

Jon S. Corzine  
Governor

Kris Kolluri, Esq.  
Board Chairman

George D. Warrington  
Executive Director

**NJ TRANSIT**  
One Penn Plaza East  
Newark, New Jersey 07105-2246  
973-491-7000



January 25, 2007

Dear Governor Corzine:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the re-scheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., and NJ Transit Mercer, Inc. Board of Directors held on Tuesday, January 23, 2007.

Sincerely,

Gwen A. Watson  
Board Secretary

Enclosures

Honorable Jon Corzine  
Governor, State of New Jersey  
State House  
Trenton, NJ 08625

(NJT BOARD –01/23/2007)

Minutes of the actions taken at the Open Session of the rescheduled Board of Directors' meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. held at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey on Tuesday, January 23, 2007.

**Present:**

Kris Kolluri, Esq., Chairman  
 Myron P. Shevell, Vice Chairman  
 Melissa Liebermann, Governor's Representative  
 Patrick O'Connor, Treasurer's Representative  
 Patrick W. Parkinson  
 Kenneth E. Pringle

George D. Warrington, Executive Director  
 Lynn Bowersox, Assistant Executive Director, Corporate Commun. & External Affairs  
 James Gigantino, Acting Vice President & General Manager, Bus Operations  
 William Duggan, Vice President & General Manager, Rail Operations  
 Kenneth Worton, Deputy Attorney General  
 Vincent Soleo, Assistant Executive Director, Procurement & Support Services  
 James Redeker, Assistant Executive Director, Policy, Technology & Customer Service  
 Richard Sarles, Assistant Executive Director, Capital Planning and Programs  
 H. Charles Wedel, Chief Financial Officer & Treasurer  
 Alma Scott-Buczak, Assistant Executive Director, Human Resources  
 Jan Walden, Assistant Executive Director, Diversity  
 Joyce Zuczek, Assistant Board Secretary  
 Robert Guarnieri, Auditor General

Chairman Kris Kolluri convened the Open Session at 9:20 am in accordance with the Open Public Meetings Act and asked for a motion to enter Executive Session to discuss contract negotiations and litigation and personnel matters. A motion was made by Kenneth E. Pringle, seconded by Patrick W. Parkinson and unanimously adopted.

Chairman Kris Kolluri reconvened the Open Session at 10:10 am and asked for a motion to adopt the minutes of the December 13, 2006 meeting. A motion was made by Patrick W. Parkinson, seconded by Myron P. Shevell and unanimously adopted.

Suzanne Mack presented the Advisory Committee report to the Board. Ms. Mack thanked Executive Director Warrington for his hard work and dedication to NJ TRANSIT and said an Advisory Committee report will be presented at the next meeting.

Executive Director George Warrington highlighted the following from his monthly business report.

Executive Director Warrington thanked the Board for their support in his decision to move on from NJ TRANSIT in March. He said it has been a privilege to serve and he looks forward to working with the Board to ensure a smooth leadership transition over the coming months, so that momentum is sustained on all of the critical initiatives and to continue to keep the focus on serving customers on every bus, train and light rail vehicle.

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Executive Director Warrington said NJ TRANSIT received very good news from the Federal Transit Administration last week with the approval of the Draft Environmental Impact Statement (DEIS) for the Access to the Region's Core project. As part of this process, the next step is to print copies of the document and distribute it to public locations throughout the region, which will be done within the next two weeks. Public hearings will also be scheduled in New Jersey and New York in March to ensure that people have adequate time to review the document and comment. Executive Director Warrington said this is a critical step forward and thanked Rich Sarles, Rich Roberts, Tom Schulze and his team, in particular, for their hard work.

Executive Director Warrington said having this highly skilled and experienced professional team in place and partnering with the Port Authority to guide this project, will ensure the project stays on schedule. Executive Director Warrington thanked the leadership of the NJ TRANSIT Board, Governors Corzine and Spitzer, Mayor Bloomberg, and both the New Jersey and New York delegations, Senator Lautenberg in particular, who have been unwavering in their support for Access to the Region's Core.

Executive Director Warrington said last month, he and Chairman Kolluri made a commitment to review the notices of Board Meeting agendas that are provided to the public in advance of the regular monthly meeting and concluded that they should be modified. Beginning with today's meeting, the advance notice to the public contains a more thorough and detailed synopsis of the items to be considered by the Board.

He said the new version differs in significant ways such as providing a more detailed description of each item, rather than just listing the title and on contract award items, the winning bidder is now listed in the advance notice, together with the cost of the project and the consent calendar includes a full description of each item.

Executive Director Warrington recognized David Peter Allan who made suggestions about the notice and thanked him for his interest in the public notice process.

Executive Director Warrington said one of the agenda items today creates better access from Newark Penn Station to Newark's developing downtown, particularly in the Market Street area.

As part of that improved accessibility and connectivity, the existing Market Street stairways from train platforms to the street will be upgraded and the walkway along Market Street will be substantially upgraded to improve the link from the Ironbound section of Newark to the City's center core district, the Gateway Complex and the new Prudential Arena.

The project includes the addition of new lighting, better passenger flow, an improved communication system, and enhanced safety features. Final design and construction will begin this summer.

Executive Director Warrington noted an item before the Board today that signals a major step forward in the safety and security of customers and employees who ride and operate buses. Executive Director Warrington requested approval to purchase 1,145 transit and

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suburban style buses that will be equipped with closed-circuit camera systems. This multi-year contract will deliver 200 buses per year over a six-year period replacing buses that are 12 to 15 years old.

Other features of the new buses include upgraded and comfortable interiors, bike racks, wheelchair lifts and a kneeling feature.

Executive Director Warrington thanked Jim Gigantino, Vice President & General Manager of Bus Operations and Vito Forlenza, the Chairman of the Amalgamated Transit Union, for their support in this process and for staying focused at all times on safety, which is a top priority.

Executive Director Warrington gave a budget presentation on the estimated budget for Fiscal Year 2008. He provided a brief update on the financial picture for this fiscal year and then outlined the work done to develop a preliminary budget outlook for next fiscal year, followed by next steps.

Executive Director Warrington said NJ TRANSIT is in the third consecutive year of record ridership. He said demand is continuing at about the same pace as last year and NJ TRANSIT is experiencing about a five percent increase systemwide. Fare revenues are on target to come in at budgeted levels, while NJ TRANSIT is also hitting the mark on commercial revenues with a very aggressive program of advertising, excess property sales, and the last of the cross border lease transactions. Executive Director Warrington recalled that the federal government has a moratorium on these transactions going forward, which NJ TRANSIT continues to work to have reconsidered, but can no longer count on these transactions as a revenue source.

Executive Director Warrington said on the expense side, NJ TRANSIT has reduced costs and the actions taken have achieved a substantial savings for the Corporation. On July 1, 2006, NJ TRANSIT began certain benefit changes, including a new defined contribution retirement plan for new employees and work is being completed to begin offering the same option on a voluntary basis to existing employees.

Executive Director Warrington said looking forward to next fiscal year, NJ TRANSIT expects to hold core expenses to the rate of inflation at three percent. On the budget of \$1.5 billion, that adds about \$45 million in automatic cost growth.

Executive Director Warrington presented a detailed breakdown of service growth and system expansion costs, which will hold to one percent of the budget next year. He said this is very significant, considering that NJ TRANSIT expects to provide 40,000 additional hours of bus service as a consequence of actions taken this year, as well as the annualization of 600,000 more rail car miles and 30,000 additional seats on 120 new multilevel rail cars.

Executive Director Warrington noted, that light rail ridership is the fastest growing segment of the system, with a rate of a 17 percent increase expected this year. In Fiscal Year 2008, NJ TRANSIT will have the annualized expense of 11 new daily trips on the River Line, the first full year of Newark Light Rail service, and additional contract costs to operate

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Hudson Bergen Light Rail, which is now running longer consists to serve 20,000 riders on weekends, as well as 40,000 riders on weekdays.

Executive Director Warrington said NJ TRANSIT is constraining extraordinary cost growth to less than one-half of one percent of the budget. He said the market continues to drive insurance premiums and utility costs well above inflationary rates and coupled with increased costs for contract bus carriers and legally-required rates for certain security services, adds more than \$6 million in expense growth.

Executive Director Warrington said on the revenue side, NJ TRANSIT expects demand to continue its upward trend, but at a slightly more moderate pace next year, generating an incremental \$20 million.

Given the budget constraints and difficult choices the state is facing, NJ TRANSIT is assuming no growth in the level of state support. NJ TRANSIT is also continuing the policy of freezing the level of capital funds supporting the operation for the fourth consecutive year.

Executive Director Warrington said there are a number of non-recurring revenues including leveraged leases and one-time property sales that will need to be replaced with other revenues.

Executive Director Warrington said estimated revenue and operating assistance total \$1.526 billion against projected expenses of \$1.586 billion, leaving approximately \$60 million in operating need for Fiscal Year 2008. He said management will continue to identify any opportunity for savings and pointed out that NJ TRANSIT has taken out more than \$75 million in costs over the last several years, leaving very little left to reduce without impacting service. Given the ridership increases NJ TRANSIT is experiencing systemwide, Executive Director Warrington recommends against service reductions.

He also said NJ TRANSIT could consider lifting the ceiling of capital to operating transfer, but would recommend against returning to an historic practice that is bad public policy and has substantial consequences to critical capital projects.

Executive Director Warrington said a predictable schedule of periodic fare increases every other year, alternating with increases in state support, preserves the level of transit cost sharing that, by policy, stabilizes the fare box cost recovery ratio at about 45-50 cents on the dollar, and avoids erratic, unpredictable increases that riders experienced historically.

He said the last fare adjustment was July 2005, with the state increasing support for transit operations last year. The estimated operating need for next year is \$60 million, which would require a fare adjustment of about 10 percent on average base fares.

Because this is a preliminary budget, with certain market-driven assumptions, NJ TRANSIT needs to recognize that a number of variables could impact the bottomline number. To maintain sufficient margin on a \$1.5 billion budget, NJ TRANSIT recommends that the Board consider adjusting average base fares by about 10 percent, effective June 1, 2007.

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He said management will continue to refine estimates and finalize the Fiscal Year 2008 proposed budget, and will return to the Board next month to outline the specific fare proposal. Not only will NJ TRANSIT share that proposal with the public, it will begin a series of meetings with stakeholders for briefings on the budget and fares prior to the start of public hearings, which will be held between February 28 and March 8, in 13 locations across the state.

All public comments will be assembled and shared with the Board for review in March, and management expects to return to the Board in April for action on the final recommended proposal.

Chairman Kolluri commented that he respects Executive Director Warrington's decision to move on after a distinguished career in transportation and public service that has spanned more than 30 years and thanked him for leaving a strong foundation on which to continue to build a statewide transit system.

There were two public comments on agenda items.

David Peter Alan, on behalf of the Lackawanna Coalition, was pleased that the Board Meeting notice and agenda included more information and provided an opportunity for the public to comment on issues before the Board. Mr. Alan thanked Executive Director Warrington and Board Member Pringle for their prompt attention to this matter.

Mr. Alan commented on Item 0701-1, Purchase of 1,145 transit and suburban buses. He said in addition to the new bus purchase, he hopes that some of the buses from the old fleet could be rehabilitated.

