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OPEGA

Information Brief

Purpose

In April 2015, the Government Oversight Committee (GOC) placed a review of the Northern New England Passenger Rail Authority (NNEPRA) on OPEGA's work plan. OPEGA initiated work on this review in April 2016.

The initial phase of OPEGA's review focused on gaining a sound understanding of NNEPRA and its functions and assessing areas of risk or concern. In making this assessment, OPEGA's work included, but was not limited to:

- reviewing issues discussed in unsolicited communications from citizens and at legislative committee meetings;
- interviewing NNEPRA management and staff; the Chairman of the NNEPRA Board of Directors; and MaineDOT and DECD management and staff;
- observing the FTA's Triennial Review of NNEPRA in 2015 and reviewing reports from past federal reviews and independent financial audits;
- reviewing NNEPRA operational and financial policies and procedures;
- reviewing MaineDOT and NNEPRA plans for passenger rail; and
- analyzing NNEPRA financial and performance information.

In July 2016, the GOC agreed with OPEGA's recommendation to report the results of the work to date in an Information Brief before deciding whether any areas warrant further review.

September 2016
SR-NNEPRA-15

Northern New England Passenger Rail Authority



Summary

In 1991, legislation was enacted to re-establish passenger rail service in Maine. Responsibility for implementing this policy was first assigned to the Maine Department of Transportation (MaineDOT) but was subsequently transferred to a newly created quasi-independent state entity to limit potential State liabilities connected to operating passenger rail service. The Northern New England Passenger Rail Authority (NNEPRA) was created in 1995 by the Maine Legislature to develop and provide passenger rail service between Maine and Boston, Massachusetts. (See pages 2 – 4.)

Passenger rail services operating around the country typically have required government subsidy to support operations and it appears this was anticipated to be true in Maine as well. Statute directs NNEPRA to keep fares at reasonable rates to encourage ridership and also directs NNEPRA to seek other funding necessary to cover operating deficits. (See pages 12 – 14.)

MaineDOT is responsible for long-term planning for Maine's transportation infrastructure including both freight and passenger rail. Although NNEPRA collaborates with MaineDOT in the planning related to passenger rail, the Authority's role is primarily to implement current passenger rail policy choices and plans as laid out by MaineDOT. NNEPRA's priorities for capital maintenance and improvement projects are those it expects will maximize, and improve efficiency of, the current service being offered. (See pages 9 – 12.)

NNEPRA describes its mission as developing and managing a quality passenger rail system that meets the transportation needs of its customers, delivers value, and enhances economic development within its service region. This mission is supported with Board-approved goals, strategic initiatives and performance measures. (See page 5.)

NNEPRA fulfills its statutory purpose and mission by facilitating coordination between many operating partners. These partners include Amtrak, which owns and operates the train equipment, and several host railroads, Pan Am, Massachusetts Bay Transportation Authority (MBTA), and MaineDOT. NNEPRA also manages the budget, contracts, promotions, and customer services associated with the Downeaster passenger rail service currently operating between Boston, MA and Brunswick, ME. (See pages 5 – 6.)

Over the five-year period FY11 – FY15, 52% of funds needed to cover NNEPRA's operating expenses, including capital maintenance, came from Downeaster operating revenues which in total averaged about \$8.8 million annually. Another 37% came from federal grants, averaging about \$6.3 million annually, and 9% from State funds at nearly \$1.6 million annually. The remaining 1% of funds were derived from non-operating revenues, which include interest on accounts, Amtrak revenue adjustments, New Hampshire platform insurance reimbursements and various refunds. (See pages 12 – 14 for more detail.)

NNEPRA's operating expenses averaged about \$16.9 million annually during the period FY11 – FY15. Eighty percent of the total expenses in the period were related to Train Operations which are comprised of payments to Amtrak and the host railroads, as well as fuel for the Downeaster. The remaining total expenses for the period fall into seven categories, with Food accounting for 5%, Capital Maintenance 4% and the remainder of the categories between 1% and 3% each. (See pages 15 – 18.)

NNEPRA has been engaged in six major capital improvement projects over the period, some of which are still in progress. Expenditures for those projects over the period FY11 - FY15 totaled about \$38.5 million. Federal grants NNEPRA secured accounted for 87.1% of the nearly \$80 million committed to these projects, with another 6.5% from MBTA, 6.2% from State funds and the remainder from Pan Am. (See pages 18 - 19.)

Several functions NNEPRA performs appear key to maximizing ridership and, thus, operating revenues. These are scheduling, fare setting, and marketing. Schedules must be negotiated with the host railroads and available time slots for Downeaster runs are limited by Pan Am's freight business and MBTA's commuter service. Reliability of Downeaster schedules can also be impacted by delayed freight and commuter runs, and maintenance on the tracks. NNEPRA takes a market-based approach to its fare setting but also faces some constraints in this area from Amtrak requirements and federal regulations. In marketing the Downeaster service, NNEPRA uses an approach that promotes services it can successfully provide under the agreed upon schedules to target market groups that are most relevant for each train. (See pages 19 – 21.)

Other functions NNEPRA performs are key to minimizing expenses, though NNEPRA's efforts to minimize expenses are constrained by the realities of its partnerships with Amtrak and host railroads. Nonetheless, NNEPRA has described following sound budgeting, procurement and contract administration practices which are supported by detailed written policies and procedures with the expected controls built in. Most of the practices and written procedures reflect requirements of the federal grants NNEPRA receives. NNEPRA's compliance with certain aspects of the established procedures is regularly reviewed by the Federal Rail Administration, and the Federal Transportation Administration, as well as through annual independent financial audits. (See pages 21 – 23.)

The NNEPRA Board meets monthly and regularly reviews the Authority's financial and operational performance. These public meetings often offer opportunity for public comment. Additionally, NNEPRA maintains a public website containing considerable information on the Authority and the Downeaster operations including goals and performance measures, operating statistics, reports and studies, NNEPRA project descriptions and reports, and NNEPRA Board meeting briefing packets. (See pages 4, 6 – 7.)

Overall, OPEGA observed that NNEPRA and the State face particular challenges in implementing passenger rail service in Maine that create inherent risk in achieving desired outcomes. These challenges are important considerations in establishing realistic expectations for NNEPRA and Downeaster performance, as well as realistic expectations for the societal benefits that passenger rail will generate. The constraints associated with the reliance on operating partners for equipment and infrastructure, and the demographics and needs of riders and potential riders, are among the realities that should be well considered during the evaluation and vetting of proposed expansions and capital improvement projects requiring substantial funding. At the end of this Brief, OPEGA offers several suggestions toward ensuring these factors are recognized and considered by policy makers and planners in the future. (See pages 23 – 24.)

Re-establishment of Passenger Rail Service in Maine

History

In the late 1980s and early 1990s, there was renewed interest and support for the restoration of passenger rail service between Portland and Boston. The Maine Legislature directed MaineDOT to commission a study to examine the potential for passenger rail service. The study was completed in the fall of 1990 and found that estimated ridership was sufficient to support rail service.

The citizen's organization TrainRiders/Northeast (TNE) subsequently collected 90,000 voter signatures to initiate legislation enabling the development of passenger rail service. The citizen's initiated bill, LD 720 "An Act to Enact the Passenger Rail Service Act", was enacted by the 115th Legislature and signed into law by Governor John McKernan in 1991. Public Law 1991 Chapter 587 directed MaineDOT to establish passenger rail service between Portland and Boston as well as points between. The new law specifically required MaineDOT to seek and use at least \$40 million in funding to establish this service. Funding

sources identified in the law included the General Fund, bond issues, the Federal Government, and other State, local and private sources.

As planning and negotiations with host railroads and Amtrak began, issues and concerns arose related to the State's potential liability in establishing and operating passenger rail service and its ability to enter into necessary agreements. In 1995, Public Law 1995 Chapter 374 was enacted to insulate the State from such liability. The new law created NNEPRA and transferred the responsibility for administering the Passenger Rail Service Act from MaineDOT to the Authority.

Amtrak Downeaster service began in December 2001 offering four round-trips from Portland to Boston. Service expanded to five round-trips between Boston and Portland in 2007. Documents OPEGA reviewed and conversations we had with State personnel indicate the State's intention had been to run the Downeaster to Brunswick but there had initially only been enough money to go to Portland.

In September 2006, Governor Baldacci issued an Executive Order directing the State Planning Office to:

- form a working group to facilitate community and economic development near existing and planned train stations; and
- coordinate with MaineDOT, NNEPRA and the Department of Economic and Community Development to assess the economic significance of existing and planned passenger rail service to local, state, and regional economies, including the assessment of the role of passenger rail in supporting economic growth.

The Executive Order also directed NNEPRA, in coordination with MaineDOT, to review matters related to development of passenger rail service north of Portland to Brunswick and Auburn.

In early April 2008, the Legislature passed the Joint Resolution in Support of the Expansion of Downeaster Rail Service in Maine which resolved that, as long as NNEPRA and MaineDOT made best efforts to secure any additional funding needed from other sources:

- the State would provide its share of operating subsidy for Downeaster rail service of approximately \$8 million per year beginning in 2010; and
- the State would provide its share of debt service for a term of 25 years to amortize up to \$31.5 million in capital investments to expand rail service from Portland to Brunswick.

The resolution referenced a recent study by the Center for Neighborhood Technology completed in March 2008, and the specific economic benefits it projected, as justifications for this pledge of financial support.

NNEPRA explained that in 2008 there was strong support from the Administration and the Legislature, as well as potentially affected communities, to expand the train north to Brunswick for several reasons. These included the fact that Brunswick Naval Air Station was closing and that the State had spent \$40 million dollars upgrading the line in Rockland and hoped to connect to the Downeaster via Brunswick. The Governor asked NNEPRA to come up with a financial estimate of the expansion, which was determined to be roughly \$35 million, and to explore funding options. NNEPRA initially pursued a Railroad Rehabilitation and Improvement Financing loan and needed collateral to qualify. The legislative Resolution pledging the State's financial support was part of the effort to secure loan financing. In the end, the federal American Recovery and Reimbursement program (ARRA) was established just as NNEPRA was in the position to apply with regards to the Brunswick expansion. NNEPRA received an ARRA grant for \$38 million for the expansion and it was agreed that \$3 million of the amount promised from MaineDOT's account to support a debt service payment would instead become operational support for the service going forward.

In 2012, the Downeaster expanded two of its five round-trips to provide service to Brunswick and Freeport.

Current Downeaster Service

At present, the Amtrak Downeaster serves twelve communities in Maine, New Hampshire, and Massachusetts with five round-trips daily between Portland and Boston, two of which extend to Freeport and Brunswick. Multiple fare options are available and all trips offer a business class option and Downeaster Café food service operated by Epicurean Feast.

Amtrak provides the train equipment, crews and ticketing services to operate the Downeaster. The Downeaster is operated with three train sets and each train is staffed by three Amtrak crew members. Volunteer train hosts are often on board to provide passenger assistance, hand out information, answer questions, and generally serve as ambassadors for the Downeaster.

The train operates on 143 miles of track. Pan Am Railways owns 106 miles of the track on which it also runs freight. MBTA owns 36 miles of the track on the southern end of the line on which it runs other commuter trains, and MaineDOT owns the remaining one mile of track in Brunswick.

