

Statement of
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Before the
Subcommittee on Transportation, Housing and Urban Development, and Related Agencies
Committee on Appropriations
United States Senate

Fiscal Year 2011 Budget Request
Washington Metropolitan Area Transit Authority

May 19, 2010

Chairman Murray and Members of the Subcommittee:

Thank you for inviting MetroRiders.Org to testify today to discuss FY'2011 appropriations for the Washington Metropolitan Area Transit Authority (WMATA) and the safety and operational reliability concerns of Metrorail and Metrobus riders. MetroRiders.Org has represented the views of transit users in the Washington, D.C., metropolitan area beginning in 2004. We are a riders' voice outside WMATA.

-- Safety Concerns Are Paramount

WMATA's recent and continuing safety and financial challenges are well known. The June 2009 Metrorail tragedy that took nine lives and injured eighty others and the subsequent deaths of track workers document that Metrorail safety problems impact riders and employees alike.

Senator Mikulski's leadership in urging a Federal Transit Administration (FTA) safety audit of WMATA and the regional (powerless) Tri-State Oversight Committee generated a hard look at WMATA's own safety program and resulted in a scathing FTA report questioning the safety culture at WMATA. More recently, David Gunn, a former WMATA General Manager, was asked by the current WMATA Board to conduct a review of the entire Metro operation. That two-week review resulted in a report highly critical of WMATA's management and organization and suggested that "MetroRail has downhill momentum that will be difficult to stop." Both the FTA audit and the Gunn presentation to the WMATA Board should be included in the record of today's hearing.

Finally, the National Transportation Safety Board (NTSB) held three days of investigative hearings in February about the June 2009 Metrorail tragedy; its findings on the probable cause or causes of that accident should be released soon. For all these reasons it's understandable that there has been a loss of rider and public confidence in Metro's safety, management and operation.

- WMATA Board Has Been Responsive to Safety Concerns

The current WMATA Board has played catch-up but is now attuned to fixing the system's safety problems. We are grateful that current WMATA Board Chairman Peter Benjamin has had decades of experience as a WMATA staff official and is leading the Board – composed of public officials and political appointees -- during this critical period. The recent appointments of an Interim General Manager and a new WMATA Chief Safety Officer are hopeful signs.

-- Financial Problems Underlie the 34-Year Old Metrorail System's Frailty

Metrorail's safety problems are not unconnected to its age. Like many aging transit systems across the nation, Metrorail needs to replace its oldest cars and rail infrastructure to meet FTA's "state of good repair" recommendations, as well as to increase rail and bus capacity to meet growing traffic demand. Unfortunately those capital requirements are occurring at a time when WMATA's Contributing Jurisdictions are hard pressed to provide the needed resources because of their declining revenues during the national economic downturn.

-- FY'2011 Operating Budget Gap is Almost Resolved

There's somewhat better news, at least procedurally, about WMATA's operating budget. Everyone has read that WMATA has an estimated \$189 million gap in its FY'2011 Operating Budget (July 2010 – June 2011). While riders will have to pay substantially higher fares starting this summer to help eliminate the coming year's operating budget gap and even then may suffer some service cuts, the WMATA Board has handled this situation very well. It opened up its decisional process to input from riders and the general public well before tough decisions were needed.

WMATA received some 5000 communications from the public about ways to solve the budget problem; some groups, including MetroRiders.Org, offered highly detailed proposals that were designed, for example, to move riders out of congested peak periods where possible, and to generate adequate revenue to eliminate or substantially reduce the need for Metrorail and Metrobus service cuts. We are grateful to the WMATA Board and staff for carefully considering these options. That the process was open, transparent and deliberative will make the resulting and inevitable fare increases somewhat more palatable.

-- MetroRiders.Org's "Top 10 Recommendations to Improve WMATA"

MetroRiders.Org has developed a substantial list of recommendations for restoring the public confidence in WMATA's governing body and management and in the safety of everyday Metrobus and Metrorail operations. That list is attached, and our recommendations would involve actions by this Subcommittee, other Senate and Congressional Committees, Maryland, Virginia and the District of Columbia, the WMATA Board itself, and private organizations as well.