Mr. Alan commented on Item 0701-3, Dover Rail Yard Pedestal Track: Construction Contract Award. He said the Lackawanna Coalition has questioned the suitability of the multi-level railcar equipment for use on the Morris & Essex Lines because they are concerned it will increase running time due to ridership characteristics, station locations and the terrain of the line. Mr. Alan said the Lackawanna Coalition objects to the proposed expenditure of nearly \$8,000,000 unless management can demonstrate that the proposed facility will produce independent utility. Mr. Alan requested that this item be postponed at this time.

Mr. Alan spoke personally about two items on the Consent Calendar, Item 0701-7 Labor Negotiations – Special Counsel and New Jersey Travel Independence Program Pilot Extension. Mr. Alan said \$750,000 is a great deal of money to pay a law firm. He said it is impossible to judge the value of the services of any law firm without knowing the hourly rate that the taxpayers of New Jersey pay the firm. Mr. Alan requested that the item be postponed until next month to give management time to furnish the public with the hourly rate information.

Mr. Alan commented on Item 0701-8, New Jersey Travel Independence Program Pilot. He said he is aware of the impediments that people with disabilities face when they travel. He said travel training is a means for significantly improving mobility for people and

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encouraged the board in their efforts to make NJ TRANSIT scheduled services as accessible as possible.

Margarite Petrillo commented on Item, 0701-1 Purchase of 1,145 transit and suburban buses. She said new buses are needed because the old buses are squeaky. Ms. Petrillo requested a copy of the specifications for Item #0701-2 Newark Penn Station Market Street Enhancements: Contract Amendment for Design Services.

Board Member Pringle replied to David Peter Alan's comment on Item 0701-3, Dover Rail Yard Pedestal Track Construction Contract Award. He said the pedestal track is beneficial to maintain the vehicles since it provides ease of access to the disc brakes on all types of vehicles.

Executive Director Warrington presented the following Action Items for approval:

**0701-1: PURCHASE OF 1,145 TRANSIT AND SUBURBAN BUSES**

Approval to purchase 1,145 transit and suburban style buses representing nearly 80 percent of the transit and suburban bus fleet. This multi-year contract will deliver 200 buses per year over a six-year period replacing buses that will be 12 to 15 years old. The new buses will improve service reliability and offer upgraded, comfortable interiors for customers, as well as bike racks. All buses will be equipped with wheelchair lifts and a kneeling feature. In addition, the new buses will meet or exceed the latest environmental standards to reduce emissions. These buses will be pre-wired for video equipment, which is a major security step for both customers and employees. Authorization is requested to contract with North American Bus Industries at a cost not to exceed \$409,871,962 for this bus purchase.

Myron P. Shevell moved the resolution, Patrick W. Parkinson seconded it and it was unanimously adopted.

**0701-2: NEWARK PENN STATION MARKET STREET ENHANCEMENTS: CONTRACT AMENDMENT FOR DESIGN SERVICES**

Newark Penn Station is NJ TRANSIT's busiest railroad station in New Jersey serving more than 50,000 daily customers and providing access to downtown Newark and transfer opportunities to bus, rail, light rail, Amtrak, Greyhound and PATH services. It is both a strategic regional transportation facility and a visible gateway to the City of Newark. The next phase is to improve the station that includes enhancements to the platform exits to Market Street as well as the pedestrian environment on Market Street to provide better access between the Ironbound section of Newark to its central core district the Gateway Complex and the new arena. The project includes new safety and security features, new lighting, signage, communication systems and architectural treatments to better connect the station with the rest of the City. In June 2005, the Board authorized a final design contract for the rehabilitation and extension of Track 5 in Newark Penn Station.

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Authorization is requested to amend the contract with Clough Harbour & Associates for design services to the Market Street area of Newark Penn Station and demolition of the former station heating plant at a cost not to exceed \$1,104,675 plus five percent for contingencies.

Patrick W. Parkinson moved the resolution, Kenneth E. Pringle seconded it and it was unanimously adopted.

0701-3: DOVER RAIL YARD PEDESTAL TRACK: CONSTRUCTION CONTRACT AWARD

Authorization is requested for the construction of a pedestal track at Dover Yard to allow maintenance crews to inspect, repair and maintain brakes and other components from underneath rail cars. The new multilevel cars are slated to be included into the Midtown Direct service. These new cars use a disc braking system which can only be inspected from under the wheel carriage which requires the new pedestal track. Approval is requested to contract with J.H. Reid General Contractor for construction of a pedestal track and other necessary systems at the Dover Rail Yard in an amount not to exceed \$7,850,000 plus five percent for contingencies.

Patrick W. Parkinson moved the resolution, Kenneth E. Pringle seconded it and it was unanimously adopted.

0701-4: MEADOWS MAINTENANCE COMPLEX (MMC) – REPLACEMENT OF HEATING AND VENTILATION SYSTEM: CONSTRUCTION CONTRACT AWARD AND CONTRACT AMENDMENT FOR CONSTRUCTION MANAGEMENT SERVICES

The Meadows Maintenance Complex (MMC) in Kearny was constructed over 20 years ago (1987). It is a 24-hour, year-round facility which houses over 500 employees who are responsible for maintaining more than 1,000 pieces of equipment including locomotive engines and various car types from the new multilevel cars to the oldest fleet, the Comet rail cars. After two decades of constant use, the original heating and ventilation system is now frequently out of service for repairs as it approaches the end of its useful life. Authorization is requested to contract with A&A Industrial Piping for the replacement of the 20 year old heating and ventilation system at the MMC at a cost not to exceed \$1,470,000 plus five percent for contingencies. Authorization is also requested to amend the contract for construction management services with Tishman Corporation to oversee the installation of the new heating and ventilation units in an amount not to exceed \$150,000 plus five percent for contingencies.

Myron P. Shevell moved the resolution, Patrick W. Parkinson seconded it and it was unanimously adopted.

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0701-5: METROPARK STATION – PLATFORM REPLACEMENT AND STATION EXPANSION: CONSTRUCTION MANAGEMENT SERVICES CONTRACT AWARD

Metropark Station on the Northeast Corridor serves more than 7,200 customers each weekday. Constructed in 1971, the station was not designed to accommodate the level of demand and service that we and Amtrak carry today. Last month, the Board authorized the construction contract to replace the platforms and expand the station building. Authorization is requested to contract with Urban Engineers to provide construction management services for the replacement of platforms and expansion of the station building at Metropark at a cost not to exceed \$3,819,111, plus five percent for contingencies.

Kenneth E. Pringle moved the resolution, Myron P. Shevell seconded it and it was unanimously adopted.

Chairman Kris Kolluri and Vice Chairman Myron P. Shevell recused themselves from voting on the Consent Calendar, Items 0701-6, 0701-7, 0701-8, 0701-9.

Executive Director Warrington presented the following Consent Items for approval:

0701-6: LICENSE AGREEMENT WITH BANK OF AMERICA FOR THE INSTALLATION OF AUTOMATED TELLER MACHINES AT HOBOKEN TERMINAL AND NEWARK PENN AND PRINCETON JUNCTION TRAIN STATIONS

Authorization to enter into all necessary agreements and take all necessary actions to execute a License Agreement with Bank of America for a term of five years to install ATMs at Hoboken Terminal and Newark Penn and Princeton Junction train stations in consideration of Bank of America paying \$405,000 annually in monthly installments.

0701-7: LABOR NEGOTIATIONS – SPECIAL COUNSEL

Authorization to retain Genova, Burns & Vernoia as Special Labor Counsel to represent NJ TRANSIT, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, in connection with labor negotiations and arbitration proceedings as necessary to replace currently expired agreements in an amount not to exceed \$750,000 and for a period not to exceed 36 months, to continue the same level of effort, subject to the availability of funds.

Authorization to enter into agreements as needed to retain experts, court reporters or other providers of mediation or support services.

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## 0701-8 NEW JERSEY TRAVEL INDEPENDENCE PROGRAM PILOT EXTENSION (NJ TIP)

Authorization to extend for six months a contract with Small & Associates, Inc., of Livingston, New Jersey for the provision of one-on-one travel instruction to people with disabilities to utilize the NJ TRANSIT fixed route bus, rail and light rail systems in the Region 5 Access Link service area comprised of Essex, Morris, Somerset and Union counties, in an amount not to exceed \$155,000, plus five percent for contingencies, subject to the availability of funds.

0701-9 REGULATIONS: READOPTION WITH AMENDMENTS TO N.J.A.C. 16:74 PROCEDURE FOR CLAIMS (DESTRUCTIVE COMPETITION)

Authorization to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:74 et seq., Procedure for Claims (Destructive Competition), consistent with this Board item and exhibits, put the regulations in the appropriate format and take all other actions necessary to effectuate the final adoption and promulgation of NJ TRANSIT's Procedure for Claims (Destructive Competition).

The Consent Calendar was moved in its entirety by Kenneth E. Pringle and seconded by Patrick W. Parkinson. Chairman Kris Kolluri and Vice Chairman Myron P. Shevell recused themselves from the entire Consent Calendar vote, and it was adopted.

There were seven public comments on non-agenda items.

Albert Cafiero on behalf of Senator Cardinale's office, commented on the status of the West Shore Line. He said in October 1996, NJ TRANSIT began a Major Investment Study aimed at restoring passenger service on three rail lines in Bergen County. He said when NJ TRANSIT completed the Study, it failed to assign any order of priority for continuing the work and proceeded to working on all three lines. Mr. Cafiero said in May 2002 a meeting was held with the Bergen County Legislative delegation to determine which project should be given priority, The West Shore Corridor, The Northern Branch Corridor or The Bergen-Passaic Corridor. He said then Assemblywoman Loretta Weinberg was in favor of the West Shore route. Mr. Cafiero said NJ TRANSIT representatives pointed out that it would not be possible to carry the potential ridership generated by that line in to New York Penn Station and restoration of the passenger service on West Shore would have to wait until the new rail tunnel is built. Mr. Cafiero said then Assemblywoman Weinberg agreed with extending the Hudson-Bergen Light Rail to Tenafly first.

Mr. Cafiero asked several questions about the status of the West Short Corridor. Richard Sarles, Assistant Executive Capital Planning and Programs said the Tri-County plan focuses on a long range plan including the West Shore Corridor, the Northern Branch Corridor and the Bergen-Passaic Corridor.

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Rose Heck thanked Executive Director Warrington for his dedication to his work during his time with NJ TRANSIT and wished him well in his future endeavors. Ms. Heck also requested a copy of the Executive Director's budget presentation. She also requested advance notice of the Access to the Region's Core Public Hearings.

John Costa, on behalf of the New Jersey State Council, said he was glad to see the purchase of the new buses on the agenda and stressed the importance of safety for the riding public.

Frank Miklos said he was very pleased with the new bus purchase and requested that NJ TRANSIT consider in future bus purchases electric/hybrid bus models and low carriage design to accommodate people with disabilities.

Margarite Petrillo commented on the esthetic value of the artwork at Washington Park Rail Station and noted its inspirational qualities. She requested information on the Artist. Mrs. Petrillo further commented on an experience she had at the Trenton Rail Station and asked if the stations are staffed with Federal Marshalls. Chairman Kolluri responded that the train stations are manned with NJ TRANSIT Police Officers and K-9 patrols.

