

WRITTEN TESTIMONY

DAVID DECH
EXECUTIVE DIRECTOR OF THE SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
("TRI-RAIL") AND MEMBER OF THE BOARD OF THE COMMUTER RAIL COALITION

TO THE
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

HEARING ON
GETTING TO WORK: EXAMINING CHALLENGES AND SOLUTIONS
IN THE COMMUTER RAIL INDUSTRY

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South Florida Regional Transportation Authority
801 NW 33rd Street
Pompano Beach, Florida 33064

Introduction

Thank you Chairman Nehls and Ranking Member Payne for the opportunity to testify today before the subcommittee. My name is Dave Dech and I am the Executive Director for the South Florida Regional Transportation Authority – the provider of commuter rail services known as “Tri-Rail” in South Florida, serving three counties – West Palm Beach, Broward and Miami-Dade. You have heard from my esteemed colleagues today on the very unique issues and challenges facing the commuter rail agencies across the nation. Today I wish to focus my remarks on two important issues: first, the benefits the commuter rail industry has derived from its extensive use of contracted services with private contract service providers, and; two, some additional views as an industry on strategies to improve overall rail safety, especially in the aftermath of the tragic derailment and fires that occurred in East Palestine, Ohio earlier last year.

In addition, let me also add that the federal funding we have received from increased formula funds and the new rail car replacement program that were both the result of the Bipartisan Infrastructure Law, have provided critical assistance that has allowed us to address capital replacement challenges that have been a difficult problem for several years. We look forward to working with the committee to address a more predictable and reliable funding sources for capital replacement needs that the commuter rail industry desperately needs.

During my career leading two commuter rail agencies that utilize private contract operators, I have gained a unique perspective on the benefits of contracted services. My current system, Tri-Rail, has contracted for all services -- Train Operations, Maintenance of Infrastructure and Maintenance of Equipment since its inception in 1989. My prior employer, the Capital Metropolitan Transportation Authority in Austin, Texas (“Capital Metro”) operates a commuter rail system throughout the Austin urbanized area also utilizing contracted services for all functions.

At Tri-Rail, all our services have been competitively procured and we have contracted with several different contractors over the life of the agency. We have used what is commonly referred to as “bundled” and unbundled” contracts, which is a format whereby agencies decide if they wish to have one contractor handling all aspects of service – train operations, maintenance of rolling stock and maintenance of the right-of-way and facilities and other infrastructure – such as stations. And while most attention is focused on these larger contracts, we also contract for many other critical services, such as: train dispatching services, signals and communication, positive train control maintenance, station operations and maintenance, security services, to name a few.

When you look across the entire commuter rail industry, you will find many agencies contract for direct provision of train services much in the way Tri-Rail does, as well as many other services. And in some cases, commuter rail agencies provide a mix of contracted train operations and maintenance as well as services that are provided directly by agency employees. An example of this approach is seen in the commuter system in Chicago, where Metra, since a 1983 reorganization, has continued to utilize purchase-of-service agreements with freight rail companies -- the Union Pacific and the BNSF railroad -- to provide service on three lines; the remainder of their service on six other lines is provided directly by Metra employees. Metra owns all the rolling stock and is responsible for all stations along with the respective municipalities.

Why Contracted Services

The commuter rail industry has a unique history that has offered ample opportunity to use contracted services wherever possible. When Tri-Rail commenced service in 1989, thus becoming one of the first new start commuter rail services in the US in many years, the federal government strongly encouraged consideration of competitive contracting wherever possible in the provision of public transportation services. Tri-Rail saw that by contracting with a service provider, they could stand up a commuter rail operation in a short period of time by bringing in the expertise that a contractor could offer. Hiring and training railroad employees is a skill and process that requires unique expertise and acquiring that expertise through contracted services makes economic sense in many cases.

And 35 years later Tri-Rail has found that through this relationship they can save money and benefit from the innovative approaches offered by a contract operator. This has allowed Tri-Rail to be responsive to changing demographics and ridership patterns in South Florida and I would say has had a hand in allowing us to continue to respond to growing demand in ridership, even beyond pre-pandemic levels.

An examination of the commuter rail industry shows contracted services in more than 14 of the 32 commuter rail operations nationwide, including: Los Angeles (MetroLink); Virginia Railway Express; MARC; and many others that utilize various forms of contracted services.

There are approximately seven private contractors offering a full range of contracted services, including: Herzog Transit Services, Keolis, Alternate Concepts, Inc., Amtrak, Bombardier/Alstom, RATPDev and Transdev. There have been other players offering contracted services to commuter rail agencies in the recent past and vehicle manufacturers such as Bombardier/Alstom who also offer maintenance of equipment services.

The question of whether to bundle or unbundle services is one that each agency makes individually. Some agencies may have the in-house ability to perform certain functions, such as facility maintenance, which may provide a more economic solution than contracted services. Also, agencies have found that it may be of benefit to contract with individual contractors who offer a certain level of expertise and qualification in particular areas. As with all things, this unbundling of contracted services can require additional resources for oversight and coordination. Again, these are the conditions that each agency weighs in making this decision.

I can say that during my experience at Tri-Rail and before in Austin, I have found that contracted services have provided a level of transparency and accountability that is key to smooth operations and cost controls. At Tri-Rail we believe that contracted services provide a level of expertise and stability with economic value that we would have difficulty maintaining if we provided the service directly with our own employees. This of course is not to say that directly-operated services do not have an important place in the commuter rail industry.