-- Senate THUD Appropriations Subcommittee Has Broad Jurisdiction Over WMATA

This Subcommittee's jurisdiction over WMATA includes the authority to make appropriations for the U.S. Department of Transportation and its component agencies such as FTA and, specifically, from Title VI of the Passenger Rail Investment and Improvement Act of 2008 (Public Law No. 110-432, October 16, 2008) (PRIIA). That recent law authorizes the appropriation of up to \$150 million annually for a decade to WMATA to finance in part the capital and preventive maintenance programs included in the Capital Improvement Program approved by WMATA's Board of Directors. Those Federal funds must be matched by contributions of "dedicated" state and local funding from Maryland, Virginia and the District of Columbia.

That statute included a number of additional, specific conditions upon which Congressional appropriations to WMATA would depend.¹ MetroRiders.Org urges this Subcommittee to actively supervise WMATA's compliance with these conditions:

- 1. The Subcommittee should appropriate the full authorized \$150 million in Federal funds in FY'2011 for WMATA capital projects but with conditions.**

MetroRiders.Org is appreciative of this Subcommittee's appropriating \$150 million to WMATA for FY'2010 but is disappointed that, six months after that FY'2010 appropriations was enacted, WMATA has not yet finalized its application for FTA project approval for Federal and local matching funds. That said, the Subcommittee should make full appropriations to WMATA for FY'2011, as recommended in the President's budget, because the funding is much needed for high priority capital projects.

- 2. FY'2011 appropriations should be conditioned upon the state and local jurisdictions' maintaining their past "continuity of effort" with their own funds as the \$300 million annual Federal/local match contribution was to be all "new money."**

We and other groups (and the local media) were very disappointed that the State of Maryland recently tried to reduce its FY'2011 capital contribution to WMATA below its past contribution

¹ Title VI authorized the Administrator of General Services to appoint four new directors to the WMATA Board, two voting and two non-voting directors with one voting director "to be a regular passenger and customer of WMATA's bus or rail service." To date, GSA has only appointed two directors, one voting and one non-voting. Both appointees are highly regarded and have been important additions to the WMATA Board. Because the WMATA Board is considering many critical agenda items (six-year capital budget, fare increases for FY'2011, etc.) we believe the GSA Administrator should announce her final two appointments as soon as possible, as well as to specify which of the two voting directors would be the designated "regular passenger" board member.

Further, the statute required WMATA to appoint an Inspector General for the agency, with full IG-level powers for internal investigations of budgetary and agency management issues. We have been disappointed that the new Office of Inspector General has concentrated on auditing agency contracts (as had the predecessor internal auditor) and has not focused on important agency management issues, as Congress clearly intended by its mandate. The media has performed what are traditional IG functions at WMATA, such as identifying ineffective staff organization of safety functions, lack of proper treatment of the Tri-State Operating Committee, etc.

level. Had this effort been successful, Maryland's \$50 million in matching funds for the PRIIA appropriations would have been provided but its past annual contribution to WMATA (from the same pot of State "dedicated funds") would have been reduced – resulting in a displacement of state funds with Federal capital funding. Worse, because Maryland, local jurisdictions in Virginia, and the District of Columbia contribute to WMATA based on a pro-rata formula, Maryland's reduced contribution would have also limited the contributions that the other two jurisdictions would make in FY'2011.

Only the glare of unfavorable publicity apparently caused Maryland recently to agree to increase its FY'2011 capital contribution to WMATA to its FY'2010 level plus the \$50 million in new PRIIA-matching funds.

Congress should condition FY'2011 PRIIA appropriations to WMATA upon all three jurisdictions maintaining their past "continuity of effort" with their own funds. If severe fiscal problems in any jurisdiction preclude such continuous funding levels, that jurisdiction must promise to make up any shortfall within a specific number of fiscal years.

3. Before the House-Senate Conference on FY'2011 THUD Appropriations, the Subcommittee should review the adequacy of WMATA's response to the NTSB's findings and safety recommendations resulting from the June 2009 Metrorail crash.