David Peter Alan, on behalf of the Lackawanna Coalition, said it is the end of an era at NJ TRANSIT with Executive Director Warrington's departure. He commented that a Search Committee has been appointed to select Executive Director Warrington's successor but not a single recognized advocate for the riders was appointed to the Committee. Mr. Alan said transit riders are the most important stakeholders.

Mr. Alan commented on the Lackawanna Cutoff Project to restore rail service to Scranton and said the Lackawanna Coalition strongly supports this initiative. He said he plans to attend a project meeting on February 6, 2007 in Morristown. Mr. Alan requested that public meetings are scheduled in close proximity to public transportation hubs.

Mr. Alan said he is pleased at the new and improved level of public disclosure in the Board Meeting notice. Mr. Alan distributed a copy of *Railgram*.

Tony Macrie, Cape May Seashore Line, thanked Executive Director Warrington for his assistance and said when one of their trains broke down, NJ TRANSIT was there to help. He commended Executive Director Warrington on his cooperation and courtesy and said it was his distinct pleasure in working with him.

Chairman Kolluri said that he, Governor Corzine and the Search Committee are committed to find a highly qualified, transportation professional for the position of Executive Director. Chairman Kolluri said he welcomes and appreciates dialogue from Rail and Bus Advocacy Groups during this process.

Since there were no further comments or business, the Chairman called for adjournment and a motion to adjourn was made by Myron P. Shevell, seconded by Patrick W. Parkinson and unanimously adopted.

The meeting was adjourned at approximately 10:50 am.

**NEW JERSEY TRANSIT CORPORATION  
 NJ TRANSIT BUS OPERATIONS, INC.  
 NJ TRANSIT RAIL OPERATIONS, INC.  
 NJ TRANSIT MERCER, INC.  
 RE-SCHEDULED BOARD OF DIRECTORS MEETING**

**JANUARY 23, 2007**

**MINUTES**

➤ EXECUTIVE SESSION AUTHORIZATION	38230
➤ APPROVAL OF MINUTES OF PREVIOUS MEETINGS	38231
➤ EXECUTIVE DIRECTOR'S MONTHLY REPORT	38232
➤ ADVISORY COMMITTEE REPORTS	--
➤ PUBLIC COMMENTS ON AGENDA ITEMS	--

**ACTION ITEMS**

0701-1	PURCHASE OF 1,145 TRANSIT AND SUBURBAN BUSES	38265
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Authorization to contract (No. 06-085) with North American Bus Industries, Inc. of Anniston, AL for the acquisition of 1,145 buses at a cost not to exceed \$409,871,962, plus five percent for contingencies, subject to the availability of funds.

0701-2	NEWARK PENN STATION MARKET STREET ENHANCEMENTS: CONTRACT AMENDMENT FOR DESIGN SERVICES	38268
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Authorization to amend contract (No. 04-101) with Clough Harbour & Associates LLP of Parsippany, NJ for design services for enhancements to the Market Street area of Newark Penn Station and demolition of the former station heating plant at a cost not to exceed \$1,104,675, plus five percent for contingencies, for a total contract authorization of \$4,624,909, subject to the availability of funds.

NEW JERSEY TRANSIT CORPORATION  
NJ TRANSIT BUS OPERATIONS INC.  
NJ TRANSIT RAIL OPERATIONS INC.  
NJ TRANSIT MERCER INC.  
RE-SCHEDULED BOARD OF DIRECTORS MEETING  
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0701-3 DOVER RAIL YARD PEDESTAL TRACK: 38271  
CONSTRUCTION CONTRACT AWARD

Authorization to contract (No. 07-023X) with J.H. Reid General Contractor of South Plainfield, New Jersey for construction of a pedestal track and associated systems at Dover Rail Yard at a cost not to exceed \$7,850,550, plus five percent for contingencies, for a total contract authorization of \$8,243,078.

0701-4 MEADOWS MAINTENANCE COMPLEX (MMC) – 38273  
REPLACEMENT OF HEATING AND VENTILATION  
SYSTEM: CONSTRUCTION CONTRACT AWARD AND  
CONTRACT AMENDMENT FOR CONSTRUCTION  
MANAGEMENT SERVICES

Authorization to contract (No. 07-020X) with A&A Industrial Piping, Inc. of Fairfield, New Jersey for the replacement of the heating and ventilation system at the Meadows Maintenance Complex in Kearny, New Jersey at a cost not to exceed \$1,470,000, plus five percent for contingencies, for a total contract authorization of \$1,543,500, subject to the availability of funds; and

Authorization to amend professional services contract (No. 99CA074) with Tishman Construction Corporation of Newark, New Jersey to provide construction management services for the replacement of the heating and ventilation system at the Meadows Maintenance Complex in the amount of \$150,000, plus five percent for contingencies, for a total contract authorization of \$9,032,940, subject to the availability of funds.

0701-5 METROPARK STATION – PLATFORM REPLACEMENT 38276  
AND STATION EXPANSION: CONSTRUCTION  
MANAGEMENT SERVICES CONTRACT AWARD

Authorization to contract (No. 07-024) with Urban Engineers, Inc. of Pennsauken, New Jersey to provide construction management services for the replacement of platforms and expansion of the station building at Metropark at a cost not to exceed \$3,819,111, plus five percent for contingencies, subject to the availability of funds.

NEW JERSEY TRANSIT CORPORATION  
NJ TRANSIT BUS OPERATIONS INC.  
NJ TRANSIT RAIL OPERATIONS INC.  
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**CONSENT CALENDAR**

0701-6      LICENSE AGREEMENT WITH BANK OF AMERICA FOR      38280  
THE INSTALLATION OF AUTOMATED TELLER  
MACHINES AT HOBOKEN TERMINAL AND NEWARK  
PENN AND PRINCETON JUNCTION TRAIN STATIONS

Authorization to enter into all necessary agreements and take all necessary actions to execute a License Agreement with Bank of America for a term of five years to install ATMs at Hoboken Terminal and Newark Penn and Princeton Junction train stations in consideration of Bank of America paying \$405,000 annually in monthly installments.

0701-7      LABOR NEGOTIATIONS – SPECIAL COUNSEL      38283

Authorization to continue to retain Genova, Burns & Vernioia as Special Labor Counsel to represent NJ TRANSIT, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, in connection with ongoing labor negotiations and arbitration proceedings as necessary to replace currently expired agreements in an amount not to exceed \$750,000 and for a period not to exceed 36 months, to continue the same level of effort, subject to the availability of funds; and

Authorization to enter into agreements as needed to retain experts, court reporters or other providers of mediation or support services.

0701-8      NEW JERSEY TRAVEL INDEPENDENCE PROGRAM      38286  
PILOT EXTENSION (NJ TIP)

Authorization to extend for six months a contract with Small & Associates, Inc., of Livingston, New Jersey for the provision of one-on-one travel instruction to people with disabilities to utilize the NJ TRANSIT fixed route bus, rail and light rail systems in the Region 5 Access Link service area comprised of Essex, Morris, Somerset and Union counties, in an amount not to exceed \$155,000, plus five percent for contingencies; subject to the availability of funds.

NEW JERSEY TRANSIT CORPORATION  
NJ TRANSIT BUS OPERATIONS INC.  
NJ TRANSIT RAIL OPERATIONS INC.  
NJ TRANSIT MERCER INC.  
RE-SCHEDULED BOARD OF DIRECTORS MEETING  
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0701-9 REGULATIONS: READOPTION WITH AMENDMENTS 38289  
TO N.J.A.C. 16:74 PROCEDURE FOR CLAIMS  
(DESTRUCTIVE COMPETITION)

Authorization to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:74 et seq., Procedure for Claims (Destructive Competition), consistent with this Board item and exhibits, put the regulations in the appropriate format and take all other actions necessary to effectuate the final adoption and promulgation of NJ TRANSIT's Procedure for Claims (Destructive Competition).

PUBLIC COMMENTS ON NON-AGENDA ITEMS

**EXECUTIVE SESSION AUTHORIZATION**

**BE IT HEREBY RESOLVED** pursuant to N.J.S.A. 10:4-12 and N.J.S.A. 10:4-13 that the Board of Directors of the New Jersey Transit Corporation hold an executive session to discuss contract negotiations, and litigation and personnel matters; and

**BE IT FURTHER RESOLVED** that it is expected that discussions undertaken at this executive session could be made public at the conclusion of these matters as appropriate.

## **APPROVAL OF MINUTES**

**WHEREAS**, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. Board of Directors be approved by the Board; and

**WHEREAS**, pursuant to Section 4(f) of the New Jersey Public Transportation Act of 1979, the minutes of actions taken at the December 13, 2006 Board meeting of the New Jersey Transit Corporation, NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Rail Operations, Inc. and NJ TRANSIT Mercer, Inc. were forwarded to the Governor on December 14, 2006;

**NOW, THEREFORE, BE IT RESOLVED** that the minutes of actions taken at the December 13, 2006 New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. Board of Directors' meetings are hereby approved.

Jon S. Corzine  
Governor

Kris Kolluri, Esq.  
Board Chairman

George D. Warrington  
Executive Director

**NJ TRANSIT**  
One Penn Plaza East  
Newark, New Jersey 07105-2246  
973-491-7000



TO: BOARD OF DIRECTORS  
FROM: GEORGE D. WARRINGTON  
DATE: JANUARY 23, 2007  
SUBJECT: EXECUTIVE DIRECTOR'S REPORT – JANUARY 2007

Last week, we received very good news from the Federal Transit Administration with the approval of the Draft Environmental Impact Statement (DEIS) for the Access to the Region's Core project, a critical step forward in our efforts to get a shovel in the ground in 2009. As part of this process, copies of the document will be distributed to public locations throughout the region within the next two weeks. Public hearings will also be scheduled in New Jersey and New York in March to ensure that people have adequate time to review the document and comment.

I would like to thank Rich Sarles, Rich Roberts, Tom Schulze and his team, in particular, for their hard work in getting us to this point. Having this highly skilled and experienced professional team in place—partnering with the Port Authority—to guide this project, will ensure we stay on schedule. I also want to thank the leadership of Governors Corzine and Spitzer, Mayor Bloomberg, and both the NJ and NY delegations—especially Senator Lautenberg—and this Board, who have been unwavering in their support for ARC.

Last month, Chairman Kolluri and I made a commitment to review the notices of our Board Meeting agendas that are provided to the public in advance of our regular monthly meeting, and we concluded that they should be modified. Beginning with today's meeting, the advance notice to the public contains a more thorough and detailed synopsis of the items to be considered by the Board, including a more detailed description of each item, a listing of the winning bidder and the cost of the project on contract award items, and a full description of each item on the consent calendar.

This month, the Board will consider an item to create better access from our station building to Newark's developing downtown—particularly in the Market Street area. As part of that improved accessibility and connectivity, the existing Market Street stairways from the train platforms to the street will be upgraded, and the walkway along Market Street will be substantially upgraded to improve the link from the Ironbound section of Newark to the City's center core district—the Gateway Complex and the new Prudential Arena. The project includes the addition of new lighting, better passenger flow, an improved communication system, and enhanced safety features. Final design and construction will begin this summer.

Another item before the Board today signals a major step forward in the safety and security of our customers and employees who ride and operate our buses. We are seeking approval to purchase 1,145 transit and suburban style buses, equipped with closed-circuit camera systems. This multi-year contract will deliver 200 buses per year over a six-year period replacing buses that are 12 to 15 years old. Other features of the new buses include upgraded and comfortable interiors, bike racks, wheelchair lifts and a kneeling feature.

