed trainsets through 2030 with private financing.

Although Amtrak offers various discounted Acela fare policies on a limited number of seats on some Acela trains, there has never been part-time or discounted ways to eliminate discriminatory operating practices.

All high-speed trains in Europe and Asia serve Coach passengers. All airlines offering First Class and Business Class seating also serve Coach passengers on the same plane on every flight. AmeriStarRail wants to implement a privately funded solution that will allow Amtrak to achieve this standard for Transportation Equity. Our goal is for Amtrak conductors to announce "All Aboard" Amtrak's fastest trains for all passengers.

To achieve this goal, meeting with you is vital to acknowledge Amtrak's Transportation Equity issues on the Northeast Corridor that AmeriStarRail is seeking to resolve. This meeting will also allow more than a dozen stakeholder groups including several branches of the NAACP between Boston and Washington to express their concerns about Amtrak not including Coach accommo

dations on America's fastest trains.

Their voices deserve to be heard.

Sincerely,

A handwritten signature in dark ink, appearing to read "Scott R. Spencer". The signature is fluid and cursive, with the first name "Scott" being more prominent.

Scott R. Spencer
Chief Operating Officer

Cc:

A. Phillip Randolph Institute
Disabled American Veterans Organization
Labor Network for Sustainability
Members of Congress
National Aging and Disability Transportation Center
NAACP Wilmington, DE Branch (Unit 2031) and other NAACP Branches (Boston -
Washington) National Disability Rights Network
U.S. High Speed Rail Association

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