The Downeaster currently uses an outdoor layover facility in Portland to perform daily inspections, cleaning, and refueling of train sets, as well as for storage purposes. However, a new layover facility is under construction at the site of the former Brunswick rail yard in Brunswick. The new enclosed facility will accommodate three 6-car passenger train sets and connect to the main railroad line via a series of three tracks. An adjoining crew building will house offices, wash rooms, locker rooms and storage facilities. NNEPRA expects that moving to a larger, indoor layover facility in Brunswick where the Downeaster line terminates will reduce wear on train sets; allow trains to power down between runs thus reducing fuel consumption, emissions, vibration, and noise; and provide a safer and more climate-controlled setting for those servicing the trains to perform their work. NNEPRA also anticipates the new facility will eliminate deadhead runs and allow the Downeaster to operate an additional daily round-trip between Brunswick and Boston.

Overview of NNEPRA

Relevant Statute and Rules

The NNEPRA Board is technically established in Title 5, section 12004-F, subsection 16. NNEPRA's organization, purpose, duties and authorities, however, are defined in Title 23, Chapter 621, known as the Passenger Rail Service Act, which also establishes passenger rail service in Maine. Bylaws governing the internal management of NNEPRA are set forth in Rule 95-584.

Since 2012, NNEPRA has also been subject to statutory requirements established specifically for quasi-independent state entities. Title 5, sections 12021 – 12023 establishes responsibilities and requirements for these entities with regard to certain financial policies and procedures.

Organization and Functions

The Authority consists of a Board of seven directors and is established as a body both corporate and politic in the State. Two of the directors are ex officio, those being the Commissioners of Departments of Transportation and Community and Economic Development. The remaining five directors are members of the public, appointed by the Governor and confirmed by the Legislature for five-year staggered terms. The Governor also designates one of the appointed members as Chair of the Authority.

The NNEPRA Board employs an Executive Director and six other staff: the Manager of Budget and Administration; Manager of Passenger Services; Marketing Director; Manager of Special Projects; Data Specialist; and Marketing and Sales Assistant. NNEPRA's office is located in Portland.

The NNEPRA Board sets NNEPRA's overall strategic objectives and initiatives and adopts NNEPRA's action plan that outlines the performance metrics and goals for each fiscal year. The Board also approves contracts, reviews and approves budgets, approves capital projects, provides financial oversight, and gives general direction to the NNEPRA operating staff. The Board Treasurer approves the warrant of invoices to be paid and receives and reconciles copies of bank statements, accounting system reconciliations, and the monthly check register.

NNEPRA typically holds formal Board meetings once a month. At these meetings, NNEPRA staff provides overviews of the operating statistics, performance measures, marketing initiatives, budget to actual comparison, and project updates. If NNEPRA is undergoing a process like a fare change or proposing a service change, this is presented and discussed. The Board votes to accept reports or to take action on any pending matters. Meetings are public, and if members of the public are present, the Board provides a time for public comment. In addition to members of the public, there are generally representatives from Amtrak, Concord Coach, TNE, and All Aboard Brunswick. Individual Board members are also in communication with NNEPRA staff on an ongoing basis to sign contracts or other documents, or to talk with NNEPRA management about specific concerns, questions or ideas they may have about the Authority's finances or capital projects.

Current members of the NNEPRA Board vary in their tenure and experience, ranging from three terms (of five years each) to new appointees. The terms for the current chairman of the Board and another director have expired but they are continuing to serve on the Board until they, or new directors, are appointed. Of the non-ex-officio directors, three of the current Board

members have served at least two terms, while two are recent appointees. NNEPRA management explained that they are not involved in the process of nominating or appointing members of the Board of Directors.

Purpose, Goals and Performance Measures

Statute states that NNEPRA is established for the governmental purpose of promoting passenger rail service. It directs the Authority to take all actions that are reasonably necessary to initiate, establish or reinstate regularly scheduled passenger rail service between points within the State and points within and outside the State. These actions may include, but are not limited to, the acquisition, holding, use, operation, repair, construction, reconstruction, rehabilitation, modernization, rebuilding, relocation, maintenance and disposition of railroad lines, railway facilities, rolling stock, machinery and equipment, trackage rights, and real and personal property of any kind.

NNEPRA describes its mission as developing and managing a quality passenger rail system that meets the transportation needs of its customers, delivers value, and enhances economic development within its service region. This mission is supported with Board-approved goals, strategic initiatives and performance measures.

Each year the Board of Directors adopts NNEPRA's action plan that outlines the performance metrics that NNEPRA management is to meet or exceed and the specific tasks it must undertake to improve various aspects of service. This plan includes annual financial, On-time Performance, Customer Satisfaction Index, ridership, and revenue goals. NNEPRA management creates initial goals based on previous benchmarks and national standards and presents these to the Board of Directors. The Board of Directors then approves the goals or asks NNEPRA to adjust them. NNEPRA indicated that many of the goals have a national standard such as a 50% cost recovery goal. NNEPRA described the On-Time Performance and Customer Satisfaction Index goals as being based on what is reasonable and having an aspirational bent.

NNEPRA's performance goals for FY16 included:

- cost recovery rate of 43%;
- ridership of 484,005 passengers;
- On-time Performance (OTP) of 85%;
- overall Customer Satisfaction Index (CSI) rating of 95; and
- cost recovery rate of 81% for the Downeaster Café.

NNEPRA staff receives data regarding daily ridership, café sales, OTP and delays. Amtrak also provides the Authority monthly operating statistics, revenue by train, and CSI ratings. Additionally, after a train run, TNE volunteer train hosts fill out reports which are provided to NNEPRA. NNEPRA also fields an on-board survey, through a contracted vendor, on a statistical representation of trains, rotating across seasons. Generally the survey produces a sample size of 2,000 to 3,000 and provides demographic and travel information as well as information about how consumers prefer to hear about the train and how they have interacted with pre-existing Downeaster media. Together, these forms of data help NNEPRA to gauge their performance against their goals. NNEPRA reports their performance towards these goals on a monthly basis at Board meetings and the information is available publically in the Board information packets at the NNEPRA website.

Partners

NNEPRA does not own the trains nor the tracks on which the trains run. NNEPRA does not hire or supervise the crews that run the trains or service the equipment. NNEPRA also contracts out for the food service on the trains. Consequently, NNEPRA's success in maintaining an efficient and reliable service is heavily reliant on its ability to effectively coordinate and collaborate with multiple operating partners in planning and in daily operations. NNEPRA is in large part a facilitator and administrator of the Downeaster service, responsible for coordination as well as troubleshooting and managing problems that arise. In carrying out this role, NNEPRA establishes and actively manages contracts and agreements with key partners necessary to operate the Amtrak Downeaster.

Amtrak - NNEPRA holds a 20-year agreement with Amtrak to operate the Downeaster with prices renegotiated every one to two years. The Amtrak contract covers the provision and maintenance of the train equipment, crew personnel, and ticketing services.

Pan Am and MBTA - Through Amtrak, the operator of the Downeaster, NNEPRA is indirectly a party to agreements with two host railroads—Pan Am Railways and the MBTA. Pan Am is the Downeaster's primary host railroad with 106 miles of track from Brunswick, Maine to Plaistow, New Hampshire. Amtrak's operating agreement with Pan Am

includes permission to operate the service and includes service frequency, maintenance, and performance expectations. Performance payments intended to incentivize Pan Am to prioritize passenger rail and ensure the satisfactory performance of the Downeaster are also included. In addition to the operating agreement between Amtrak and Pan Am, NNEPRA also has agreement with Pan Am that requires NNEPRA to help fund and collaboratively develop a capital maintenance program for projects that will benefit train operations. The Downeaster also operates on the three MBTA lines spanning 36 miles from the New Hampshire state line to Boston, Massachusetts. Amtrak has an operating agreement in place with MBTA that permits the operation of the Downeaster and includes expectations related to service frequency, speed, maintenance, and performance.

Epicurean Feast - NNEPRA contracts with Epicurean Feast to operate, manage and staff the Downeaster Café. This includes the hiring, management, and training of Epicurean Feast employees providing the onboard food service, the purchasing of inventory, related administrative expenses, and the general operation of the Downeaster Café. One of only two Amtrak trains in the nation with independently contracted food service, the Downeaster Café serves light meals, snacks, and beverages including several Maine-made products.

Station Communities – The Portland station is located in the Portland Transportation Center which is privately owned by Concord Coach Lines. Stations in other communities are either community or privately-owned and operated by various entities. NNEPRA has agreements with these entities to maintain the train platforms and, in some cases, the stations.

TrainRiders/Northeast – TNE has a formal agreement with Amtrak and NNEPRA to run a train host volunteer program and coordinates the volunteer train hosts that assist passengers and serve as ambassadors aboard the Downeaster. In addition to the on-board host program, TNE volunteers also staff some Downeaster stations. NNEPRA interacts with the volunteers regularly through the station community meetings and once a year they provide an appreciation luncheon for the volunteers.

There are challenges associated with NNEPRA's reliance on partners to provide the Downeaster service particularly with regard to the rail infrastructure. As Pan Am Railways and MBTA own the track, NNEPRA must work in concert with them to come up with plans and undertake needed maintenance. Pan Am and MBTA do not allow repairs to be done on their track by personnel they have not specifically authorized and NNEPRA has limited oversight over track repairs. Additionally, running the Downeaster on the same lines that run freight and other commuter trains means there are limited time slots available for Downeaster runs. Freight trains and non-Downeaster commuter lines can also cause Downeaster delays if they are not on schedule or become otherwise obstructed.

NNEPRA does not have complete control over the track conditions, the management of the host lines, or even the availability of track/slots for the Downeaster operation. Efficient management of shared lines requires a delicate balance of effective communications and dispatching, adherence to curfews and delivery windows, and close coordination between passenger and freight railroads. When infrastructure constraints disrupt this balance, the performance of all system users is affected.

An example of this is the situation that developed during Pan Am's large tie replacement project in FY15 when a variety of complications resulted in numerous train interruptions and cancellations. According to NNEPRA, an initial complication caused by a market shortage of ties delayed the start of the project from Fall 2014 to April 2015 which resulted in construction occurring during peak ridership. Prior to the start of construction, the Federal Railroad Administration imposed speed restrictions on large segments of the track, which adversely impacted train schedules. The installation of ties also necessarily causes speed restrictions.

NNEPRA explained that, during the installation, Pan Am's surfacing equipment malfunctioned. This left large parts of the track at restricted speed until replacement equipment could be found to complete the installation process. One 30 mile section of track was restricted to 30 miles an hour for approximately a month during this time frame. NNEPRA was not directly involved in the installation process, as Pan Am owned the track, performed the work, and was responsible for the equipment used in the installation. However, according to NNEPRA the Authority was instrumental in securing the replacement equipment from MBTA necessary to complete the installation.

During this period, 543 trains were cancelled or interrupted with 60,000 passengers displaced completely and 22,000 passengers delayed one hour or more. NNEPRA attributes the substantial decrease in ticket revenue in FY15 to this series of project delays, unplanned speed restrictions, and equipment malfunctions.