I want to thank Jim Gigantino, Vice President and General Manager of our Bus Operations and also Vito Forlenza, the Chairman of the Amalgamated Transit Union, for their support in this process and for staying focused at all times on safety, which is our top priority.

Finally, I want to thank Chairman Kolluri and the entire Board for their support in the wake of my decision to move on from NJ TRANSIT in March. It has been a privilege for me to serve with each of you, and I look forward to working with all of you to ensure a smooth leadership transition over the coming months, so that we sustain momentum on all of our critical initiatives and continue to keep our focus on serving our customers on every bus, train and light rail vehicle, every day.

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# **EXECUTIVE DIRECTOR'S MONTHLY REPORT JANUARY 2007**

- 1. HIGHLIGHTS**
- 2. CUSTOMER AND COMMUNITY INITIATIVES**
- 3. EMPLOYEE RECOGNITION**
- 4. DBE/MBE PROGRAM**
- 5. PERFORMANCE MEASURES**

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# HIGHLIGHTS

### **FTA approves next major step for tunnel project**

On January 19, NJ TRANSIT announced the achievement of another major milestone in the Access to the Region's Core (ARC) project, with a new trans-Hudson tunnel as its centerpiece.

NJ TRANSIT has received formal approval from the Federal Transit Administration (FTA) to release the project's Draft Environmental Impact Statement (DEIS), which enables the agency to schedule public hearings in both New Jersey and New York. The release of the DEIS is the next step in securing federal funding for the project.

After completion of the public hearings, NJ TRANSIT will prepare the Final Environmental Impact Statement (FEIS) for submission to FTA for approval, clearing the way for federal funding and the start of construction in 2009.

The Port Authority of NY & NJ has already committed up to two billion dollars for the project, recognizing its important trans-Hudson mission to reduce congestion, expand capacity, and enhance security while promoting economic development.

NJ TRANSIT recognized the hard work of both the New Jersey and New York Congressional delegations – in particular, Senators Lautenberg, Menendez, Schumer and Clinton – as well as New York City Mayor Bloomberg and thanked them for their unwavering support for the project.

The Access to the Region's Core (ARC) program includes two new single-track railroad tunnels between New Jersey and New York, additional station capacity under 34th Street in Manhattan, and signal and track improvements along and adjacent to the Northeast Corridor.

The project will allow for the introduction of one-seat rail service on the Main, Bergen County, Pascack Valley and Raritan Valley lines, the Montclair-Boonton Line west of Montclair, North Jersey Coast Line south to Bay Head, as well as the Morristown Line west of Dover. It will also create the capacity to connect the future Northern Branch Rail Line directly to Manhattan.

The project includes expanded station capacity north of NY Penn Station under 34th Street, with underground connections to New York City subway lines (6th, 7th, 8th and Broadway) and PATH trains.

### **NJ TRANSIT hires construction management firm for tunnel project**

On December 13, 2006, NJ TRANSIT took another significant step in advancing the region's most important public transportation project in decades by hiring THE CM Consortium of Newark to provide construction management services for its new trans-Hudson tunnel, and related station, track and yard projects.

The decision to hire a construction manager at this early stage of project development, during the preliminary engineering phase, underscores NJ TRANSIT's commitment to ensure creation of a practical design that will be built on time and within budget.

THE CM Consortium, a tri-venture of Tishman Construction, Parsons and ARUP, along with supporting firms, brings extensive worldwide experience in managing other large railroad construction and tunnel projects, including The Channel Tunnel Rail Link in Great Britain; the MTA Red Line project in Los Angeles; the Washington, D.C. Metro system; the Dulles Airport and Rail System Improvements; the AirTrain and Jamaica Station; and the only two major Tunnel Boring Machine projects in New York City – the New York City Water Tunnel #3 and the Con Edison 1st Avenue Tunnel and Steam Mains.

In addition to providing design oversight, the construction manager will make independent cost estimates to validate those made by the engineering team; develop a master project schedule for the engineering, permitting and construction phases; create a quality control plan; and coordinate outreach programs to ensure opportunities for participation of women- and minority-owned businesses in both New Jersey and New York.

The NJ TRANSIT Board awarded THE CM Consortium a contract of \$5 million for this initial engineering phase following a competitive procurement process.

The Access to the Region's Core (ARC) program includes two new single-track railroad tunnels between New Jersey and New York, a new rail station under 34th Street in Manhattan adjacent to Penn Station, and signal and track improvements along and adjacent to the Northeast Corridor.

The project will allow for the introduction of one-seat rail service on the Main, Bergen County, Pascack Valley and Raritan Valley lines, the Montclair-Boonton Line west of Montclair, North Jersey Coast Line south to Bay Head, as well as the Morristown Line west of Dover. It will also create the capacity to connect the future Northern Branch Rail Line directly to Manhattan.

The proposed new multilevel station under 34th Street will provide underground connections to New York City subway lines (6th, 7th, 8th and Broadway) and PATH trains, as well as provide pedestrian connections to New York Penn Station. The project is projected to cost \$7.2 billion in inflation-adjusted dollars. Construction is expected to start in 2009.

In addition to increasing mobility and reducing roadway congestion, ARC promises tangible economic benefits. According to a 2005 study by Economics Research Associates, the project will add \$10 billion in gross regional product, 44,000 permanent jobs due to increased regional competitiveness and nearly \$4 billion in total personal income within 10 years of completion. During the construction phase, the project is expected to produce 6,000 jobs.

### **Study seeks improvements in Greater Newark bus service**

The NJ TRANSIT Board of Directors awarded a \$1.28 million contract on December 13 that launches a three-year study to improve bus, rail and light rail services in the Greater Newark metropolitan area.

The last time such a sweeping study of the region's bus routes was performed was in 1982.

The study region includes Newark, Elizabeth and parts of Essex, Union, Passaic, Bergen and Hudson counties. The area is served by 47 NJ TRANSIT bus routes and four routes served by Coach USA.

Abrams-Cherwony Associates is partnering with Urbitran and Howard-Stein-Hudson to conduct the study, which is expected to start this month. In the spring of 2007, the consultant will conduct on-board passenger surveys to define ridership and usage and will hold community outreach programs in each of four geographical areas to get input from customers, employers, elected officials and the general public.

An early focus of the study will be recommendations for improving connectivity of NJ TRANSIT rail, light rail and bus service in core areas of Newark, including areas near Newark Penn Station, Newark Broad Street Station and the intersection of Market and Broad streets.

Ultimately, the consultant will submit a comprehensive package of short- medium- and long-term recommendations for each of the four geographic areas, including new service strategies, such as exclusive bus lanes, to increase capacity and improve reliability.

The areas include:

- Downtown Newark
- Elizabeth (excluding Port Elizabeth) and Hillside
- Port Newark, Port Elizabeth and Newark Liberty International Airport (including the industrial section of Newark's Ironbound area)
- Orange, East Orange, Irvington and the section of Newark west of the Garden State Parkway.

The recommendations will consist of detailed route proposals that address the needs of commuters and other travelers, including reverse commuters, in downtown and outlying areas.

The study is being funded by NJ TRANSIT and the North Jersey Transportation Planning Authority.

### **Improvements in the works for Metropark Station**

Customers of NJ TRANSIT's busiest outlying rail station—Metropark Station on the Northeast Corridor—will benefit from a project advanced December 13 by the NJ TRANSIT Board of Directors to renovate the station and build longer, wider platforms.

The Board awarded a \$29.8 million contract to Anselmi & DeCicco, Inc. of Maplewood, NJ for station improvements and the construction of high-level platforms. Constructed in 1971, Metropark Station now serves 106 trains and approximately 7,200 NJ TRANSIT customers on a typical weekday.

The new, longer and wider high-level platforms will be capable of accommodating longer trains—up to 12 cars in length. The project will also result in increased canopy and windscreen coverage as well as climate-controlled waiting shelters, an expanded and refurbished station building, new staircases, a renovated pedestrian tunnel, and other customer amenities such as new customer communication systems, lighting and signage. In addition, the project will feature

new pedestrian connections from Route 27 to the station platforms, making the station more convenient for area residents.

Construction on the project will begin early this year, with completion expected in 2010.

### **NJ TRANSIT Board to consider purchase of 1,145 new buses equipped with on-board camera systems**

This month, the NJ TRANSIT Board of Directors is expected to authorize the purchase of 1,145 transit and suburban-style buses equipped with closed-circuit camera systems to enhance customer and employee security.

If approved, the purchase would renew the state's bus fleet over a period of six years and mark the first time that NJ TRANSIT vehicles were delivered with closed-circuit cameras as standard equipment.

NJ TRANSIT is currently conducting two bus camera pilot programs as part of an ongoing focus on employee and customer safety.

In October 2006, the NJ TRANSIT Board approved a pilot program to install video cameras on 74 buses operating out of Big Tree Garage in Nutley—which serves communities in Essex, Passaic, Bergen and Union counties—as well as cameras on 48 supervisor vehicles. The \$424,000 one-year pilot will begin early this year and will enable NJ TRANSIT to evaluate the system's benefits to operator and customer safety before proceeding with future installations. The cameras record data when activated by the operator or when triggered by a sudden change in "g-force" such as a collision or high-speed maneuver, capturing occurrences both inside and outside the bus.

In 2005, NJ TRANSIT installed digital cameras on 50 buses in South Jersey as part of a separate \$1.5 million pilot program funded by the U.S. Department of Homeland Security. The cameras record footage from multiple interior and exterior positions and enable NJ TRANSIT police to view live video footage from aboard the bus.

In addition to enhancing safety and security, the new fleet of buses would offer improved service reliability and upgraded, comfortable interiors for customers. The buses will be equipped with

wheelchair lifts and a kneeling feature, and will meet or exceed the latest environmental standards by incorporating technologies to reduce exhaust emissions.

The multi-year contract calls for the delivery of approximately 200 buses per year, replacing transit and suburban buses that will have exceeded their 12-year lifespan and will be eligible for replacement under Federal Transit Administration guidelines.

# **CUSTOMER AND COMMUNITY INITIATIVES**

### **Federal Railroad Administration, Amtrak and NJ TRANSIT to review plans for new/enhanced Portal Bridge on Northeast Corridor**

The Federal Railroad Administration (FRA), Amtrak and NJ TRANSIT hosted a public scoping meeting January 17 at the Newark Public Library to address possible replacement or enhancement of Amtrak Portal Bridge, the two-track moveable swing-span bridge that carries the Northeast Corridor over the Hackensack River.

At 96 years old, the Portal Bridge is nearing the end of its useful life and has insufficient capacity to accommodate future transportation needs. The project will evaluate alternatives to improve reliability and increase the capacity of the crossing.

The public scoping meeting gave the public an opportunity to review and comment on various alternatives and issues regarding the proposed enhancement project.

### **Hoboken Bus Terminal improvements completed**

Brighter lighting, new pedestrian fences and crosswalks, and extensive roof repairs are among the improvements benefiting thousands of customers who pass through Hoboken Bus Terminal each day.

The improvements, part of a \$775,000 restoration project completed last month by NJ TRANSIT, are designed to enhance pedestrian safety and customer convenience for the 6,000 bus customers who begin or end their trips at the terminal each day. In addition, the project will benefit thousands of pedestrians who pass through the bus lanes as they walk between the surrounding streets and Hoboken Terminal, which serves more than 50,000 commuters each weekday on commuter rail, light rail, buses, ferries and PATH trains.

