

SECTION 305 FINANCE and ADMINISTRATIVE SUB COMMITTEE

MINUTES

DECEMBER 16,
2015

3:00PM EASTERN

CONFERENCE CALL

FACILITATOR	<i>Darrell Smith, Chair of the S305 Finance and Administrative Subcommittee (FASC)</i>
ATTENDEES	<i>Darrell Smith, Ray Hessinger, Brent Thompson, Tammy Nicholson, Arun Rao, Eric Curtit, Brian Beeler II, Jeff Gordon for Michael Lestingi, Beth Nachreiner, Lynn Everett, Shayne Gill, Steve Hewitt</i>
ABSENTEES	<i>Michael Lestingi, John Pagano, Tim Hoeffner, Sal DeAngelo, Larry Salci, Nico Lindenau, Vincent Brotski, Jason Biggs</i>

DECISIONS MADE

1. Welcome and Open Meeting – Darrell Smith:

Subcommittee Chair Darrell Smith, Amtrak, opened the conference call meeting and asked Steve Hewitt to call the roll.

2. Roll Call – Steve Hewitt:

Steve Hewitt called the roll, and, confirmed the presence of a quorum.

3.

Review of Action Items – Steve Hewitt:

Steve Hewitt provided a brief overview of the status of open action items:

Status: Action Items

The FASC members approved the memo and recommendations on funding options. The memo will be submitted to the Board for its consideration on its next call (12-7-15).

Status: On 12-7-15 the Executive Board accepted the FASC report and recommendations and directed the FASC to begin work on the next steps outlined in the recommendations.

Agenda item 5

Darrell Smith and Eric Curtit will begin a review of the NGEN website and ultimately recommend changes/updates. This will be carried as an action item on future agendas.

Agenda item 6

Ray Hessinger will lead an effort to review and proposed changes to the NGEN By-Laws and Operating Procedures. This will be carried as an action item on future agendas. It is anticipated that updates will be proposed in time for consideration by the Executive Board at the NGEN Annual Meeting in DC on 2-19-16.

Note: Executive Board Members must receive written copies of By-Laws changes 30 days prior to consideration of adoption.

Agenda item 7.

Introduction/welcome to Lynn Everett, FRA as a participating member of the Finance and Administrative subcommittee (FASC).

Beth Nachreiner, FRA, introduced Lynn Everett, FRA, as a new member of the FRA team participating on the FASC.

Lynn is leading the capital team at FRA and will be working with the 514 subcommittee as well as with the SAIPR Committee especially on issues related to stations.

Welcome Lynn!

4.

Approval of Minutes from the 11-18-15 FASC conference call – Darrell Smith:

On a motion by Arun Rao, Wisconsin DOT, and a second by Jeff Gordon, FRA, the minutes from the 11-18-15 FASC call were approved without exception.

5.

Executive Board approval of FASC Funding Options Recommendations – next steps- Darrell Smith:

Darrell Smith reported that the NGEC Executive Board had approved (December 7, 2015) the FASC memo and recommendations on future funding options. The Board directed the FASC to begin work on the next steps as identified in the recommendations contained in the memo.

To begin the process of moving forward on the recommendations, Darrell reviewed each item and the next steps associated with them.

Taking them in reverse order:

Recommendation 3. Present the concept of a new annual PRIIA 209 type support fee to the State Amtrak Intercity Passenger Rail Committee (SAIPRC) to determine the level of interest of the Amtrak state funding agencies. If SAIPRC expresses an interest, then the NGEC will direct either the FASC or a new task force to coordinate with SAIPRC a recommended methodology.

Next step: It was agreed that Darrell Smith will contact David Kutrosky, Chair of the SAIPRC, to request a conference call to discuss the 209 like proposal for an NGEC States membership fee. Call participants will include Darrell Smith, Eric Curtit and David Kutrosky.

The intent is to schedule the call after the first of the year. Darrell and Eric will report back on the status on the next FASC call (1-13-16).

Recommendation 2. Direct the FASC's Legislative Outreach Task Force to present a complete Congressional Outreach Implementation Plan by March 31, 2016, including draft educational materials for consideration for AASHTO's production, and specific next steps for members to request continuing NGEC funds.

Darrell Smith reported that he has talked with Amtrak Grants with regard to next steps as related to the new surface transportation authorization law – the FAST Act. There may be other steps in the bill relating to funding requests for the NGEC.