Website

NNEPRA maintains a website (www.nnepra.com) where it posts information about the Downeaster service and NNEPRA operations. The website is divided into six topic areas with the following types of information made publically available.

Reports and Statistics. NNEPRA makes four types of reports available: Downeaster Operating Statistics, Downeaster Reports and Studies, NNEPRA Project Reports and NNEPRA Board Meeting Briefing Packets.

About NNEPRA. Under the About NNEPRA section there is information on the mission statement; a Title VI Notice to the Public and information on how to file a complaint; information on how to make Freedom of Information requests; information on accessibility; and links to information on strategic initiatives, NNEPRA partnerships, performance information, and marketing and promotional campaigns. There is also information on the Board of Directors, schedule of board meetings, a staff list, and awards won by the Downeaster and its staff.

Amtrak Downeaster. NNEPRA's website provides a link to the Amtrak Downeaster's website where one can book tickets and obtain information on the train and its schedules.

NNEPRA Projects. Under the NNEPRA Projects heading, there are sections on the Brunswick Layover Facility, MTBA Track Improvements Project and the Downeaster Service Development Plan. There are also informational side bars; one with links to relevant news stories and another to the websites of funding partners.

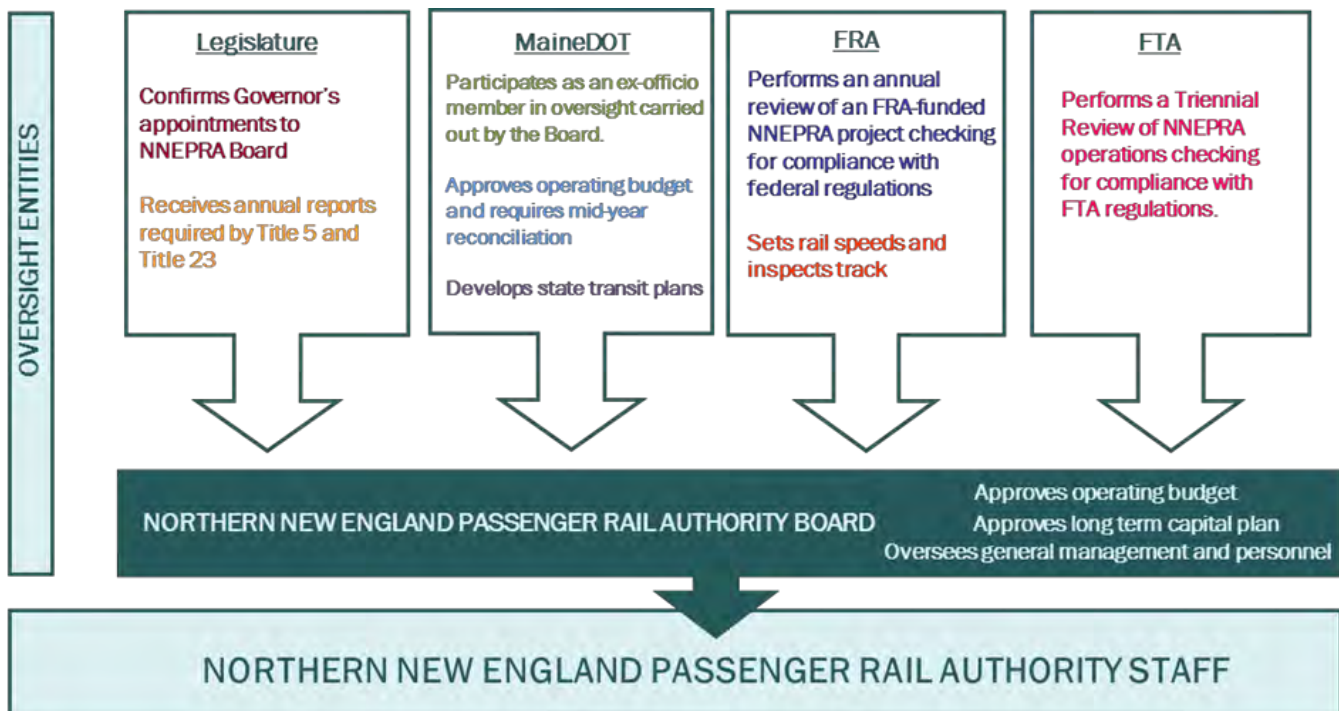
Doing Business with NNEPRA. Within this section there is a link to a list of suppliers; a statement of non-discrimination; and information grouped under the following topics Procurement Opportunities, Job Opportunities, Volunteer Opportunities, and Advertising Opportunities.

Rail News. Rail News contains links to press releases and news items related to NNEPRA and the Downeaster.

Oversight of NNEPRA

NNEPRA's Board of Directors oversees NNEPRA's staff but several other entities have oversight roles with regard to the Authority itself. As depicted in Figure 1, these entities are Maine State Legislature; Maine Department of Transportation; Federal Railroad Administration; and Federal Transit Administration.

Figure 1. NNEPRA Oversight Entities



Maine State Legislature. The Legislature’s Joint Standing Committee on Transportation is the legislative entity with the most direct oversight of NNEPRA. The Committee, and then the full Legislature, performs two key functions: reviewing and confirming the Governor’s appointments to the NNEPRA Board and reviewing and considering any proposed legislation related to NNEPRA. NNEPRA is also subject to review by the Legislature by way of statutorily required reports. Under 23 MRSA § 8116(1) NNEPRA is required to report its activities for the preceding fiscal year, as well as its receipts and expenditures from all sources. Copies of this report are to be sent to the Transportation Committee and the MaineDOT Commissioner, but no formal presentation or Committee approval is required by statute. Since 2013, 5 MRSA § 12003 expands NNEPRA’s required annual reporting to the Legislature to include the following, which is submitted to the Executive Director of the Legislative Council and forwarded to the Transportation Committee:

- a list of all procurements exceeding \$10,000 for which competitive procurement was waived;
- a list of all persons to which the entity made contributions greater than \$1,000 in the preceding year (including dollar amounts); and
- a description of changes made in the preceding year to written policies and procedures required by 5 MRSA § 12022: procurement and vendor selection; contributions; travel, meals and entertainment expenses; and use of lobbyists.

While the Legislature may not have a direct role in the oversight and approval of NNEPRA’s operating budget, they do exercise a level of oversight indirectly via the consideration and approval of MaineDOT’s budget. This budget includes the use of the funds from the State’s Multi-Modal Account to serve as the State match for NNEPRA’s federal operating subsidies.

Maine Department of Transportation. MaineDOT plays a significant role in the oversight of NNEPRA. The MaineDOT Commissioner is statutorily designated an ex-officio member of the NNEPRA Board, and, as a full member of the Board, has a say in all of the Authority’s most significant long-term planning, financial management, and capital projects. In addition to the seat on the Board, statute requires the MaineDOT Commissioner’s approval of NNEPRA’s annual operating budget and NNEPRA may only make expenditures in accordance with the allocations approved by the Commissioner. Additionally, any transfers or deviations from the approved allocations are subject to review and approval by the Commissioner.

NNEPRA’s use of its restricted cash account, comprised of remaining funds from an earlier grant from MaineDOT to NNEPRA, is subject to the MaineDOT Commissioner’s approval and is only to be used for expenses that are otherwise not eligible for federal grants or to serve as the local match for federal grants.

The Department also plays an important role in the planning and funding of capital projects. MaineDOT is responsible for statewide transportation and rail planning and develops a number of plans outlining priorities. These plans can impact NNEPRA significantly. For NNEPRA’s capital projects to be eligible for High Speed Intercity Passenger Rail funding, the capital projects must be identified in the Maine State Rail Plan—which MaineDOT drafts. Additionally, many federal grants require a local match and MaineDOT sometimes provides these funds. MaineDOT’s provision of funds for capital projects, as well as the operating subsidy it provides NNEPRA, are reflected in MaineDOT’s Work Plan. This arrangement helps ensure that NNEPRA’s operations and goals are aligned with those of the Department, and the State’s larger, long-term transit and rail plans.

Federal Railroad Administration. The Federal Railroad Administration (FRA) promotes and enforces rail safety regulations and in this role inspects the Downeaster’s track and assigns maximum permissible operating speeds to various sections of track. These speeds are indicative of the quality of the track and supporting structures and directly impact the performance of the Downeaster. As such, these restrictions become an important factor in the development of capital maintenance plans.

The FRA also conducts a yearly audit of one of the FRA-funded projects that NNEPRA has underway. The 2014 audit is the most recent for which there is a final report. The 2015 audit is still pending and the 2016 audit is scheduled for September 2016.

The FRA’s 2014 audit of the Downeaster MBTA Track Improvement Project covered 23 different areas and identified no significant findings. Two areas of potential concern were noted that were exclusively related to the changes within MBTA, the new working relationship for the project that NNEPRA and MBTA needed to establish and the resulting potential for the delay of completion of the project. NNEPRA was not required to take any further actions.

Federal Transit Administration. The Federal Transit Administration (FTA) provides financial assistance to state and local transit providers to develop new transit systems and improve, maintain, and operate existing systems. Transit providers are responsible for managing their programs in accordance with federal requirements and the FTA is responsible for ensuring that grantees follow federal mandates along with statutory and administrative requirements.

One of the FTA's primary management tools for examining grantee performance and adherence to FTA requirements and policies is the Triennial Review. Occurring every three years, the Triennial Review examines how grant recipients meet statutory and administrative requirements within 17 areas which include technical capacity, procurement, public comment on fare increases and major service reductions, financial management and capacity, and planning/program of projects.

OPEGA was able to observe the onsite portion of NNEPRA's 2015 Triennial Review. Over two days, the firm conducting the review on behalf of the FTA discussed outstanding issues, inspected FTA-funded facilities and equipment, and performed files review to determine compliance with policies and federal requirements. The FTA noted deficiencies in Technical Capacity and Procurement related to a lack of documentation and written, adopted procedures. A deficiency in Public Comment was also noted as NNEPRA had not solicited public comment for a change the FTA considered to be a major service reduction though it impacted very few customers. NNEPRA has taken the required corrective action to address those deficiencies.

Planning for Passenger Rail in Maine

MaineDOT's Bureau of Planning is responsible for conducting Statewide transportation planning, capital improvement program development, research, and community services activities in support of the Department's overall strategic goals and policies. MaineDOT prepares several transportation plans that may impact future State investments in railroad projects. Three particular plans—the Statewide Long-Range Transportation Plan, the Maine State Rail Plan, and the MaineDOT Work Plan—outline rail's role in the larger transportation system, establish goals and objectives for both passenger and freight rail service, and describe the identified and funded rail projects to be undertaken. MaineDOT seeks NNEPRA's input in developing the aspects of these plans related to rail service and NNEPRA's own plans flow in large part from these broader State level plans.

Statewide Long-Range Transportation Plan

Connecting Maine: Highlights from Maine's Long Range Transportation Plan is the State's integrated, long-range multimodal transportation plan through 2030. MaineDOT completed the Plan in 2010 with the participation of the State's Regional Planning Organizations and Councils of Government and it was reviewed at more than 20 public meetings. There are no specific requirements for updates of the plan, but MaineDOT does so as the larger plan's component pieces (bridge, highway, passenger rail, and transit plans) are updated. MaineDOT reports that they are currently updating the long-range plan.

