LET’S HAVE THE U.S. RAILROADS PROVIDE
HIGH SPEED PASSENGER RAIL SERVICE

By Charles H. White, Jr.

The Obama Administration has discovered high speed passenger rail as both a job stimulus and a means for balancing fuel and environmental constraints with increasing personal transportation needs. Various state and regional groups, supported by self-proclaimed high speed rail experts, are competing for federal seed money grants. Winners will be chosen; losers encouraged to try again with the hope of an ever increasing fund supply. The U.S. Secretary of Transportation visits foreign countries to see how high speed passenger rail works. China offers to supply the U.S. with real know-how, experience and equipment, and the Transportation Secretary is cautiously optimistic that the U.S. railroads might be cooperative in this whole effort.

Is there anything wrong with this picture? Plenty—and, ironically, it is the direct result of conscious public policy.

As a new trial attorney in the Interstate Commerce Commissioner’s Office of the General Counsel in 1970, I was a firsthand witness to the early phases of this policy which came close to destroying America’s passenger rail services altogether. Like other newcomers, I was given a number of “train off” cases to defend in the federal appellate courts. Those were cases in which the ICC allowed individual passenger trains to be discontinued. The nation’s railroads had a clear federally enforced obligation to provide adequate passenger service. This obligation could only be relieved on a case-by-case, train-by-train basis if the carrier could show that continuing the
particular passenger train was no longer consistent with the “public convenience and necessity”.
The arguments before the Commission were essentially the same, whether for historic name trains, like the “Wabash Cannonball”, or the myriad anonymous “number” trains. It went like this: there are increasingly available alternatives to the passenger train in question; passengers are deserting the rail service for those alternatives resulting in increasing losses for the train in question; those losses cause a diminution in service, initiating a vicious cycle; the losses jeopardize the carrier’s ability to provide adequate freight service needed by the public; and the passenger service losses in turn jeopardize the very solvency of the private sector U.S. rail system—a powerful undercurrent in an era of rolling bankruptcies (almost a third of the U.S. rail carriers had then recently been operated by trustees in bankruptcy).

The outcome of the individual cases before the Commission was predictable; the carriers usually prevailed. The reviewing appellate courts deferred to the discretion given the Commission by Congress, and the U.S. passenger rail system dissolved over the 70’s like chips falling off a mosaic; no overall plan, just continuing dissolution.

That continued until Congress finally realized that it could no longer postpone the question of weighing passenger rail needs against America’s railroads’ overall solvency. The issue became no less than protection of the private sector U.S. railroads from bankruptcy, and Congress itself from the hard issues of nationalization.

Congress acted by taking down what remained of the now-pockmarked passenger rail mosaic, replacing it with Amtrak. It absolved the U.S. railroads from their passenger rail obligations in
one fell swoop. As we can now clearly see in retrospect, Amtrak was a half-hearted compromise from the beginning, if not quite a legislative sham.

Woefully underfunded from the start, the truncated Amtrak system began its life as a barely tolerated mandatory tenant on the freight owned rail infrastructure. Meanwhile Japan and Europe, especially France, moved into real high speed rail service while the U.S. looked on with envy and wonderment. How did we get left behind?

While rail passenger service atrophied under Amtrak, the freight-only railroads revived and thrived. Relieved of their passenger burdens, and significantly deregulated in rate matters, the U.S. freight rail industry restructured itself over the ‘80s and ‘90s. Encouraged by new ratemaking freedoms, and their continued exemption from the antitrust laws, the freights entered a frenzied merger phase. The more than 40 Class I railroads that existed in 1970 merged themselves down to 4 mega-systems: 2 in the East (CSX and Norfolk Southern) and 2 in the West (BNSF and UPSP), with a strong north-south carrier serving U.S./Mexico (Kansas City Southern).

But this freight system rationalization succeeded perhaps a bit too well. The merging carriers emphasized their most productive lines by concentrating traffic over them while sloughing off their less efficient formerly competitive lines. The result—a tighter rail freight system that is now approaching capacity. Ironically, this “success” is now coming back to haunt the freight/passenger divorce policy.
When the creation of Amtrak relieved the freights from their collective capital drain, the carriers proudly asserted their status as private sector enterprises able to raise capital for infrastructure development on their own. For a while this was true and they acted in accord with this assertion. But now that has changed. The freight lines acknowledge they need federal assistance and various public/private partnerships to meet the basic infrastructure needs imposed by clearly foreseeable freight traffic growth. The freights are competing with the would-be high speeders for federal rail infrastructure assistance.

Thus, the government is now faced with two parallel rail infrastructure demands. But in reality, they are only different versions of the same need. Except for certain metropolitan-to-metropolitan corridors (like the Northeast Corridor linking Boston-New York-Washington) America is far too large and widely dispersed to even consider building a hugely expensive duplicative passenger-only rail infrastructure. Prudence calls for a shared approach to rail infrastructure and technology development between the freights and would-be high speeders. Let’s include America’s real rail experts, the freight operators, in both the planning and operation of that improved, shared rail infrastructure.

The Amtrak experiment has gone on long enough. The Obama Administration has it right. This is the time to bring back meaningful rail passenger service. But let’s bring it back sensibly where it belongs, to the U. S. railroads, not to the diverse competitive collection of high speed enthusiasts and dreamers. Let’s avoid the piecemeal development of passenger services under factional and disjointed grants. Let’s avoid reinstituting the fragmentation which called for the creation of the ICC in the first place.
Finally, let’s have the U.S. railroads resume their natural obligation to provide first rate passenger rail service as the price of government involvement in dual purpose rail infrastructure development. The time, indeed, has come for America’s railroads to regain their preeminent position in both freight and passenger service.

Charles H. White, Jr.
Former head of the Railroad Policy Office in the U.S. Department of Transportation, and Professor of Logistics at the U.S. Merchant Marine Academy, Kings Point, N.Y.