NJ TRANSIT safety engineers analyzed pedestrian and bus traffic through the facility and designed a series of enhancements, including attractive new fences to channel pedestrians to designated crosswalks. To improve lighting and visibility, incandescent bulbs were replaced with high-powered halogen lamps. New reflective signage and high-visibility paint was used to delineate pedestrian zones and provide direction for bus operators.

NJ TRANSIT also made innovative use of materials and techniques to improve accessibility and safety for customers with visual impairments. The terminal's crosswalks now feature raised edges and other tactile cues to help visually impaired customers stay within the boundaries of

pedestrian areas. Dimpled surfaces embedded in the pavement indicate that pedestrians have reached the end of a crosswalk or are traversing an area between bus lanes.

The bus terminal's shed, which provides protective cover for the five bus lanes below, received a significant amount of attention, including roof repairs and repainting of the shed's fascia, underside and steel supports. New identifying signage now spans the side of the structure.

### **NJ TRANSIT offers students free ride January 22 through January 28**

NJ TRANSIT is again offering college and post-secondary students the opportunity to ride our system—bus, rail, and light rail—for free from January 22 through January 28, to give students the opportunity to experience how simple and convenient it is to use public transportation. Students who wish to take advantage of the offer need only a student ID and a Free Ride coupon.

To obtain the coupon, participants must first fill out a short registration form online. After completing the form, the student simply prints out the Free Ride coupon, which is valid for unlimited use throughout the free trial week when presented along with a valid student ID.

During the fall semester free week last year, more than 34,000 students took advantage of free rides on our buses, trains and light rail vehicles.

Since our University Partnership Program began in 2004, we've added several schools from around the state. The list includes Kean, Fairleigh Dickinson, Montclair State, New Jersey City University, The Richard Stockton College of NJ, Rutgers, Seton Hall, William Paterson University, Essex County Community College, Katherine Gibbs NY, Middlesex County Community College, Monmouth University, New Jersey Institute of Technology, Pacific College of Oriental Medicine, Passaic County Community College, Ramapo College of New Jersey and Stevens Institute of Technology.

Benefits of this partnership for students and schools include assistance with creating on-campus information centers, outreach to promote student awareness of NJ TRANSIT options, and an online student monthly pass (available for bus, rail or light rail) that is discounted at 25% off.

**Bus service adjustments, new rail schedules take effect this month**

NJ TRANSIT adjusted bus routes on January 6, 2007 to meet ridership demand, improve on-time performance and better serve customer needs on a number of lines throughout the state. Additional morning and evening peak period service is being offered on several routes, as well as more reverse peak trips.

These adjustments were part of a scheduled system-wide bus timetable change. Customers were able to review new timetables available aboard buses, at customer service offices, online at [www.njtransit.com](http://www.njtransit.com) or by calling 1-800-772-2222.

On the rail side, new train schedules took effect Sunday, January 14 on the Northeast Corridor, North Jersey Coast, Morris & Essex, Main/Bergen County and Pascack Valley lines.

New timetables were available for customers beginning early this month at our customer service offices in Newark Penn Station, Hoboken Terminal, Secaucus Junction and New York Penn Station, and electronic versions of the printed timetables are available on our website.

Service improvement highlights include new Northeast Corridor Train 3945, which departs New York at 1:01 p.m. and operates express between Newark and Princeton Junction. On weekends, late-night Train 7802 now makes additional stops at Hamilton, Edison and Metuchen.

This round of schedule adjustments also included changed connection times at Secaucus Junction on the Main/Bergen County and Pascack Valley lines, as well as the end of seasonal "Holiday Express" weekend trains on the Northeast Corridor and Morris & Essex Lines.

**NJ TRANSIT offers extra rail and bus service for busy holiday week**

NJ TRANSIT offered extra trains and buses to accommodate customers' travel needs during the busy holiday season. The additional service included "early getaway" trains from New York Penn Station and Hoboken Terminal, as well as "early getaway" buses from the Port Authority Bus Terminal, on Friday, December 22 and Friday, December 29, in advance of the Christmas and New Year's holidays.

In addition to regularly scheduled weekday service, NJ TRANSIT offered six extra New York-bound trains during the late morning and early afternoon Tuesday, December 26 through Friday, December 29 to accommodate customers traveling to Newark, Hoboken and New York.

NJ TRANSIT also offered late-night rail, bus and light rail service across the system on New Year's Eve and during the wee hours of New Year's Day for the benefit of holiday revelers.

The River LINE operated on a Saturday schedule on New Year's Eve, with additional service after midnight to accommodate customers attending the fireworks display and activities along the Camden waterfront. Hudson-Bergen Light Rail operated on an extended holiday schedule, with the last trains departing endpoint terminals (Tonelle Ave., Hoboken Terminal, West Side Ave. and Bayonne 22nd St.) at 2 a.m.

On the commuter rail lines, in addition to regularly scheduled train service, NJ TRANSIT operated 33 extra trains on New Year's Eve: twelve additional trains to Hoboken Terminal and New York Penn Station before midnight and 20 additional trains after midnight, as well as one trip from Atlantic City to Cherry Hill.

NJ TRANSIT's Family SuperSaver Fare, which enables up to two children (ages 5-11) to travel free with a fare-paying adult, was in effect for the entire Christmas and New Year's holiday weekends.

### **NJ TRANSIT hosts transit security summit**

NJ TRANSIT Police Chief Joseph C. Bober welcomed police chiefs and security officials from across the nation at a transit security summit last month at the Newark Liberty Airport Marriott. The fifth annual Safety and Security Roundtable (Transit Police Summit) kicked off with an opening ceremony Wednesday, December 13, 2006.

The three-day event, co-sponsored by the U.S. Department of Homeland Security, the Federal Transit Administration and Johns Hopkins University, provided transit officials with an opportunity to present best or innovative transit security practices and share information about security within the transit environment. Participants interfaced with keynote speakers from domestic and international transit agencies, along with representatives from several federal departments, who have responded to serious terrorist attacks.

**Human Resources helps students develop workforce skills**

On Wednesday, December 27, 2006, members of our Human Resources department presented a seminar to twenty-seven students—recommended by NJ TRANSIT employees—to provide them with skills that will help them enter the workforce. Topics covered during the seminar included completing an application, writing a resume, dressing for success and developing interview skills. Participating students gave the seminar high ratings and expressed that what they learned will be useful when they apply for a job.

# **EMPLOYEE RECOGNITION**

### **NJ TRANSIT Police announces promotions, new officers**

NJ TRANSIT Police promoted six department members December 29 and swore in nine new police and fare enforcement officers and recruits in a ceremony led by Chief Joseph Bober at our Newark headquarters. The department also recognized the first Citizen Police Academy Class graduates.

The promotions included:

- **Captain Laura Hester:** Promoted from the rank of Lieutenant, Captain Hester joined the NJTPD in 1994 and worked as a patrol officer. In 1996, Captain Hester was assigned to the Anti Crime Unit, where she worked plain clothes and undercover assignments throughout the state. The following year, she was temporarily assigned to the Essex County Prosecutor's Office, and later to the Auto theft task force, where she worked undercover narcotics for the Drug Enforcement Administration, the Federal Bureau of Investigations and the Attorney General's Office. Promoted to Sergeant in 1997, she was assigned as supervisor of the Anti Crime Unit. In 2000, Captain Hester was transferred to the Professional Standards and Investigations Bureau, where she supervised the Detective Unit. She was promoted to Lieutenant in 2002 and became the Executive Officer of Hoboken Command, assisting with the command of daily police operations of North Region II. Captain Hester is the present Officer-in-Charge of Secaucus Junction Station, overseeing the daily operations of patrolling Secaucus Station to the New York State line. She is the recipient of various NJ TRANSIT awards, as well as awards from outside agencies.
- **Sergeant Melissa Bathan:** Promoted from police officer, Sergeant Bathan has worked in patrol commands in the North and South regions. Additionally, she was assigned for a year to New Jersey State Police, working undercover narcotics investigations in Camden. During this assignment, she was involved in over 200 drug arrests. Sergeant Bathan has attended several leadership courses and currently serves both as a Field Training Officer and background investigator for the department.
- **Sergeant Michael Ciriello:** Promoted from police officer, Sergeant Ciriello is currently serving as the Lead Physical Fitness and Drill Instructor for the Essex County Police Academy, where his duties include the training of all Police, Correctional and Juvenile Correction Officers attending the Academy. He has

attended many Police Schools and is certified as a Police Instructor by the Police Training Commission.

- **Sergeant Kristen Kappleman:** Promoted from police officer, Sergeant Kappleman has worked in both North Region I and North Region II and currently serves as a Field Training Officer. She has also received a Unit Citation Award from the NJTPD.
- **Sergeant Christopher LaMotta:** Promoted from police officer, Sergeant LaMotta joined the NJTPD in December 1996 and has worked in many capacities during his career including patrol, serving as a Field Training Officer and being assigned to the Essex-Union Auto Theft Task Force. Sergeant LaMotta has received many awards from the NJTPD and from other law enforcement agencies.
- **Sergeant Jose Martinez:** Promoted from police officer, Sergeant Martinez has worked as a Patrol Officer at various commands throughout the department and was one of the original officers assigned to the JUSTICE Team. Sergeant Martinez has several letters of commendation, along with the COMTO Life Saving Award, and has attended various police classes.

On December 29, the following police officers were sworn in:

- Bekim Dushaj
- Daniel R. Taquinto
- Shane Broglia

The following fare enforcement officers were sworn in:

- Daniel Alvarez
- Sonny Heyder
- Kenneth D. Kramer
- Anslem Pinder
- Felipe Pinho
- Mark Panzano

The NJTPD also recognized the first graduates of the Citizen Police Academy Class:

- Sylvia Benavente
- Delaye Gabriel
- Gloria Guevara
- Tony Knight
- Janis Mitchell
- Edward Fenton
- Elizabeth Young
- Kandar Taylor
- Rose Ortiz
- Ronnie Siriani
- Marguerete Graves
- Jason Bullock
- Joseph Williams
- Brian Pickett

**Rail Operations honors Employee-of-the-Month award recipients**

Rail Operations hosted a celebration on January 19 to honor their Employee-of-the-Month award recipients from May through December 2006. The Employee of the Month award recognizes employees who exemplify NJ TRANSIT’s mission of putting the customer first, whether internally or externally. Every month, one employee each from the Transportation, Infrastructure Engineering, and Mechanical departments is chosen for the award by a selection committee, based on a set of criteria the employee must meet.

Congratulations to the recipients from May through December:

	<u>Transportation</u>	<u>Infrastructure Engineering</u>	<u>Mechanical</u>
May	Michael Farrell	Glenn Leuis	Francis Gooding
June	Philip Martin	Martin Kwiatkowsky	Ronald Lowery
July	Peter P. Panko	James Andriac	Sam Halaweh
August	Scott Sherman	Lorenzo Atkinson	Elvis Rodriguez
September	Leah Bickham	George Jankowski	Rafael Rodriguez
October	Joseph Halley	Thomas Demnicki	Patrick Greene

November	Michael Gannon	Carol McKenzie	Vincent Favata, Jr.
December	Richard Powell	Evelyn Ingersoll	Thomas Dalton

Thanks to all of the recipients for going above and beyond in performing their duties.