The Plan identifies transportation issues; social, land use and economic needs; and future challenges and opportunities that are unique to the State. Goals and objectives, as well as strategies for meeting future needs, are presented in the final report.

One of the five strategic goals identified in this Plan involves maintaining and preserving the existing transportation system, which includes investing in the passenger and freight non-highway systems to lessen demands or impacts on the highway system. The Plan states that these investments must be done strategically to maximize operational efficiencies and protect the most critical and vulnerable transportation assets. The preservation and maintenance of the transportation system must employ techniques such as travel demand management to promote increased use of the underutilized passenger and freight rail systems as cost-effective, environmentally friendly alternatives to highway use.

Maine State Rail Plan

MaineDOT also prepares the Maine State Rail Plan (MSRP). The current MSRP was developed in 2013 and covers the period 2014 to 2019. It is required to be updated every five years, although the State can update it more often if it wishes.

The MSRP establishes a base line review and analysis of the Maine railway system and identifies and evaluates feasible strategies to facilitate the movement of people and goods via rail to, through and from the State. The MSRP recognizes that the Maine railway system is a vital component of the economic competitiveness of Maine's multi-modal transportation network, business development and tourism needs, and will require additional capital investment to improve the level of service required to meet future demands. The MSRP anticipates that benefits of the capital investment will include an overall transportation system that functions safely, effectively and provides improved mobility for both people and goods within the

State. Further, strategic investments in the railroad system, when coordinated with economic development and land use planning, may also enhance the overall quality of life for Maine’s citizens and visitors.

The MSRP’s proposed policies, programs and projects have been identified through MaineDOT’s analysis of information, and outreach to stakeholders and the general public. Public participation included the input of a technical advisory committee, face-to-face interviews and other forms of data collected from industry leaders, documents from regional planning organizations, a project website, and public meetings.

Technical Advisory Committee (TAC). The TAC was created to provide expert guidance to MaineDOT and the study team. The TAC was tasked with ensuring technical accuracy and making sure all key factors were included in the planning process. Thirty-one organizations from around the State were represented on the TAC, including railroad operators, transloaders, shippers, rail and truck advocacy organizations, planning and economic development organizations, ports, distribution centers, legislators, State and federal agencies, environmental/smart growth organizations and multi-modal advocacy organizations. Members of the committee participated in a number of meetings in which they contributed input on the present condition of rails in the State and rail’s ability to meet Maine’s current and future needs; steps Maine could take to encourage freight business; pressing statewide and regional transportation issues, priorities, and possible solutions; criteria to prioritize investments in rail in the State, including discussion around priority for passenger rail projects; potential limiting forces in addressing rail needs in the State; and the potential role that improved intercity and commuter rail service might have on mobility in the State. The TAC provided draft recommendations to the study team.

Regional Planning Organizations. The MSRP took stock of, and incorporated, planning documents and priorities of the State’s four federally-mandated Metropolitan Planning Organizations, as well as the plans of Regional Planning Organizations and Regional Economic Development Agencies. These agencies were asked to contribute comments for the MSRP and reviewed the draft plan. The agencies were also present at public meetings.

Stakeholders. In addition to their inclusion on the TAC, operating railroads, businesses, and shippers were sent surveys and questionnaires to gain additional information. Some were also interviewed.

General Public. Two sets of public meetings were held in Portland, Bangor, Presque Isle, and Lewiston/Auburn to gather public input on the biggest issues facing rail in the State and criteria for prioritizing investments. The meetings were advertised in the media in the weeks preceding. The MSRP indicates that attendance levels at the meetings were high, averaging 60 attendees each over the eight meetings. The website for the planning process provided an overview of the plan’s objectives, information about upcoming meetings and locations, reports of past meetings, and the ability for the public to provide comments. The MSRP notes that public participation was robust throughout the fall and winter of 2009.

The resulting MSRP includes the following passenger rail recommendations:

1. Finalize a Corridor Service Development Plan that is compliant with the Federal Rail Administration.
2. Continue incremental investments in the Downeaster corridor to increase operating speed, increase safety, increase frequency of trips and reduce transit time between Portland and Boston.
3. Add an additional Downeaster round trip to Brunswick.
4. Develop a plan to provide for the replacement and expansion of the Downeaster fleet and any additional passenger rail services. NNEPRA’s current agreement with Amtrak includes the provisions of three sets of equipment, but an increase in service frequency beyond six round-trips would require additional rail equipment.
5. Construct adequate maintenance and storage facilities for Downeaster equipment in Brunswick.
6. Develop stations as intermodal transportation hubs to connect intercity and commuter rail passengers with local transit services to increase accessibility.
7. Evaluate operating scenarios for extension of Downeaster service to Lewiston/Auburn.
8. Identify changes for the Portland station that will help the service grow long term and operate efficiently, as the current location and configuration constrains service.
9. Identify and protect potential high-speed passenger rail routes west to Montréal, and south to Boston.
10. Maintain and expand upon multi-state and provincial regional coordination efforts.

The MSRP also includes a listing of both general and specific projects that are consistent with the State's goals, and, as applicable, the relevant costs and timelines for the projects. Among the specific projects noted are some that have since begun or are slated for commencement: a Brunswick Layover Facility and the re-establishment of a wye track in Portland. Other long-term objectives were described less specifically, but generally related to improvements in the core Downeaster service to reduce travel time.

MaineDOT Work Plan

Lastly, MaineDOT develops a shorter term Work Plan that contains all of the construction projects, maintenance, operations, and administrative activities that MaineDOT will undertake over the next three years. The projects and work activities described in the Work Plan cover all transportation modes in service in Maine -- including passenger and freight rail. In developing the Work Plan, MaineDOT considers both the current condition of the transportation system and the various functions the transportation system provides to the State. MaineDOT also evaluates federal, State, local, and private funding sources the Department anticipates will be available to support projects and operational activities.

MaineDOT staff committees comprised of staff from applicable disciplines and specializations identify, select, prioritize, and recommend projects for the Work Plan. As part of this process, prior and current Work Plans are reviewed and any needed updates in cost, schedule or scope are made. Selection methodologies for these committees vary according to transportation mode. For multimodal projects, staff members begin by proposing projects with known needs or requirements. For passenger rail service in particular, infrastructure improvements for the Downeaster are prioritized by MaineDOT staff and the NNEPRA Board—which includes the MaineDOT Commissioner—and all capital expenditures require analysis to evaluate system maintenance and need.

The most recent MaineDOT Work Plan covering 2016 - 2018 includes both passenger rail capital work and operations support. The capital work includes the construction of four miles of railroad passing track extending from Royal Junction in Yarmouth, which is an \$8.5 million FTA-funded project.

NNEPRA Capital Maintenance and Improvement Planning

NNEPRA's planning focus is on providing for maintenance of the existing track infrastructure needed to ensure reliable Downeaster service, as well as identifying and prioritizing capital improvement projects that will maximize its current operation and make service more efficient. Through ongoing meetings and an annual workshop, NNEPRA's Board of Directors establishes the organization's high-level, strategic objectives and determines related initiatives that will incrementally lead to the accomplishment of the objectives. NNEPRA's input to MaineDOT's plans helps ensure that projects and priorities identified by the Board are considered in the State's overall transportation planning. Similarly, the MaineDOT Commissioner's role as a Board member helps ensure that NNEPRA's plans reflect and are aligned with the State's overall needs and priorities.

NNEPRA explains its approach to planning as pursuing incremental projects for the purpose of improving the Downeaster's core service and efficiency. According to NNEPRA, optimized Downeaster service would consist of six round-trips to Boston daily, a three hour transit time between Boston and Brunswick, and expanded passenger facilities in Portland allowing for boarding and alighting of simultaneous trains. NNEPRA sees an optimized Downeaster service as then potentially supporting feeder service to other markets. Some of the projects laid out as part of this incremental approach towards optimizing Downeaster service are the Brunswick Layover facility, Royal Siding, Portland Wye Track, reconfigurations of the Portland Station, and the Wells Station improvements.

The Authority's ability to proceed with identified initiatives or projects is constrained by available funding. Since the Downeaster operates at a deficit, NNEPRA must seek out State and federal funds both to maintain regular operations and for any maintenance or capital projects. Consequently, prioritized projects are completed as funding, primarily federal grant funding, becomes available and secured. According to NNEPRA, the Authority plans and manages multiple projects at a time so that as one project is funded and started, another project is entering the planning and funding application phase.

NNEPRA also must work towards capital maintenance and improvement projects in collaboration with other stakeholders, including Pan Am and MBTA on whose infrastructure most work is completed. NNEPRA cannot dictate the terms or specifications for all of the work that is to be done and instead must reach mutually-beneficial and agreeable plans.

NNEPRA's planning efforts for improving existing passenger rail service levels have been largely formalized in a draft Corridor Service Development Plan (CSDP) that has been under development since 2012 and is currently under review by the FRA. FRA approval of the CSDP is required for NNEPRA to be eligible for future federal funding opportunities.

The CSDP defines desired service level goals for maintaining and enhancing intercity passenger rail in the State and region as well as near term and long term requirements for meeting those goals. The CSDP also includes rationales for specific proposed improvements which consider costs and benefits, a service/operating plan and prioritized capital plan, and an implementation plan. In developing the CSDP, NNEPRA conducted a series of presentations, public events, and meetings between 2011 and 2015 with municipalities, tourism organizations, business groups, legislators, and planning organizations to solicit public input and better understand the needs of the corridor.

In order to deliver the service improvements outlined in the CSDP, NNEPRA intends to work with State and federal agencies and Pan Am Railways to build support for increased funding from all local, state and federal funding sources. Capital improvements will be grouped into packages that are eligible and competitive for grant money under existing funding programs.

Passenger Rail Expansion Planning

Although the priority for passenger rail service in the MSRP is optimizing and maximizing the existing Downeaster service, the MSRP acknowledges the possibility of expanding passenger rail service in Maine. Expansion efforts, however, are lower, long-term priorities, and are mostly limited to planning and analyses of various possibilities. These potential expansion efforts include a study of commuter rail service to Portland from Lewiston/Auburn focusing on ridership demand, land use policies, and an alternatives analysis; and a study of a potential excursion rail service from Portland to Montreal, focusing on an examination of alternatives including tourist operations, standard intercity and high speed rail options. The State's short-term, high priority expansion effort is the preservation of rail corridors in which the State acquires and protects threatened rail routes for future transit needs.

NNEPRA's role in service expansion beyond its existing service is limited as it lacks the authority and funding to undertake such efforts unilaterally. As interest in expanding passenger rail service in Maine has increased, local groups have advocated for the development of service to their areas, which may or may not be in alignment with the State's or NNEPRA's established priorities. Because there was originally no formal criteria for prioritizing such projects, the Passenger Rail Advisory Council was formed at the request of the Transportation Committee of the 126th Maine Legislature. The thirteen-member council is co-chaired by MaineDOT and NNEPRA and includes municipal leaders, business leaders, and current and former legislators.