In FY'2010, the Congress conditioned WMATA's use of PRIIA appropriations to assure that safety projects would be funded. In FY'2011, the Congress should review the adequacy of WMATA's response to the NTSB recommendations, anticipated to be released shortly. Currently, WMATA has a \$30 million plug in its proposed six-year capital budget for this purpose.

4. The Subcommittee report on FY'2011 PRIIA Appropriations for WMATA should request FTA to undertake a follow-up safety audit of WMATA one year after the first audit.

Because FTA's recent audit of WMATA found many serious safety concerns, and because FTA doesn't currently have authority to regulate WMATA's rail safety operations (see attached "Top Ten Recommendations to Improve WMATA" list), the Subcommittee should urge FTA to conduct a follow-up audit of WMATA a year later to see if internal WMATA safety management has improved in the interim.

5. The Subcommittee should appropriate funding to implement enactment of the "Public Transportation Safety Program Act of 2010."

As you know, FTA currently is statutorily precluded from setting and enforcing safety standards for rail transit systems such as WMATA's Metrorail system. We hope this legislation can be enacted soon, separately if necessary from Congressional reauthorization of multi-year surface transportation funding. When enacted, FTA could set safety standards for Metrorail, or Maryland, Virginia, and the District of Columbia could empower the Tri-State Operating

Committee to undertake safety regulation of Metrorail. MetroRiders.Org prefers direct Federal safety regulation of WMATA by FTA.

The Administration has requested \$24.1 million in FY'2011 for a new Rail Transit Safety Oversight Program and for an additional \$5.5 million to fund 30 FTE in FTA's new and expanded Office of Safety. We hope the authorizing Committees of Congress act on this needed legislation soon and that this Subcommittee can provide the necessary appropriations.

Again, thank you for allowing MetroRiders.Org to testify. I'd be pleased to answer any questions.

Attachment

**MetroRiders.Org's
"TOP TEN RECOMMENDATIONS
TO IMPROVE WMATA"**

SAFETY

- 1. Enact S. 1506/H.R. 3338 to authorize the Secretary of Transportation to establish national safety standards for transit agencies operating heavy rail on fixed guideways.**
- 2. Request FTA to update its safety audit on WMATA one year later.**
- 3. Assure adequacy of WMATA's response to expected findings and safety recommendations of the National Transportation Safety Board (NTSB) concerning the probable cause of Metrorail's June 2009 crash with fatalities and injuries.**

CAPITAL FINANCING

- 4. Approve full authorized \$150 million appropriation for WMATA in FY'2011 on matching basis with Maryland, Virginia, and the District of Columbia but with conditions.**
- 5. Condition FY'2011 appropriations to WMATA upon state and local jurisdictions' maintaining their past "continuity of effort" with their own funds as the \$300 million annual Federal/local match was to be "new money."**
- 6. WMATA, its Contributing Jurisdictions and Congress should develop a plan to provide \$3 billion in additional capital funding to WMATA over the next ten-year period (FY'2011-FY'2020) to provide needed rail and bus capacity during the decade beyond the inadequate \$5 billion six-year capital plan now being negotiated by WMATA with its Contributing Jurisdictions.**

MANAGEMENT/GOVERNANCE

- 7. The Administrator of General Services should appoint the remaining two Federal directors to the WMATA Board of Directors to supplement the existing two appointees and to designate one of the two voting Federal directors as the "regular passenger" Board member.**
- 8. Support the project of the Metropolitan Washington Council of Governments and the Greater Washington Board of Trade for a fast-track, independent review of WMATA's current governance structure.**

- 9. Support amendments to the Congressionally-approved “WMATA Compact” that would make transparent and available for public comment the various “behind-closed-doors” negotiations among the Contributing Jurisdictions as to their future capital contributions to WMATA and to require WMATA to follow the “open government meeting laws” of area jurisdictions.**

OTHER

- 10. Congress should extend the current \$230/month transit “commute benefit” beyond December 2010 for parity with the existing parking benefit.**