**NJ TRANSIT employees save a coworker's life**

Last year, NJ TRANSIT began an important program to deploy automatic electronic defibrillators (AED's) at our key stations and facilities, and on designated police vehicles. We have since installed 70 defibrillators in stations and major facilities across the system, and certified instructors have trained more than 700 employees on their use, along with first aid and CPR training. The program has already had life-saving results.

In December, one of our employees was unconscious and in cardiac arrest at Morrisville Yard. Two of his coworkers—Senior Trainmaster Kevin Beejack and Assistant Superintendent of Mechanical AI Bucantis—reacted immediately by initiating first aid, calling for assistance and using the on-site defibrillator to revive the employee and restore his pulse. In fact, Kevin had just received the AED training only days prior to this incident.

We are grateful that our coworker is recovering thanks to the quick thinking and actions of Kevin and AI.

**NJ TRANSIT employees bid farewell after outstanding careers**

Four NJ TRANSIT employees retired in December with careers ranging from 13 to 31 years of service:

1. Rosetta Scordato (Nutley) Big Tree Garage Cleaner – 31 years
2. Joseph M. Leopardi (Mays Landing) AC South Jersey Regional Supervisor – 27 years
3. Gene R. Hertler (Runnemede) Newton Avenue Garage Regional Supervisor – 25 years
4. Gil F. Gonzalez (Jersey City) Greenville Garage Bus Operator – 13 years

Five NJ TRANSIT employees retired in January with careers ranging from 11 to 25 years of service:

1. Robert Lilley (Belvidere) Orange Annex Manager Print Graphics – 25 years
2. Christine Dekker (Aberdeen) Penn Plaza Sr. Systems Analyst/Programmer – 23 years
3. Patricia Wilkins (Maplewood) General Office Building Business Partner – 22 years
4. Theodore E. Douglas (Barnegat) Howell Garage Repairman – 15 years
5. Majorie S. Phillips (Somerdale) Washington Township Garage Bus Operator – 11 years

# **DBE/MBE PROGRAM**

**NJ TRANSIT – Office of Business Diversity DBE/SBE Participation****Federally Funded Contracts**

\$4,349,445 in federal funds was awarded during October thru December of FY 07.\* Disadvantaged Business Enterprises (DBEs) were awarded \$1,055,863 or 24.3% percent, which includes both race conscious or race neutral awards.

**State Funded Contracts**

\$131,232,470 in state-funded contract dollars was awarded during July thru November FY 07. \*\* Of that total, Small Business Enterprises (SBEs) received \$8,437,898 or 6.4 percent. Category 1 SBEs received \$4,898,617 or 3.7 percent. Category 2 SBEs received \$1,993,651 or 1.5 percent. Category 4 SBEs received \$1,545,630 or 1.2 percent. \*\*\*

**Federal & State Contracts Total**

\$135,581,915 in federal and state contract dollars were awarded by NJ TRANSIT during this reporting period. Of that total, \$9,493,761 or 7 percent of federal and state contract dollars was won by DBEs and SBEs.

**Hudson-Bergen Light Rail Transit System Project**

Of \$1,433,024,411 in contract dollars awarded for the Hudson-Bergen Light Rail Transit System project\*\*\*\*, \$180,729,496 or 12.6 percent has been received by DBEs. Of the \$180,729,496, 6 percent or \$86,823,647 has been won by Women Business Enterprises (WBEs) who are classified as DBEs.

\*Fiscal year beginning October 1, 2006

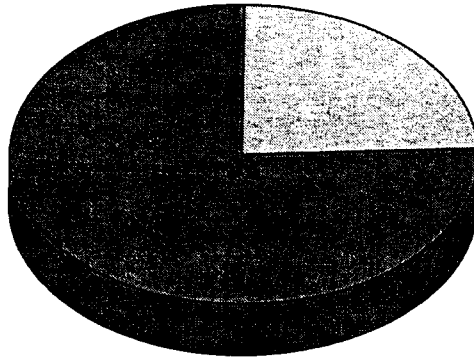
\*\*Fiscal year beginning July 1, 2006

\*\*\*Cat 1-Less than \$500,000 gross revenues, Cat 2-Less than \$5 million, Cat 3-Less than \$12 million, Cat 4 (construction)-Less than \$1 million, Cat 5 (construction)-Less than \$17,420,000

\*\*\*\*This YTD figure reflects federal dollars expended on an annual basis; including change orders, for the period from December, 1996 through April 2005.

**DBE PARTICIPATION  
FEDERAL CONTRACTS  
FEDERAL FYTD (THRU DECEMBER 2006)\***

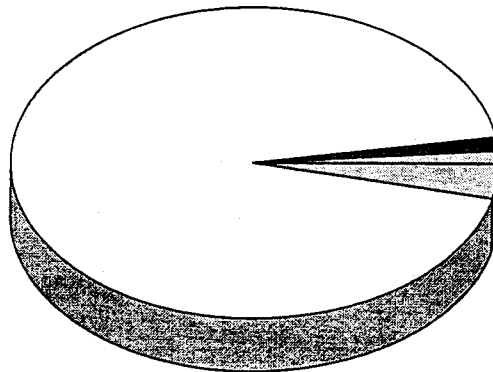
NON-DBE  
FEDERAL  
\$3,293,582  
75.7%



DBE RACE  
NEUTRAL &  
RACE  
CONSCIOUS  
\$1,055,863  
24.3%

**SBE PARTICIPATION  
STATE CONTRACTS  
STATE FYTD (THRU DECEMBER 2006)\*\***

NON-SBE STATE  
\$122,794,572  
93.6%



SBE-4  
\$1,545,630  
1.2%

SBE-2  
\$1,993,651  
1.5%

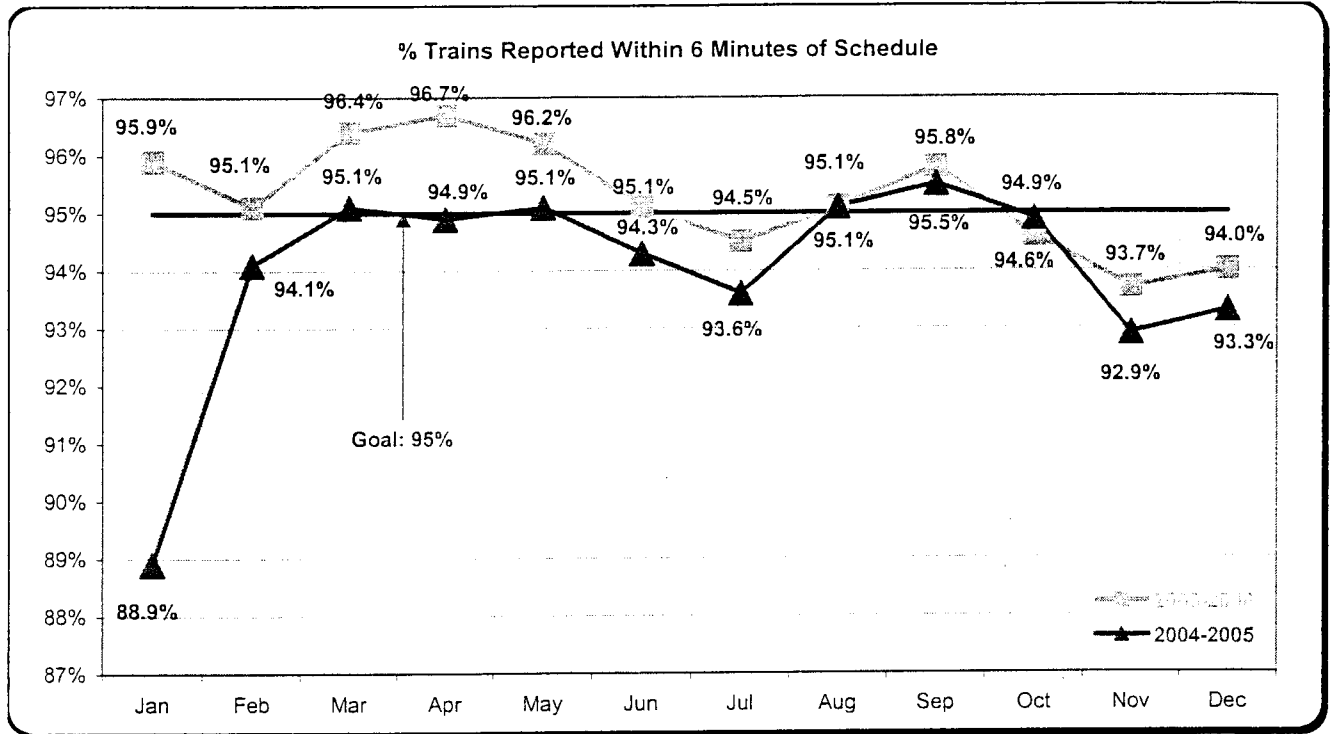
SBE-1  
\$4,898,617  
3.7%

**Fiscal Year Beginning October 1, 2006\***  
**Fiscal Year Beginning July 1, 2006\*\***

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# **PERFORMANCE MEASURES**

# NJ TRANSIT ON-TIME PERFORMANCE RAIL JANUARY 2005 - DECEMBER 2006



	2005	2006	# Change
December Comparison	93.3%	94.0%	0.7%

	2005	2006	# Change
12-Month Average January - December	94.0%	95.3%	1.3%

**Analysis:**

Rail On-Time Performance for December 2006 was 94.0%. Of the 18,724 trains that were scheduled to operate, 17,597 were on time, while 1,127 trains (or 6.0%) were delayed. Causes of delay included:

A signal failure at the Portal Bridge and an incident involving a tree that fell onto overhead wires on December 1st;

A locomotive failure in the tunnel leading to Penn Station New York on December 5th;

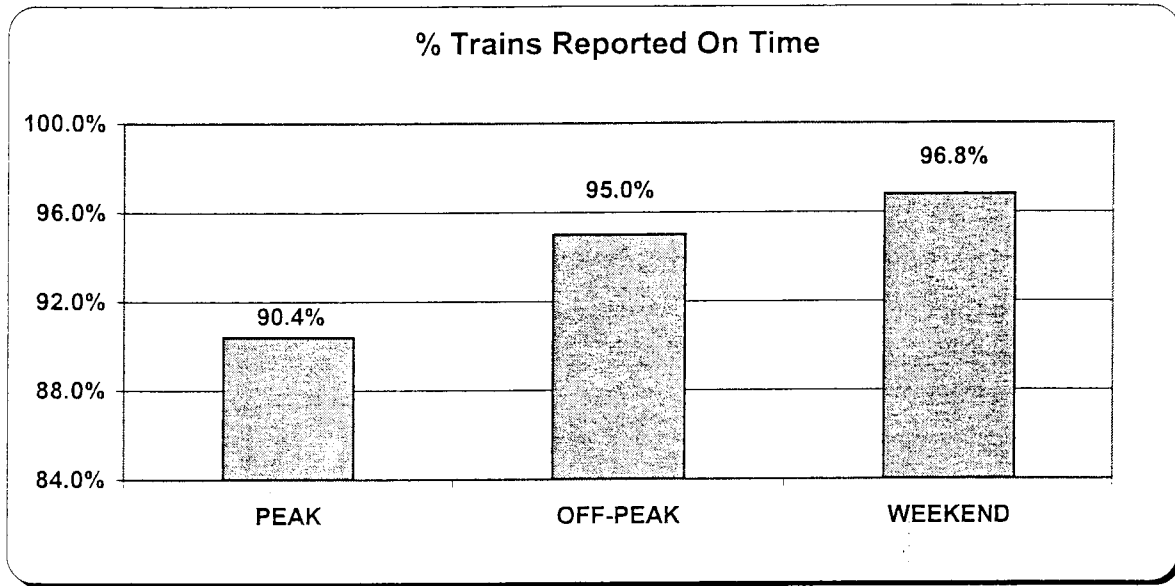
A power feed failure causing a loss of signals on the Northeast Corridor between Newark and Trenton on December 14th; and

Assessment of a possible gas leak in Harrison that resulted in the holding of all trains on the Northeast Corridor between Secaucus and Newark on December 22nd.