The Council's goals are to gain an understanding of the relationship between the operational, capital and financial structure of passenger and freight railroad operations in Maine; to develop criteria for evaluating rail projects; and to prioritize current and future investments in passenger rail service as appropriate between the major economic and population centers of the state. MaineDOT reports that some of these goals have been met, but the role of the Council will be reevaluated in the near future.

Sources and Uses of NNEPRA Operating Funds

Operating Revenues

Statute directs NNEPRA to use revenues received from passenger rail service to pay for operational expenses, which may also include all additional capital expenses necessary to maintain the service. NNEPRA's operating revenues are the cumulative funds the Authority earns via food service revenue, Portland Transportation Center parking, other smaller miscellaneous sources of income, and, most significantly, ticket revenues. NNEPRA's annual ticket revenues, as well as other operating revenues for the period FY11 through FY15, can be found in Table 1.

Amtrak Ticket Revenue. The Amtrak Downeaster's ticket-buying passengers are NNEPRA's primary source of operating revenues. These revenues increased steadily from \$7.1 million in FY11 to \$8.6 million in FY14, before experiencing a decrease of nearly \$1 million in FY15.

Food Service Revenue. Food service revenue from the Downeaster Café is NNEPRA's second largest revenue source with annual revenues ranging from a low of \$574,000 in FY12 to a high of \$705,000 in FY14. As with ticket revenues, food service revenues were increasing steadily over the period until FY15.

Advertising Revenue. NNEPRA's advertising revenues were typically under \$20,000 annually for the period OPEGA reviewed. Advertising revenues are currently derived primarily from ads displayed on the train. In FY11 and FY12 advertising revenue was also generated from the sales of ads placed in the Downeaster Deals guidebook. Beginning in

FY13, NNEPRA discontinued ads in the Downeaster Deals guidebook leaving only minimal sales for on-board ads. Advertising revenue increased substantially again in FY14 because of the advertising contributions from North American Traveler, who NNEPRA partners with on vacation package deals. Although NTA was still advertising on the Downeaster in FY15, the advertising revenue experienced a drop in that year.

Parking Lot Revenue. While the Portland Transportation Center is owned and operated by Concord Coach Lines, an adjacent parking lot owned by MaineDOT and subleased to NNEPRA is another source of revenue for the Authority. Parking lot revenues have averaged roughly \$400,000 from FY11 to FY15 and largely offset NNEPRA's costs related to the use of the Portland Transportation Center.

The noticeable decreases in the first three revenue streams for FY15 are all related to previously described issues with Pan Am's tie replacement project and the resulting cancellation of scheduled trips. The only source of operating revenue that did not experience a drop in FY15 was Parking Lot revenue.

Table 1: NNEPRA Operating Revenues FY11- FY15

Revenue Categories	FY11	FY12	FY13	FY14	FY15
Amtrak Ticket Revenue	\$7,100,404.00	\$7,416,870.95	\$8,117,252.39	\$8,623,681.50	\$7,645,554.83
Food Service Revenue	\$577,712.05	\$574,604.62	\$611,812.38	\$705,426.59	\$675,902.71
Advertising Revenue	\$12,579.00	\$13,300.00	\$840.00	\$20,056.40	\$9,145.00
Parking Lot Revenue	\$337,900.67	\$411,813.00	\$399,496.00	\$393,389.00	\$413,072.00
Total Operating Revenues	\$8,028,595.72	\$8,416,588.57	\$9,129,400.77	\$9,742,553.49	\$8,743,674.54

Source: Data file provided by NNEPRA.

Operating Subsidy

As is typical of passenger rail services across the country, the Downeaster's operating revenues are not sufficient to cover its operating expenses. The extent to which a passenger transportation system's operating revenues meet the operating expenses of providing the service is commonly referred to as the cost recovery rate or fare box recovery rate. Cost recovery rates vary significantly between transit operators and different population densities.

OPEGA calculated NNEPRA's annual cost recovery for FY11 through FY15 and compared it to a composite of all commuter rail lines that submit data to the Federal Transit Administration's National Transit Database (NTD). With the exception of FY15, NNEPRA's cost recovery rate exceeded 50% annually and was consistently two to four percentage points better than the composite comparison group of commuter rail lines. Table 2 shows OPEGA's cost recovery rate calculations and comparisons.¹

Table 2: Downeaster Cost Recovery Rate Compared to Other Commuter Rails FY11- FY15

	FY11	FY12	FY13	FY14	FY15
Downeaster Operating Revenue	\$8,028,596	\$8,416,589	\$9,129,401	\$9,742,553	\$8,743,675
Downeaster Operating Expenses	\$14,784,373	\$15,472,887	\$16,462,813	\$17,954,808	\$19,809,242
Downeaster Cost Recovery Rate	54.3%	54.4%	55.5%	54.3%	44.1%
Cost Recovery Rate all CR (NTD)	52%	52%	51%	50%	

Source: Data file provided by NNEPRA. Commuter Rail (CR) cost recovery rate data from the National Transit Database (NTD).

¹ According to the Federal Transit Administration, although the Downeaster is considered a commuter rail line for reporting purposes, it is unique in that it fits only some of the criteria of a commuter line and otherwise could be considered an intercity passenger rail service. OPEGA was unable to also compare NNEPRA to a comparison group of intercity passenger rail lines as the NTD does not have data for them.

Statute authorizes NNEPRA to satisfy operating deficits by seeking federal funds in the form of grants or loans and obtaining additional funds through borrowing, revenues or other means. Statute also authorizes other government agencies to allocate funds or otherwise aid in the implementation of passenger rail service.

Historically, the primary source of operational subsidy used to support the Downeaster has been Federal Congestion Mitigation Air Quality (CMAQ) funds. The Federal Highway Administration (FHWA) apportions these funds to each state annually according to the severity of its air quality problems. Since 2001, MaineDOT has secured a waiver to use a portion of its CMAQ funds for the operation of the Downeaster. Each year, MaineDOT makes a request to the FHWA to transfer these CMAQ funds to the FTA. Once the CMAQ funds are transferred to FTA, FTA allocates those funds through a grant to NNEPRA by virtue of which NNEPRA becomes subject to all FTA requirements, guidelines, and federal audits.

CMAQ funds were the only source of non-state funding support for the Downeaster until FY13 when Portland, ME gained federal status as an urbanized area. With this designation, Federal Formula Funds from the FTA also became available. There are two categories of formula funds that NNEPRA receives: State of Good Repair Grants – 5337 and Urbanized Area Formula Grants – 5307. NNEPRA's receipt of Formula Funds has reduced the amount of CMAQ funds needed to cover the operating deficit and MaineDOT is able to use those CMAQ funds for other projects. Table 3 illustrates the shift in NNEPRA's federal funding sources over the period which together cover 80% of the operating deficit.

CMAQ funds are for transportation improvements designed to improve air quality and mitigate congestion.

Formula Funds are several categories of FTA funds made available for transit capital and operating assistance in urbanized areas and apportioned based on federally established formulas. NNEPRA receives funding from two:

State of Good Repair Grants –5337 provide capital assistance for maintenance, replacement, and rehabilitation projects of existing high-intensity fixed guideway and high-intensity motorbus systems to maintain a state of good repair.

Urbanized Area Formula Grants –5307 provide funding to public transit systems in urbanized areas for public transportation capital, planning, job access and reverse commuter projects, as well as operating expenses in certain circumstances.

Table 3: Downeaster Operating Subsidy Sources FY11- FY15

	FY11	FY12	FY13	FY14	FY15
Federal CMAQ	\$5,585,687	\$5,714,004	\$3,025,881	\$2,516,562	\$1,562,885
Federal Formula Funds			\$2,998,349	\$4,195,869	\$5,960,231
State Multi-Modal Account	\$1,396,422	\$1,428,501	\$1,556,058	\$1,728,108	\$1,829,908
Total Operating Subsidy	\$6,982,109	\$7,142,505	\$7,580,288	\$8,440,539	\$9,353,024

Source: Data file provided by NNEPRA.

The remaining 20% of the Downeaster's operating deficit is funded by the State of Maine, particularly through MaineDOT's Multi-Modal Account. The Multi-Modal Account is funded from a variety of sources, but primarily from car rental sales tax. The Account is used to provide funding for non-highway projects at the discretion of the MaineDOT Commissioner. NNEPRA and MaineDOT have a Memorandum of Understanding that these funds will be used to provide the 20% match of federal funds for the operation of the Downeaster service.

It should be noted that Maine is the only state contributing to the Downeaster's operating subsidy even though the service passes through and makes stops in New Hampshire and Massachusetts. According to NNEPRA, those states contribute in other ways. Massachusetts, through the MBTA, provides trackage rights and terminal space at North Station under very reasonable terms and several communities in New Hampshire participate in station management and maintenance.

Operating Expenses

OPEGA analyzed NNEPRA's operating expenditures for the period FY11 through FY15 to identify the primary categories of expenses as well as any trends in those categories. Operating expenses include those expenses necessary for the day-to-day operating of an organization. In NNEPRA's case, as defined in statute, operating expenses also include capital maintenance expenses. NNEPRA is obligated to contribute a set amount of funding for railroad maintenance as part of its operating agreement with Pan Am. Under NNEPRA's accounting structure, operating expenses are captured in eight major categories:

- Train operations;
- Food service;
- Capital maintenance;
- Station operations;
- Wages and benefits;
- Marketing;
- Administration; and
- Other.

Over the five year period, NNEPRA's total operating expenses increased between 4.7% and 10.3% annually reaching \$19.8 million in FY15. This represents an overall increase of 34.0% from FY11 and reflects substantially greater expenses in FY15 in the Capital Maintenance and Other categories which are explained further below. Excluding capital maintenance expenses, NNEPRA's operating expenses increased 20.8% over the period.

	FY11	FY12	FY13	FY14	FY15	Total FY11 – FY15	% of Total FY11- FY15	% Change FY11- FY15
Train Operations	\$12,165,127	\$12,701,802	\$13,722,292	\$15,104,098	\$14,376,523	\$68,069,841	81%	18%
Food Service	\$777,300	\$767,327	\$773,420	\$836,009	\$893,998	\$4,048,055	5%	15%
Capital Maintenance	\$214,789	\$262,266	\$194,553	\$256,859	\$2,215,592	\$3,144,059	4%	932%
Station Operations	\$503,722	\$508,130	\$553,609	\$525,561	\$517,016	\$2,608,037	3%	3%
Wages and Benefits	\$451,916	\$459,470	\$475,000	\$510,462	\$515,462	\$2,412,310	3%	14%
Marketing	\$456,123	\$480,091	\$548,386	\$478,837	\$429,080	\$2,392,518	3%	-6%
Administration	\$212,432	\$211,450	\$179,317	\$221,160	\$207,472	\$1,031,832	1%	-2%
Other	\$2,964	\$82,350	\$16,235	\$21,822	\$654,098	\$777,471	1%	21965%
Grand Total	\$14,784,373	\$15,472,887	\$16,462,813	\$17,954,808	\$19,809,242	\$84,484,123	100%	34%

Source: OPEGA analysis of NNEPRA expense data.

Table 4 specifies the annual expense, and total expenses for the five year period, by category. Figure 2 illustrates the percentage breakdown of total expenses for the five year period by major expense category and Figure 3 illustrates the trends in expense for each category from year to year.