Darrell will ask the Grants office at Amtrak to look further into FAST to see what opportunities there are within FAST for the NGEC. FASC members for the FRA will also ask their Grants office for any insight they may have.

Eric Curtit noted that Missouri DOT is looking at FAST and will look to see about NGEC funding eligibility. He will also reconvene the NGEC Legislative Outreach Task Force to begin with developing an implementation plan as described in recommendation 2 and to delve more deeply into FAST as regards to the NGEC.

All members of the FASC are also asked to review the FAST Act and provide any comments with regard to the NGEC to Eric Curtit (cc Steve Hewitt)

Steve Hewitt will work with Eric to arrange a conference call with task force members shortly after the New Year.

Recommendation 1. Consider a Specification Use Fee as a supplement to funding provided through a continuing federal grant and/or a PRIIA 209 support fee. Narrow the scope of a Specification Use Fee to the following two components:

- a. Parts Suppliers, being the primary requestors of the specifications, charged a nominal fee to be recommended by the FASC by March 31, 2016.
- b. Non-NGEC Members using a full specification for purchasing rolling stock charged a significant fee,

on the order of \$250,000 per equipment-type specification, mechanics of which are to be recommended by the FASC by March 31, 2016. The mechanics include but are not limited to determining who is considered a NGEC Member for this purpose, developing the method of fee collection, and establishing the specification use rights of the purchaser.

The next step for implementing recommendation 1 include fleshing out the mechanics. Darrell suggested the establishment of a task force to take on this activity and provide its recommendations to the FASC in time for it to submit its recommendations to the NGEC executive Board by March 31, 2016.

Darrell noted that with the FAST Act having removed the NGEC's ability to incorporate or establish a different business structure, it is necessary to work out the mechanics of assessing a specification use fee under the NGEC's current structure. The task force would need to look at assessing and collecting fees within the current contractual framework and ensuring that there is no conflict with the Grant.

Darrell agreed to chair the new task force. Members of the task force will be:

Vincent Brotski, Amtrak, Jeff Gordon, FRA, Eric Curtit, Missouri DOT, Brent Thompson, WSDOT and Steve Hewitt, NGEC, and Nico Lindenau, if available.

Steve Hewitt will work with Darrell Smith to schedule the first call of the new task force for the week of January 12, 2016 if possible.

6.

Review of website – recommend improvements – timeline - Darrell Smith/Eric Curtit:

The first step in progressing a review of the website will be a conference call during which Bryan Hong, AASHTO, will walk those on the call through the website. Eric Curtit, Darrell Smith and Steve Hewitt will participate. Shayne Gill, AASHTO will notify Bryan Hong and ask that he arrange the call.

7.

Review of NGEC By-Laws – timeline - Ray Hessinger:

Ray Hessinger reported that with the Bylaws will need to be revised to reflect the changes to the NGEC included in the FAST Act. (the addition of Labor as a member, and the elimination of the NGEC's ability to change its business structure) He also noted that the 514 subcommittee is adopting bylaws and are to provide them to him for inclusion in the NGEC Bylaws update.

Steve Hewitt reminded those on the call that the NGEC Bylaws require that all proposed revisions be provided to the Executive Board members in writing 30 days prior to the meeting during which they are to be considered. The intent is to adopt the updated/revised Bylaws at the 2016 NGEC Annual Meeting on February 19, 2016. Thus the timeline would be to get the proposed changes into the Board 30 days prior to that meeting.

Steve agreed to provide Ray with a WORD version of the current Bylaws with track changes identifying areas where Steve has noted changes should be made. This will serve as a starting point for Ray's review.

8.

Discussion: Review of FAST changes to PRIIA Section 305 NGEC - Darrell Smith/Steve Hewitt:

Darrell Smith provided an overview of the changes to the NGEC as implemented in the FAST Act. Prior to the call today, Steve Hewitt provided the sections in the law that pertained to the NGEC and also marked up the original Section 305 Statute to reflect those changes.

The two major changes, noted in earlier discussions during today's FASC meeting, are:

The inclusion of the following language in paragraph (a.) of Section 305 after the word manufacturers:

"nonprofit organizations representing employees who perform overhaul and maintenance of passenger railroad equipment".

The other changes include removing the language in paragraph (c.) that states:

"...and may establish a corporation, which may be owned or jointly owned by Amtrak, participating States, or other entities, to perform these functions."