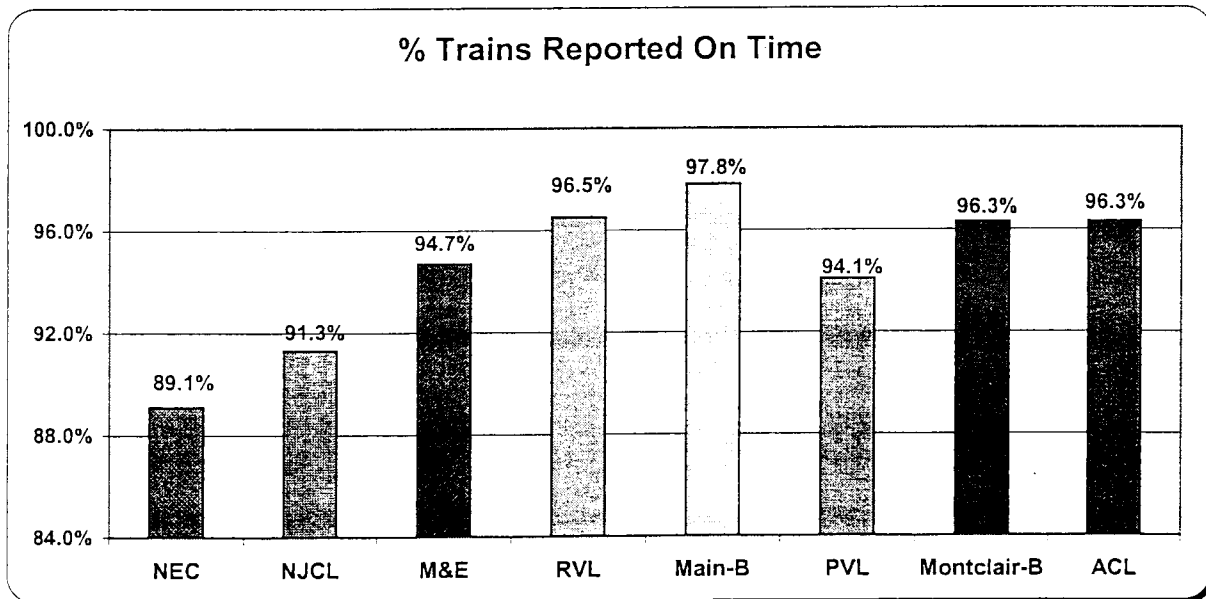
The 12-month average for Rail On-Time Performance systemwide for January 2005 - December 2006 was 95.3%, above the goal of 95.0% as well as the average for the previous 12-month period.

# ON-TIME PERFORMANCE RAIL

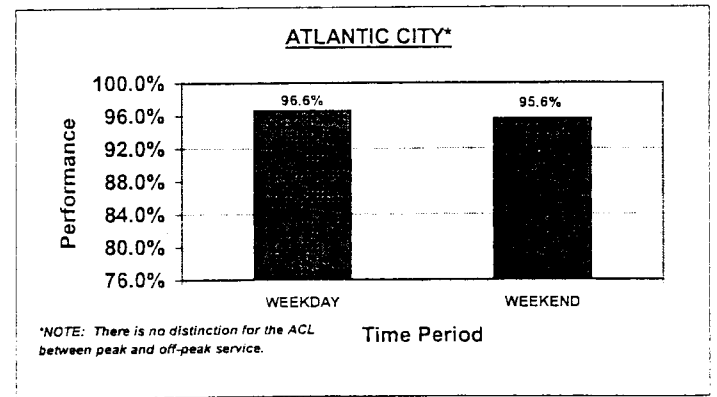
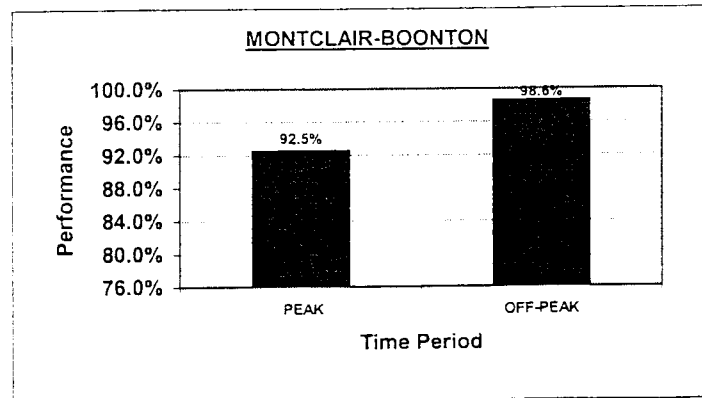
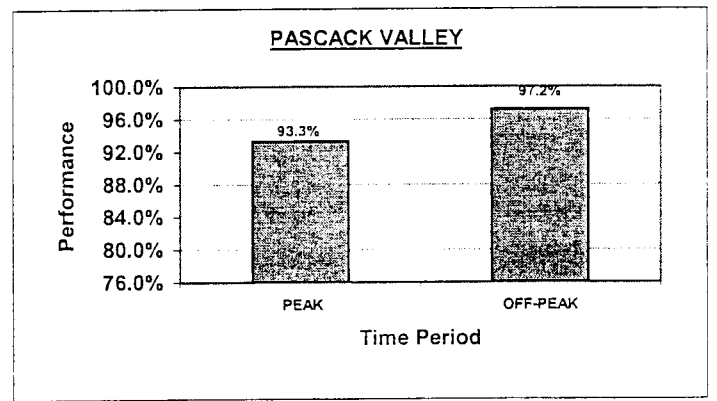
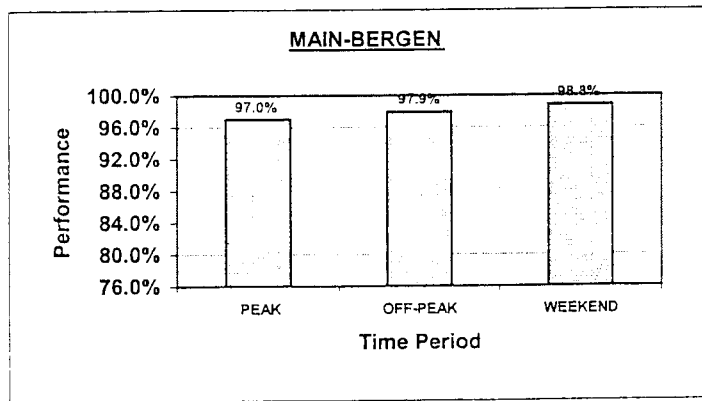
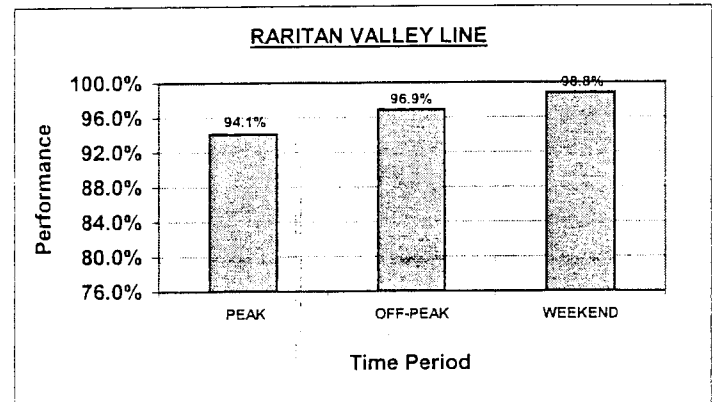
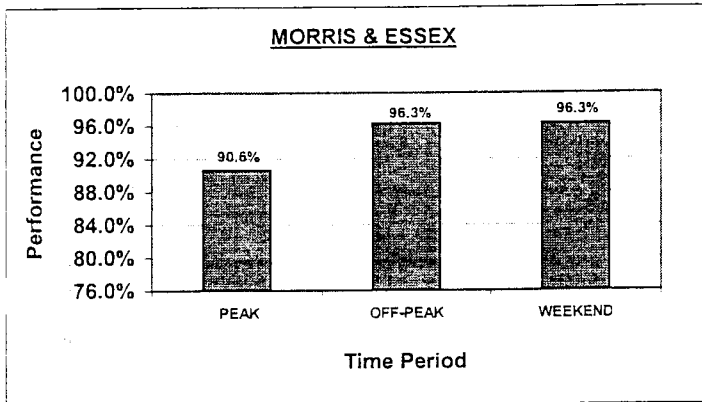
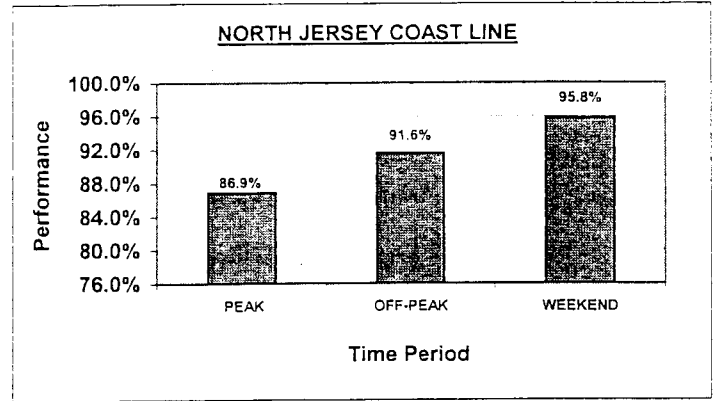
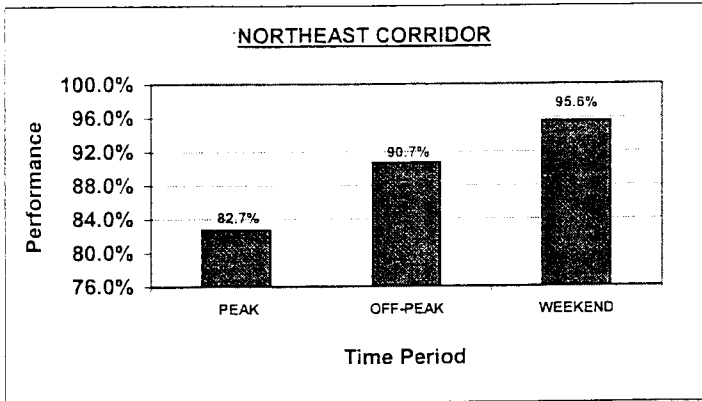
## SUMMARY BY TIME PERIOD DECEMBER 2006