Train Operations is the category that comprises most of NNEPRA's operating expenses, accounting for between 72.6% and 84.1% of annual operating costs over the last five years. This category is related to the operation of the Downeaster and is driven primarily by three specific sub-categories of expenses: Amtrak contract fees, fuel costs, and host railroad payments to Pan Am.

- Amtrak contract fees for providing, operating and servicing the trainsets are NNEPRA's single largest operating expense. Over the five year period, this sub-category of expense increased 33.2% from \$8.5 million to \$11.3 million annually as service expanded to Freeport and Brunswick.
- Fuel for the Downeaster is procured by Amtrak and reimbursed by NNEPRA and total fuel costs can vary significantly due to fluctuations in consumption and, more importantly, fuel prices. Fuel costs ranged from \$2.3 million in FY11 to \$3.3 million in FY14, then experienced a notable decrease to \$2.3 million in FY15. NNEPRA explained the decrease was due to fuel prices as the average price per gallon dropped from \$3.31 to \$2.52.
- Amtrak's payments to host railroads are also reimbursed by NNEPRA. This expense sub-category was a little more than \$1 million annually from FY11 to FY14. In FY15, this expense decreased to less than \$500,000 as complications and delays in a major tie replacement project adversely impacted the Downeaster's performance and Pan Am's resulting performance payments.

Figure 2. Percent of Total NNEPRA Operating Expenses FY11 - FY15 by Category

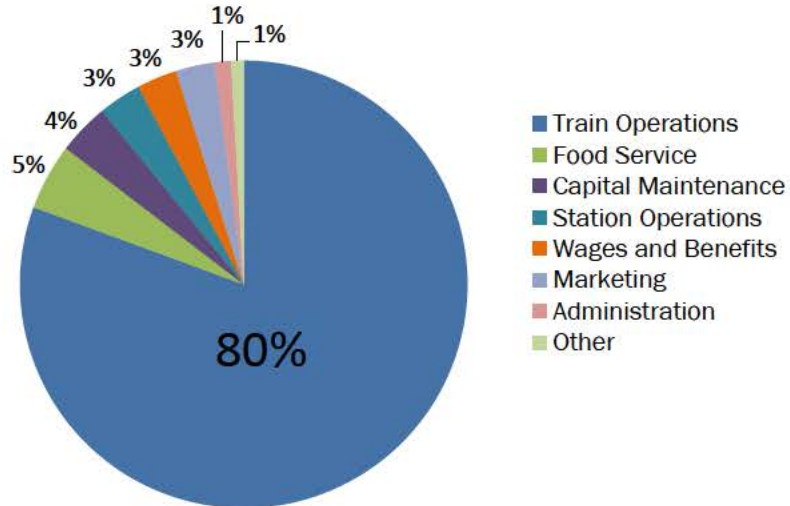
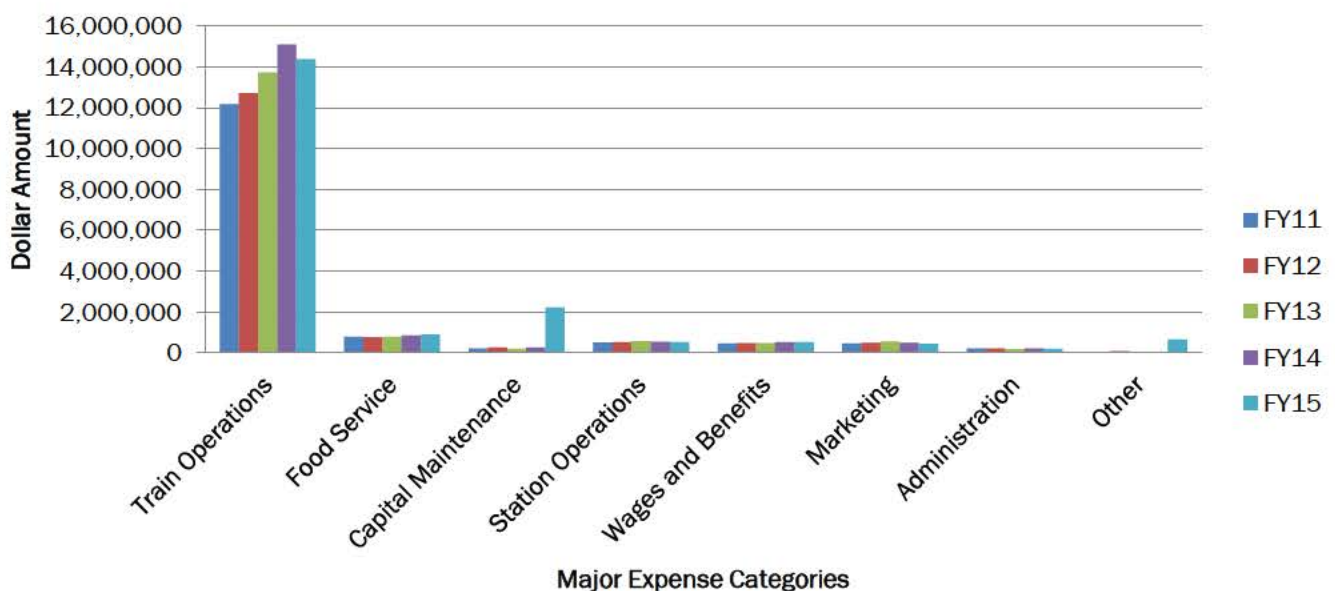


Figure 3. NNEPRA Operating Expenses for FY11 - FY15 by Major Category and Year



Seven other major categories of expenses account for the balance of NNEPRA's operating expenses:

Food Service. Food service expenses reflect the cost of the contract with non-Amtrak vendor Epicurean Feast and are typically the highest of these seven categories representing about five percent of NNEPRA's total operating expenses for the five year period. Food service expenses were consistently about \$770,000 annually from FY11 to FY13 with subsequent annual increases resulting in an FY15 expense of nearly \$894,000, an overall increase for the period of 15%. The cost of operating the food service typically exceeds the revenue it earns. This deficit may be somewhat offset by additional ticket revenue that is related to the food service. For example, the decision to offer onboard food service requires a specific type of train car from Amtrak that is configured to house both food service and a business class. By virtue of offering food service, the Downeaster can offer business class seating at a surcharge. Similarly, food service is an amenity that may help attract ridership that would otherwise have chosen other transportation. Regardless of these potential offsets, NNEPRA reports a continued emphasis on improving the cost recovery rate of its food service operations.

Capital Maintenance. The annual capital maintenance program, developed collaboratively with Pan Am, is often comprised of several independent projects. Due to construction schedules, availability of materials, and project priorities, not all projects are completed in the year in which they were identified and budgeted. The Capital Maintenance expense category captures these expenses as they occur. Capital Maintenance expenses comprised four percent of NNEPRA's total operating expenses for the five year period remaining at a relatively consistent level from FY11 (\$214,788) through FY14 (\$256,859), but increasing notably in FY15 to about \$2.2 million. This increase was the expected result of years of planning by NNEPRA and Pan Am for the large tie replacement project that was estimated to cost in excess of \$2 million. NNEPRA and Pan Am agreed that a portion of the capital maintenance programs for FY11-FY14 would be set aside and allocated to the future tie replacement project. This project began in 2015 and the increase in FY15 Capital Maintenance expenditures reflects the purchase of ties, materials and the majority of project expenses.

Station Operations. The expenses associated with the operation of the Downeaster stations comprised about three percent of NNEPRA's total operating expenses. Although most of the stations are owned and operated by other entities at little or no cost to NNEPRA, there are costs related to liability insurance for all platforms, as well as the leasing of space at the Portland Transportation Center from Concord Coach Lines. As previously mentioned, the revenues NNEPRA receives from the Parking Lot fees at the Portland Transportation Center nearly offset the cost of its leased space at that station. Over the period FY11 to FY15, Station Operations expenses remained at a fairly consistent level with a slight increase overall from about \$504,000 to about \$517,000 and with a spike in FY13 to nearly \$554,000. According to NNEPRA, the FY13 spike resulted from sharing costs for capital improvements to the Portland Transportation Center for a security system and an investment in station signage for all stations that year.

Wages and Benefits. This category of expense represents about three percent of NNEPRA's total operating expense and includes the total compensation for NNEPRA staff with two exceptions. NNEPRA records the compensation for its Marketing Assistant within the Marketing expense category as this employee performs several functions that were formerly assigned to an outside contractor whose costs were captured in that category. Additionally, only a portion of the compensation for the Special Projects Manager is captured in Wages and Benefits as time he or she spends working on capital projects is charged directly to those projects instead. Over the five year period, the staff wages captured in this category increased 15.5% to \$360,000 in FY15 and benefits increased 10.8% to \$154,000 in FY15. This is an average annual increase in wages and benefits of about 2.8%.

Marketing. The Marketing expense category generally captures those expenses related to marketing the Downeaster and its host communities. This category comprised another 2.8% of NNEPRA's total operating expenses for the period FY11 – FY15. Specific expense items include television, radio, newspaper, and internet advertisements; marketing materials and merchandise; advertisement content; and graphic design along with other related expenses. Marketing expenses were fairly consistent over the period, but lowest in FY15 at about \$429,000 when marketing efforts were scaled back as a result of persistent Downeaster performance issues (cancellations and delays) related to complications during the tie replacement project.

Administration. Expenses captured in the Administration category also remained at a relatively consistent level over the five year period ranging from a low of \$179,000 in FY13 to a high of \$221,000 in FY14. Administration costs are comprised of five subcategories: Board Operations, Depreciation, Insurance, Office Expenses, and Professional Services. Office Expenses is by far the largest subcategory, averaging about \$122,000 annually and accounting for 59.1% of total

Administration expenses over the five year period. The majority of Office Expenses is office rent, utilities, and travel related expenses. NNEPRA's Administration expense category captures several types of expenses that have been of particular interest in past OPEGA reviews of quasi-independent State entities and are addressed in 5 MRSA §§ 12021 - 12023: professional services, travel expenses and contributions.

- Professional services expenses for NNEPRA averaged about \$26,500 annually over the five year period. The primary types of services procured included accounting services, engineering consulting, and legal services and advertisements. Payments for these services were made to 14 unique vendors over the period with no vendor being paid more than \$15,200 in any fiscal year.
- OPEGA identified a number of travel-related accounts within NNEPRA's accounting system and these accounts included transportation, tolls, mileage, meals, and lodging expenses. This group of expenses averaged \$18,244 annually between FY11 and FY13. In FY14 and FY15, these expenses were higher--\$29,495 and \$30,780, respectively—as NNEPRA's out-of-state travel increased. NNEPRA explained the higher travel expenses in these years were due to the Executive Director's participation as Chair of the States for Passenger Rail Coalition, the Executive Director's participation in federally-mediated negotiations between states and Amtrak regarding pricing methodology, and NNEPRA staff attendance at several FTA and FRA sponsored workshops.
- 5 MRSA § 12021 defines contributions as payments for membership dues and fees, gifts, donations and sponsorships, including those that result in public advertisement of the entity. NNEPRA uses a series of accounts to track these types of expenses. As a whole, contribution-related expenses decreased 72% over the period from \$80,441 in FY11 to \$22,330 in FY15, with a particularly sharp decline between FY11 and FY12 (\$39,584). From NNEPRA's explanations and OPEGA's review of these expenses, we note the following as reasons for the decrease:
 - In 2011 and 2012, NNEPRA was a member of the American Public Transportation Association and its annual membership fees were \$13,850. In 2013, NNEPRA reevaluated the benefits of this membership and withdrew from the Association.
 - From 2011 to 2012, NNEPRA's contributions coded as "Brand Development" decreased from \$50,128 to \$16,263 with three specific and large expenses no longer occurring after 2011:
 - an \$18,000 "Yankee Holiday" expense for six, full-page ads in the Portland Press Herald, onboard seatback and station flyers, and related graphic design;
 - a \$6,000 Portland Sea Dogs/Boston Red Sox sponsorship package; and
 - a \$5,000 Old Orchard Beach Raging Tide sponsorship package.