Directly operated service provides direct accountability and greater cost transparency. Plus, there is no profit factored into the cost of operations and maintenance. Additionally, because contracts are competitively procured, there can be challenges when a new contract operator assumes control under a new agreement. Tri-Rail has had experience in the past with transitions from one contractor to another, and while I was not in my current position when those transitions occurred, what I understand is that the transitions were managed very effectively, mainly because Tri-Rail employees committed the required time and effort to assure a smooth transition.

The bottom line is that the commuter rail industry has made extensive use of contracted services and has found great value in the expertise of contractors. We continue to explore various options and experiment with differing arrangements and fortunately there has been strong interest from long time contractors such as Herzog and Transdev, as well as growing interest from newer players in the market. Our challenge from an industry standpoint is to work with our federal, state and local partners to ensure that our contracting process is streamlined, concise and not exclusionary or overly complex so as to make potential contractors question the level of effort required to respond to our solicitations. Most contractors will tell you they often invest in excess of \$100,000 to research, prepare and submit a proposal for contracted services.

Mr. Chairman we in the commuter rail industry believe that the federal government should continue to embrace contracted services wherever grantees believe it makes sense. Going forward we see new emerging opportunities to contract with entities who provide rolling stock and locomotives under lease arrangements and the use of federal grant monies for this purpose should continue to be allowed and encouraged. One of the greatest challenges we face is transitioning to cleaner and more robust equipment and in today's world where procuring new equipment requires long lead times, leasing with options for maintenance through a private contractor often makes strong economic sense.

Rail Safety

This subcommittee in the near term may consider legislation to improve rail safety. As my colleague Debra Johnson outlined, the Commuter Rail Coalition supports the concepts advanced in the proposed Senate's Railway Safety Act legislation introduced by Senators Brown and Vance, and believes changes to the freight railroad's inspection practices are necessary to ensure the safety of the communities through which they travel.

Commuter Railroads, as public entities funded by public tax dollars, are concerned that the costs associated with any new requirements for the movement of private commerce on privately-owned railroads should be borne by those private entities. I am of course addressing the mandate requiring new infrastructure or wayside technology, such as hotboxes and where the responsibility for the high cost for installing and maintaining these devices will fall. It cannot be overlooked that such requirements are for the freight railroads' sole benefit and while they often transport hazardous materials over trackage owned by commuter rail agencies, unfortunately commuter rail agencies do not derive similar benefits from these wayside detectors.

Mr. Chairman let me be very clear on this point. The Commuter Rail industry fully supports the introduction of any technology or changes in practices that will in any way help to improve rail safety – even in areas of freight movement where we have no direct input. We just want to assure that any solutions proposed do not in any way degrade our quality of service, and we do have significant concerns about the operating implications for the use of hot box detectors on our rail territory.

As a current CEO having overseen operations at two commuter rail agencies and previously as an operating executive for a Class I railroad, I can tell you that the use of wayside detectors where there is passenger operations can be quite disruptive due to false positive readings. I have witnessed numerous occasions where a detector notifies a train crew of an elevated temperature reading for a particular journal bearing, only for it to turn out to be an inaccurate reading. The result is a stopped train on the right-of-way with resulting delays for all other trains behind it, in particular passenger trains on a timetable.

The standard operating practice for all railroads that receive an elevated temperature reading from a wayside detector is to stop the train and have the on-board crew conduct a visual inspection. And if the specified area of the reading does not yield the discovery of a problem, crews are instructed to inspect the 4-5 cars before and after the identified car. This is a time-consuming process that can cause a lot of disruption for commuter operations as well as other freight and intercity movements.

This is the reason for our concern over investing in a technology that may not have the same reliability as other new emerging sensor technologies. In comparison to the mandate to adopt PTC, the industry had many years of research completed and while the technology was being finalized, its performance and reliability proved to be quite strong. In the case of wayside detectors, the technology is known to be very limited, less reliable and quite expensive to install and maintain, especially in northern climates. Pushing forward to bring new sensor technologies to the market seems to be an approach that will yield better results from a safety standpoint, as well as less disruptive to operations on the corridor.

In addition to concerns about the performance of hotbox detectors, we are also very concerned that if mandated in any subsequent legislation, the cost for acquisition will rise exponentially. Supply capacity for the devices is already limited due to minimal historical demand. The combination of significant new demand and limited supply will surely result in cost increases of a large magnitude. And of course, we are also concerned about the resulting need for additional maintenance and testing required by commuter agency personnel to assure these detectors are working properly.

We have raised these concerns during consideration of the Senate bill and we are very appreciative of inclusion in their bill of a provision to allay some of the costs for installation. We hope to be able to continue the discussion as legislation moves forward that will yield the best results at an affordable cost.

Conclusion

Chairman Nehls and Ranking Member Payne I want to thank you again for the opportunity to discuss the experience with contracted services in the commuter rail industry. I also appreciate the opportunity to add a bit more detail to earlier testimony on rail safety.

As my colleagues have pointed out in their testimony, commuter railroads face a changing landscape as our customers modify their travel patterns. The commuter rail industry believes contracted services allow us to better respond to these changing dynamics while controlling costs. And Congress should emphasize the importance of allowing commuter rail agencies to use all forms of federal assistance for contracted services and leasing of rolling stock.

We really look forward to working cooperatively with you and the Congress to find permanent solutions to the issues discussed here today.