In paragraph (e.) the following language is removed:

"...and establishing a jointly owned corporation to manage that equipment."

These changes, particularly with regard to the Labor addition as a member, raise several questions and a need for legal interpretation.

Darrell Smith will ask Amtrak legal for a review of these sections of the law and the current 305 statute and FRA's Jeff Gordon will ask FRA to do the same.

Areas unchanged in the Section 305 statute include paragraph (d.) which concerns funding and appears to answer an earlier question in today's discussion with regard to eligibility. This too needs an interpretation. Paragraph (d.) reads:

"Funding.---In addition to the authorizations provided in this section, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49 United States Code."

This item will remain an open action for the next meeting of the FASC, during which Amtrak and FRA will provide input on their agencies interpretation of the FAST Act provisions related to the NGEC.

9.

Other Issues/Questions – All:

**Next Finance and Administrative subcommittee conference call January 13, 2016
866 209 1307 access code: 9786620#**

Decisions and Action Items

Membership Fee recommendation/outreach to SAIPRC: Darrell Smith will reach out to David Kutrosky, Chair of SAIPRC, to schedule a call to discuss the FASC proposed 209 like membership fee for NGEC States. Participating on the proposed call will be Darrell, David K and Eric Curtit.

Website review: Darrell Smith and Eric Curtit will begin a review of the NGEC website and ultimately recommend changes/updates. Shayne Gill will ask Bryan Hong to arrange a call with Eric Curtit, Darrell Smith and Steve Hewitt to walk through the website and discuss ways to refresh or update it.

NGEC Bylaws review: Ray Hessinger will lead an effort to review and proposed changes to the NGEC By-Laws and Operating Procedures. The 514 subcommittee will be providing its bylaws to Ray (and Steve Hewitt) for inclusion in the NGEC Bylaws; Steve Hewitt will provide Ray Hessinger with a Word version of the current Bylaws and will put in track changes areas where Steve is recommending that changes/updates be made.

Note: Executive Board Members must receive written copies of By-Laws changes 30 days prior to consideration of adoption. The goal is to adopt a revised set of Bylaws at the 2016 NGEC Annual Meeting – 2-19-16.

Specification User Fee Task Force – to flesh out mechanics: The newly established task force will work through the mechanics of potentially assessing and collecting specification user fees under the current NGEC structure. Darrell Smith will chair the task force. Steve Hewitt will work with Darrell to schedule the first conference call sometime around January 12, 2016.

Legislative Outreach Task Force – developing a strategy and implementation plan to obtain future federal funds for the NGEC: Steve Hewitt will work with Eric Curtit to schedule the next Legislative Outreach task force call after the first of the year. The task force members will also be asked to look into the FAST Act in regard to funding eligibility and potential opportunities for the NGEC.

FRA and Amtrak Grants offices are also to be asked to look into the FAST Act for potential NGEC funding opportunities.

Interpreting NGEC related provisions contained in the FAST Act: Jeff Gordon will ask FRA staff to review the NGEC related FAST Act provisions and provide its interpretation of its impacts and implementation. Darrell Smith, Amtrak will ask Amtrak legal for an interpretation as well. This will be carried as an action item with a status update scheduled for the next FASC call (1-13-16)

Next Call: 1-13-16 at 3:00PM Eastern

ATTACHMENTS



SECTION 305 Finance and Administrative Subcommittee (FASC)

**Conference call
December 16, 2015
3:00PM Eastern
866 209 1307 pass code 9786620#**

MEETING AGENDA

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|--|----------------------------|
| 1. Welcome/Open | Darrell Smith |
| 2. Roll Call | Steve Hewitt |
| 3. Action Item Review | Steve Hewitt |
| 4. Approval of the Minutes from 11-18-15 | Darrell Smith |
| 5. Executive Board approval of FASC Funding Options Recommendations – next steps | Darrell Smith |
| 6. Review of website – recommend improvements - timeline | Darrell Smith/Eric Curtit |
| 7. Review of NGEC By-Laws - timeline | Ray Hessinger |
| 8. Discussion: Review of FAST changes to PRIIA Section 305 NGEC | Darrell Smith/Steve Hewitt |
| 9. Other Issues/questions | All |

**Next Call January 13, 2016
Call in # 866 209 1307 passcode 9786620#**