Other - Operating expenses not otherwise captured in previously described categories are captured in the Other Expense category, which was less than \$25,000 annually over the period with the exception of FY12 and FY15. The increase in FY12 expenses reflected costs for preliminary engineering, grant writing assistance, and cost benefit analyses required to complete applications for federal grants. The very large increase in FY15 expenses was the result of the completion of a transaction from a previous fiscal year. NNEPRA's FY14 cost agreement with Amtrak included an estimate for equipment capital investment expenses with a provision that NNEPRA would reimburse Amtrak for actual charges at the completion of the year. NNEPRA required additional information from Amtrak to verify the costs before paying Amtrak's final invoice. This information was provided and a portion of the cost was verified and paid in FY15 with the balance being verified and paid in FY16.

Sources and Uses of Capital Improvement Project Funds

Project funding has come from a variety of sources, but has predominantly been provided through a series of federal grants (including the American Recovery and Reinvestment Act, High Speed Intercity Passenger Rail and Capital Assistance to States) that are administered by either the FRA or FTA.

Many of the grants require matching funds and NNEPRA has secured these from a variety of sources including MaineDOT bond proceeds, in-kind contributions from Pan Am Railways and NNEPRA's restricted cash account. The restricted cash account is the remaining funds from a past allocation from MaineDOT that NNEPRA can now use with the permission of the MaineDOT Commissioner for the local match to federal grants or otherwise ineligible grant expenses. The total grant awards and respective funding percentages by source for projects with expenditures during the period are presented in Table 5.

Table 5: Downeaster Capital Improvement Funding Sources by Project

Projects	Total Committed Funds	Federal Funds	MDOT	MBTA	Restricted Cash Account	Pan Am Railways
Brunswick Expansion Project	\$38,385,495	100%				
Brunswick Layover Facility	\$13,717,458	69%	31%			
NNEPRA-MBTA Project	\$26,027,764	80%		20%		
Portland Wye Project	\$1,103,467	36.8%	46.5%			16.7%
Service Development Plan	\$750,000	80%			20%	
Source: Data provided by NNEPRA.						

These funds are used to cover a range of project costs including preliminary engineering, design, project management, repairs, maintenance, construction services, rail components and ballast materials. Expenditures varied significantly by project. Annual expenditures of these funds over the period are presented by project in Table 6.

Table 6: Downeaster Capital Improvement Project Expenses by Year FY11- FY15

Projects	FY11	FY12	FY13	FY14	FY15	Total FY11 -FY15
Brunswick Expansion Project	\$16,008,261	\$11,166,715	\$5,597,553	\$1,123,368	\$138,134	\$34,034,033
Brunswick Layover Facility		\$313,146	\$716,415	\$423,216	\$293,898	\$1,746,676
Portland Layover Facility	\$64,339		\$32,150			\$96,490
NNEPRA-MBTA Project		\$464	\$408,760	\$463,802	\$338,189	\$1,211,215
Portland Wye Project	\$663,295	\$73,243				\$736,539
Service Development Plan	\$11,828	\$287,413	\$344,409	\$21,001	\$7,740	\$672,391
Total	\$16,747,724	\$11,840,982	\$7,099,288	\$2,031,388	\$777,961	\$38,497,343
Source: OPEGA analysis of NNEPRA expense data. Figures have been rounded to nearest dollar.						

Key Functions for Maximizing Revenues

NNEPRA considers maximizing ridership and thus revenues, while providing excellent service and good value, to be a main priority. During the period from 2006 to 2013, Downeaster ridership increased by nearly 72 percent to an annual total of 513,849. Ridership subsequently decreased to an annual total of 426,828 in 2015 as a direct result of the complications related to Pan Am's tie replacement project described earlier in this Brief. A review of historical ridership data by month shows the Downeaster is subject to some seasonality in its ridership levels. July and August are typically busy months as the service experiences strong tourist ridership to Maine in addition to strong Boston ridership.

OPEGA identified three NNEPRA functions that can be expected to impact Downeaster ridership and, thus, achievement of NNEPRA's objective to maximize ridership and ticket revenues – scheduling, fare setting and marketing. NNEPRA's efforts, and constraints it faces with regard to these functions, are described below.

Scheduling

Schedule, travel time and reliability all have an established and direct impact on ridership. NNEPRA described efforts to produce a train schedule that makes sense for passengers and their transportation needs and to ensure, to the degree possible, that their trains run on time. NNEPRA faces real constraints in these areas given that Pan Am owns and runs freight on most of the track the Downeaster runs on and MBTA has been increasing commuter traffic on their lines as well.

NNEPRA must negotiate with Pan Am and MBTA on how many daily trips the Downeaster can make and the time slots for those trips. At present, Pan Am and NNEPRA have negotiated a maximum of ten one-way trips between Portland and Boston and six one-way trips between Portland and Brunswick per day. Despite the negotiations, the Downeaster remains constrained in the service it can offer by the times and slots available for its trains.

To help ensure Downeaster trains run reliably on time, the agreement between Pan Am and Amtrak includes a performance incentive payment that is reimbursed by NNEPRA. Pan Am receives a monthly payment based on the percentage of Downeaster trains that meet a certain threshold for on-time performance. The performance payment is an incentive for Pan Am to prioritize passenger rail when making decisions regarding freight on the line. Additionally, NNEPRA's Manager of Passenger Services, in concert with Amtrak, maintains regular contact with stations and personnel to ensure the working order of trains, ticketing equipment, passenger amenity issues (pets, bikes) and other issues that could cause train delays. The manager is often at stations ensuring that operating partners are working together cooperatively. The manager is also on-site to assist groups traveling on the Downeaster to reduce potential delays that can be caused by boarding.

As shown in Table 7, the Downeaster has historically had on-time performance rates above 70% and comparable to the larger Amtrak service with the exceptions of FY14 and FY15 when the service was substantially affected by Pan Am's rail tie project. The Downeaster's highest on-time performance rate was 82.2% in FY12.

As described in other sections of this Brief, NNEPRA also identifies and secures funding for capital improvement projects intended to reduce overall travel time, increase frequency, improve reliability and, thus, improve ridership. NNEPRA must work towards these capital maintenance projects in collaboration with other stakeholders, including its host railroads on whose infrastructure most work is completed.

NNEPRA maintains a formal policy on seeking public comment for major service changes and basic fare increases. The policy exists in response to a FTA requirement that transit agencies evaluate the impact of significant changes to its transit service, as well as any increases to basic fares or changes to fare media, to ensure that such changes do not disproportionately impact minorities or low-income riders.

Fare Setting

Statute requires that NNEPRA establish fares at a reasonable level to encourage ridership and NNEPRA uses a market-based approach in setting its fares to stay competitive with other modes of travel. NNEPRA explained that it aims to balance three objectives in establishing fares: collecting the maximum revenue the market will bear; gaining the largest ridership possible; and providing an equitable and socially responsible public transportation service.

The Downeaster offers three major fare categories: one-way, multi-ride, and group. Within these categories, there are additional discount, premium, or package deals. One-way tickets are either saver, value, flexible, or premium versions. The differences in the ticket types primarily relate to the refund and booking policies. Multi-ride tickets are available in monthly, ten-ride and 6 tix (only for college students) groupings. Group packages are negotiated directly with NNEPRA.

Although NNEPRA's Board is responsible for setting fares there are limitations in that fares are subject to federal requirements and must also fit within Amtrak's established system of fares. The FTA requires that NNEPRA provide 50% off for senior citizens, Medicare recipients, and those with disabilities on off-peak trains. NNEPRA is subject to an Amtrak "fare beyond rule" which means that NNEPRA cannot charge a higher price for a shorter distance. NNEPRA must also comply with Amtrak's established system of fares, in which different types of tickets provide either discounts or premiums for the same leg of service, and Amtrak's national discount and promotions, including AAA and children discounts.

NNEPRA has an established process for evaluating and changing fares that is documented in NNEPRA's Fare Plan. The Fare Plan also expresses the guiding principles the Authority staff follows in proposing fare changes and providing supporting analysis to the Board. The staff's analysis is intended to serve the purpose of supporting the Board's fiduciary responsibility and the fare changes they propose aim to maximize the public investment and minimize public subsidy in passenger rail service.

Table 7: Downeaster vs. Amtrak On-Time Performance by Fiscal Year

	Downeaster	Amtrak
FY10	74.9%	79.7%
FY11	77.5%	78.1%
FY12	80.0%	83.0%
FY13	82.2%	82.3%
FY14	58.0%	72.4%
FY15	29.6%	71.2%
FY16*	73.7%	

Source: Downeaster data provided by NNEPRA. Amtrak data available through the Bureau of Transportation Statistics. FY for Amtrak data is Oct. 1 – Sept. 30 and FY for NNEPRA is July 1 – June 30.

*Beginning FY16, NNEPRA is calculating OTP using weighted averages based on number of days per month rather than dividing total by 12 months as had been done for previous years.

The Fare Plan requires formal reconsideration of fares annually. NNEPRA staff proposes any fare changes being considered to the Board. NNEPRA staff provides the Board with information and rationale for the proposed change including the history of the fares, Amtrak's pricing grids, cost per passenger miles rates and the staff's own competitive analysis. Historically, NNEPRA has not engaged a consultant to perform formal elasticity studies in considering rate changes and instead relies on the staff's analysis of Downeaster services and fares are compared to those of other transportation providers. Gas prices are also an important consideration in NNEPRA's fare setting approach as periods of higher gas prices have generally correlated to higher ridership.

NNEPRA maintains a formal policy on seeking public comment for basic fare increases and major service changes. The policy exists in response to a FTA requirement that transit agencies evaluate the impact of significant changes to its transit service as well as any increases to basic fares or changes to fare media to ensure that such changes do not disproportionately impact minorities or low-income riders.

After the Board provides input on any proposed change, NNEPRA staff seeks public input in accordance with the Authority's formal policy. This involves publishing the proposed change and opportunity to provide input on the NNEPRA website and in affected stations. The Board considers the feedback obtained through this process in making its decision whether to adopt the proposed fare change.

Marketing

NNEPRA actively promotes the Downeaster through a variety of marketing campaigns targeted at corporate travelers, senior citizens, tourists, students, commuters and sports fans to fill seats in peak and off-peak travel times. NNEPRA also uses special promotions and partnerships with host communities and businesses to increase ridership. An example is a current day trip package to Freeport that includes round-trip Downeaster passage, a meal at a local Freeport restaurant, shopping coupons, and applicable taxes.

In determining its marketing strategy, NNEPRA first identifies the services it can successfully provide under the Downeaster's current configuration and schedule so that marketing efforts are most successful. For example, NNEPRA would not market a southbound, early morning train to commuters if there were not a corresponding northbound, afternoon train to return those same commuters home. NNEPRA next identifies target market groups for all trains and develops its marketing plan.

The marketing plan is built on data gathered from a number of sources. NNEPRA conducts an annual survey on its trains through a market research firm. The survey collects demographic information on riders, reasons for travel, and information on how the riders have heard, or would like to hear, messages about the Downeaster. The surveys are conducted across a representative sample of NNEPRA trains and during different seasons. NNEPRA also uses Google Analytics to track website usage and can use Amtrak data to track the redemption of promotional codes used for ticket discounts to determine the success of their efforts. Lastly, NNEPRA receives market research and insights through its consulting advertising agency. NNEPRA regularly discusses, revisits, and revises their media plan when necessary in consultation with their advertising agency in light of opportunities identified or needs seen.

The Board of Directors approves the overall Marketing Budget but does not approve particular promotions or specific media buys. NNEPRA's Director of Marketing generally presents to the Board at each meeting on promotions that have been implemented and what the results of those have been.

Key Functions for Minimizing Expenses

OPEGA identified and reviewed key NNEPRA processes for minimizing expenses that included those associated with the expenditure cycle (procurement, contracting, invoicing, and accounts payable) and broader budgeting and planning processes. Our review of these areas found that NNEPRA has established strong policies and procedures (many of which are designed to meet applicable federal regulations) to ensure economic purchasing; to reduce the risk of inappropriate, unnecessary, or excessive expenditures; and to ensure budgets are reasonable and aligned with established priorities. To date, OPEGA has not performed any testing to confirm NNEPRA's adherence to these policies and procedures, however compliance with many aspects of them does get reviewed by the federal oversight agencies FRA and FTA, as well as through NNEPRA's independent financial audits. OPEGA reviewed the FY13, FY14 and FY15 financial audit reports and noted that the independent auditor identified no material weaknesses in internal controls.

Title 5 requires agencies to maintain policies and procedures with particular specifications. The areas covered by the requirements include procurement; contributions; and travel, meals, and entertainment. Procurement policies are expected to establish competitive procurement as the standard method, specify when competitive procurement can be waived, and provide and maintain written justification on file for five years when there are non-competitive procurements for goods or services over \$10,000. OPEGA observed that NNEPRA's procurement policy does specify the conditions under which competitive procurement can be waived. It also requires that written justification is made and maintained on file for five years when procurements are non-competitive. NNEPRA's Contributions Policy and Mileage, Travel, Meals, and Entertainment Policy are likewise in compliance with the Title 5 requirements.

The specific NNEPRA functions OPEGA identified as key to minimizing expenses are described below.

Budgeting

NNEPRA's annual operating budget includes several major components that are developed early in the budgeting process by NNEPRA management. The budgeting process begins with the development of its largest source of revenue—passenger fares. The Executive Director conducts analysis of the current year's ridership by month and train. Any specific events that would impact ridership are taken into consideration and adjustments to the following year estimates are made accordingly. Resulting estimates are used to generate estimated ticket revenues and café sales.

The Executive Director also works to finalize NNEPRA's single largest expense—its contract with Amtrak for train operations – and she describes makes efforts to minimize these costs to the extent possible. Under NNEPRA's 20-year operating agreement with Amtrak, price contracts are negotiated every one or two years. Per policy, Amtrak allocates certain costs to state partners who contract with them based on a national methodology. The Executive Director reports that, because the Downeaster does not interface with the larger Amtrak system, NNEPRA has had some success negotiating a lower overhead cost allocation. When it appears the national allocation burdens the Downeaster with more shared or overhead costs than seems appropriate, or when metrics used in service cost calculations do not reflect how the Downeaster actually uses the specific service, NNEPRA attempts to identify and isolate those Downeaster-specific costs and negotiate with Amtrak.

At the same time, the Manager of Budget and Administration examines NNEPRA's current expenses to project where costs may end up in the current fiscal year and these become the basis for the next budget. Some line items are easier to project as they may be contracted amounts or otherwise known costs that are carried forward into the new draft budget.

The resulting preliminary operating budget lists operating revenues by major source, expenses by major use, and required funding sources and is presented to the NNEPRA board in May. Along with the draft budget, NNEPRA provides a list of the underlying assumptions made in developing the budget. The Board reviews this information and votes to send the budget to the MDOT Commissioner, whose approval is statutorily required.

The MDOT Commissioner reviews and fine tunes the budget with a particular focus on the funding sources. As a NNEPRA Board member he would have already had a role in reviewing the budgeted expense categories. After the MDOT Commissioner's approval, the budget goes back to the NNEPRA Board in June and the Board votes to approve the budget. Once approved by the NNEPRA Board, the budget is set for the July 1st start of the new fiscal year. From that point on, NNEPRA's Board receives monthly budget to actual reports.

Independent from the operating budget, NNEPRA has a series of active capital project budgets that may span multiple years as projects are completed. For grant-funded projects, NNEPRA described developing a scope of work and preliminary budget in collaboration with its operating partners in advance of seeking Board approval to submit a grant application to the funding agency. In these scenarios, the host railroad provides an initial project budget to NNEPRA, who, in turn, has it reviewed by its engineering and project management firm to determine if proposed costs are reasonable and historically comparable. According to NNEPRA, the Authority's Special Projects Manager also reviews the project for work elements that may be missing or not necessary.

Once the Board approves applying for a grant, and the scope of work and budget are preliminarily agreed upon, the grant application may be submitted. NNEPRA explained that the funding agency (either FTA or FRA) additionally reviews the project budget as part of the grant application process and may request changes. If the grant funds are awarded, NNEPRA works to fine tune and finalize the project budget in collaboration with its project management firm, the contractor and the funding agency. An acceptable budget is required by the funding agencies prior to NNEPRA accessing any funds. The scope

of work, budget and schedule are then presented to the NNEPRA Board for approval and authorization to allow the Executive Director to execute the grant agreement and the contractor agreement. A final project budget, scope of work and schedule is then provided to the contractor. While underway, project statuses, schedules, and budgets are discussed at NNEPRA Board meetings.

Procuring Goods and Services

NNEPRA's procurement policy establishes the organization's procurement requirements and assigns an appropriate method of procurement for purchases of goods and services according to the dollar value or type of contract. The policy also contains code of conduct and personal conflict of interest sections. OPEGA noted several controls throughout the process including detailed bid processing procedures, established conditions in which sole source procurements may occur and required price analyses that must occur prior to starting a sole source procurement.

The invoicing process is governed by a mix of vendor specific policies for NNEPRA's major vendors (Amtrak, Concord Coach Lines, Pan Am, and Epicurean Feast) and a central policy outlining the general process. An additional policy is dedicated to preventing duplicate payments. These policies describe the process from the receipt, routing, and processing of the invoice to the approval by the Executive Director and Board Treasurer and issuance of the payment. Throughout this array of policies, many controls were identified, including payments being processed with only original vendor invoices, a separation of duties throughout the process, and a series of required approvals from managers, the Executive Director and the Board Treasurer.

Contract Administration and Oversight

In conjunction with the procurement policy, NNEPRA's contract administration procedures provide the basic guidelines for the administration of contracts and encompass implementation, oversight, review and responsibilities of NNEPRA staff and contractors. Noted controls include the Executive Director's approval for contract requests prior to solicitation; ongoing contract monitoring and monthly progress reports reviewed by management; and the continued involvement of NNEPRA's general counsel throughout the process.

Additional controls specific to construction contracts include the required submission of pre-construction documents prior to the issuance of a Notice to Proceed, the establishment of contractor performance ratings for consideration in future contracts, and the employment of a project management firm and NNEPRA's own Special Projects Manager who both ensure that contractors are meeting the terms, conditions and specifications of capital project contracts.

OPEGA Suggestions Regarding Future Planning for Passenger Rail in Maine

OPEGA observes that although NNEPRA exhibits efforts to maximize ridership and operating revenues from current Downeaster service, passenger rail service will continue to require operating subsidies for the foreseeable future. Additionally, capital projects related to passenger rail expansion and current service improvements typically require substantial funding from federal and/or State sources and can have significant impact on communities. Given these fiscal and community impacts, OPEGA offers the following suggestions toward ensuring that the realities and challenges described in this Brief, as well as public input, are fully considered in future policy-setting and planning for passenger rail in Maine.

- The Legislature has historically had a role in establishment and expansion of passenger rail service in Maine, including the creation and continued financial support of NNEPRA. Similar support will likely be necessary in the future given the substantial investments and prioritization required for any further expansion of passenger rail service or other capital intensive projects. Additionally, the Legislature periodically considers bills and other initiatives affecting passenger rail, in particular legislator or citizen proposals for expansion of service to more localities. Lastly, the Legislature has an oversight role with regard to NNEPRA given that it is a legislatively created entity with a statutorily-defined purpose. Given these roles, OPEGA suggests the Legislature, and in particular the Joint Standing Committee on Transportation, avail itself of all existing opportunities to stay abreast of both NNEPRA and MaineDOT's passenger rail plans and operations, including the associated challenges. Increased communication between the Legislature, MaineDOT and NNEPRA's Board and/or staff on these matters may help to ensure there is sufficient understanding and alignment on the State's short and long

term plan and goals. One possible opportunity to ensure this communication occurs is for the Transportation Committee to schedule NNEPRA to present its required annual reports to the Legislature at a public meeting. Such presentations have occurred over the last couple of years at NNEPRA's initiation and have provided opportunity for dialog and questions that might not have occurred otherwise.

- OPEGA suggests that the Legislature, MaineDOT, and NNEPRA, in their respective roles, take steps to ensure the following occurs as part of the processes for establishing policy, planning, and implementing passenger rail expansion and capital improvement projects:
 - Expected costs and benefits are carefully considered and supported by objective research and analysis and that expected benefits take into full account the realities and challenges of providing passenger rail service in Maine.
 - Timely and appropriate forums for public input and vetting of significant projects are held throughout project selection, design, and implementation such that viewpoints from members of impacted communities, as well as both passenger rail proponents and opponents, are considered.
- The existing Maine Passenger Rail Advisory Council was formed at the request of the Transportation Committee of the 126th Maine Legislature. The Council's goals are to gain an understanding of the relationship between the operational, capital and financial structure of passenger and freight railroad operations in Maine; to develop criteria for evaluating rail projects; and to prioritize current and future investments in passenger rail service. MaineDOT reports that the Council accomplished some of these goals, but has not met recently and the role of the Council will be reevaluated in the near future. OPEGA suggests that during the reevaluation of the Council's role, the appropriate parties consider whether the Council can serve a role in implementing the previous two suggestions as a means to improve communication and collaboration between the Legislature, MaineDOT, and NNEPRA and/or to serve as a forum for public input.

Acknowledgments

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