## SUMMARY BY LINE DECEMBER 2006

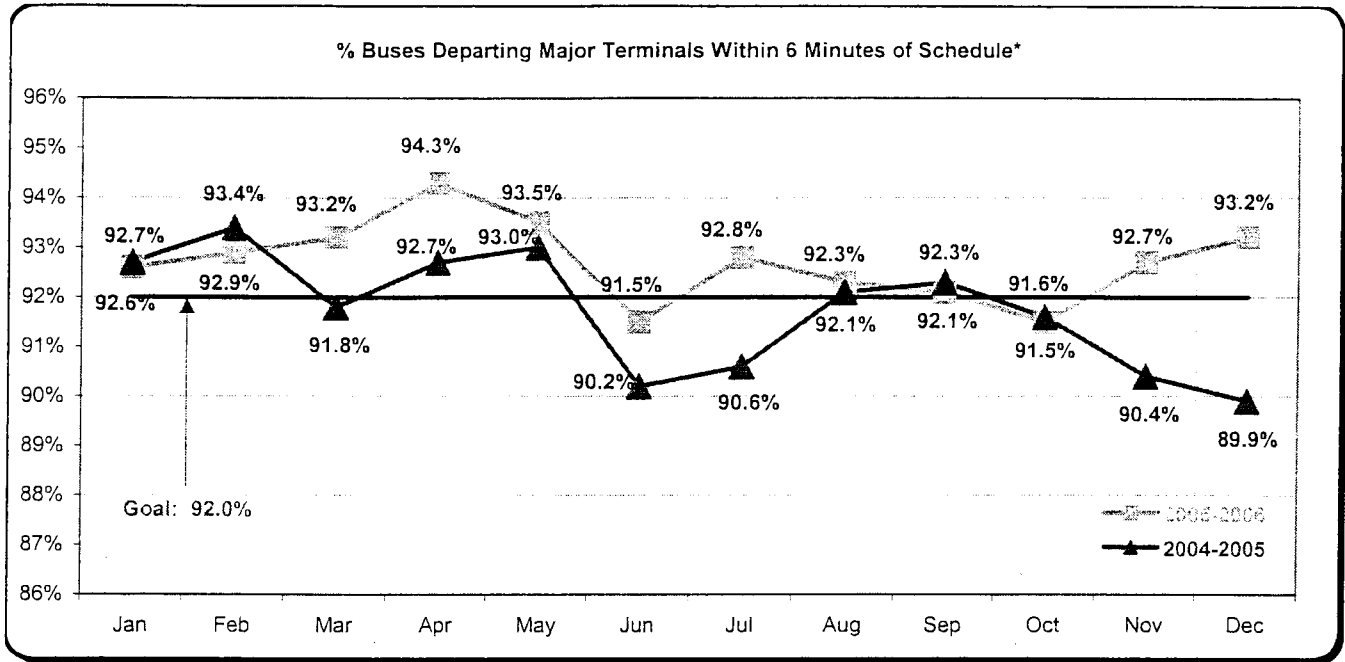


# ON-TIME PERFORMANCE BY RAIL LINE & TIME PERIOD DECEMBER 2006



\*NOTE: There is no distinction for the ACL between peak and off-peak service.

# NJ TRANSIT ON-TIME PERFORMANCE BUS JANUARY 2005 - DECEMBER 2006



\*Note: Includes the Walter Rand Transportation Center, Atlantic City Bus Terminal, Port Authority Bus Terminal and Newark Penn Station

	2005	2006	# Change
December Comparison	89.9%	93.2%	3.3%

	2005	2006	# Change
12-Month Average January - December	91.7%	92.7%	1.0%

**Analysis:**

Bus On-Time Performance for December 2006 was 93.2%, above the goal of 92.0%. Of the 29,504 monitored departures, 2,010 (or 6.8%) experienced delays. Key sources of delay included:

An oversized truck in the Lincoln Tunnel resulting in gridlock conditions near the Port Authority Bus Terminal on December 7th;

An accident on the NJ Turnpike near the Port Authority Bus Terminal on December 11th;

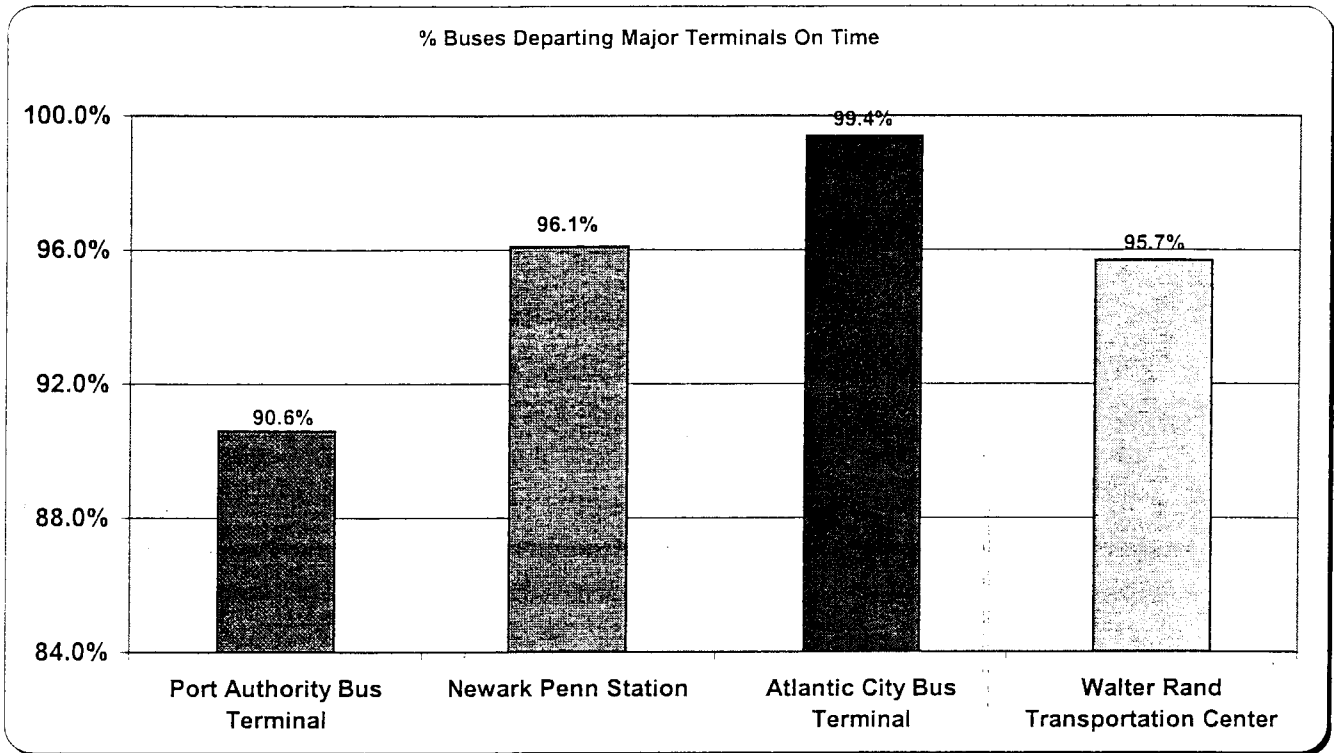
A fire on the Benjamin Franklin Bridge during the morning rush hour on December 18th; and

Traffic congestion near the Walter Rand Transportation Center on December 19th.

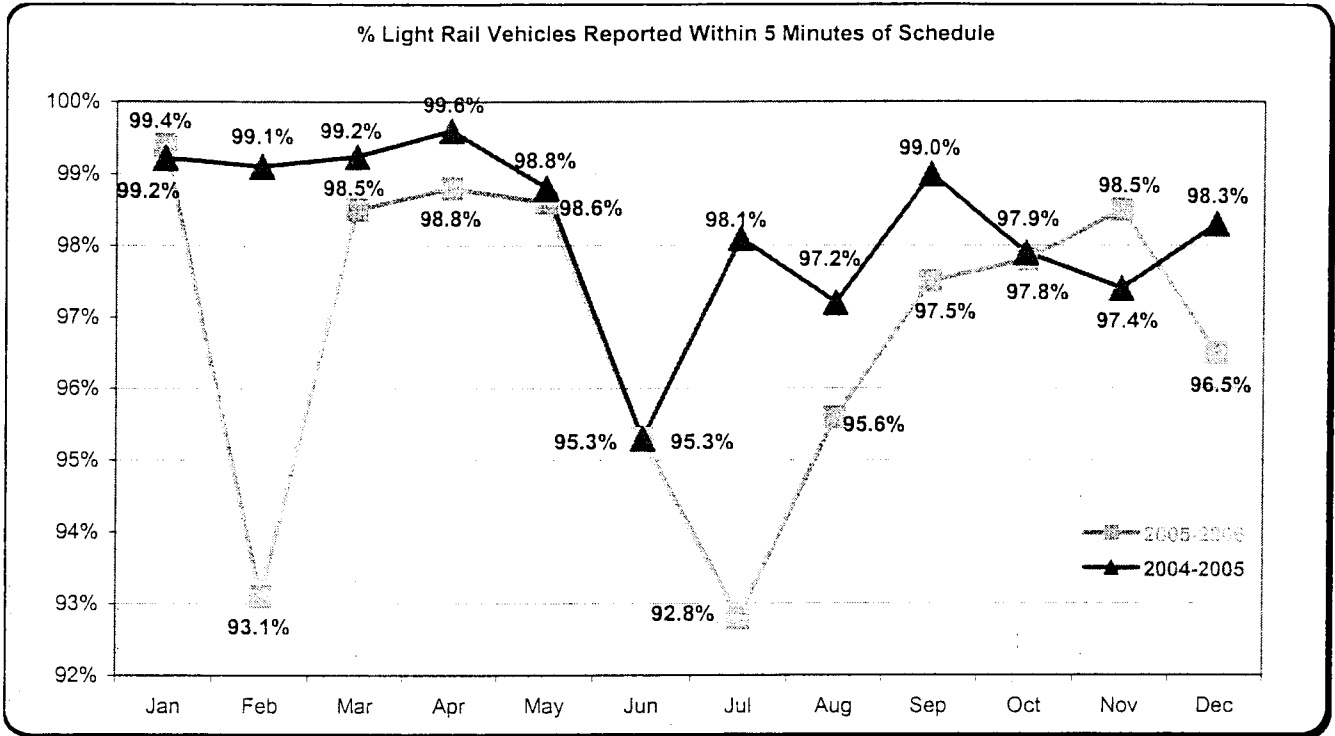
The 12-month average for Bus On-Time Performance for January 2005 - December 2006 was 92.7%, an increase over the performance of the previous 12-month period.

# ON-TIME PERFORMANCE BUS

## SUMMARY BY TERMINAL DECEMBER 2006



# NJ TRANSIT ON-TIME PERFORMANCE HUDSON-BERGEN LIGHT RAIL JANUARY 2005 - DECEMBER 2006



	2005	2006	# Change
December Comparison	98.3%	96.5%	-1.8%

	2005	2006	# Change
12-Month Average January - December	98.3%	96.9%	-1.4%

**Analysis:**

Hudson-Bergen Light Rail (HBLR) On-Time Performance for December 2006 was 96.5%. Of the 17,058 scheduled trips for the month, 597 (or 3.5%) were delayed. Causes of delay included:

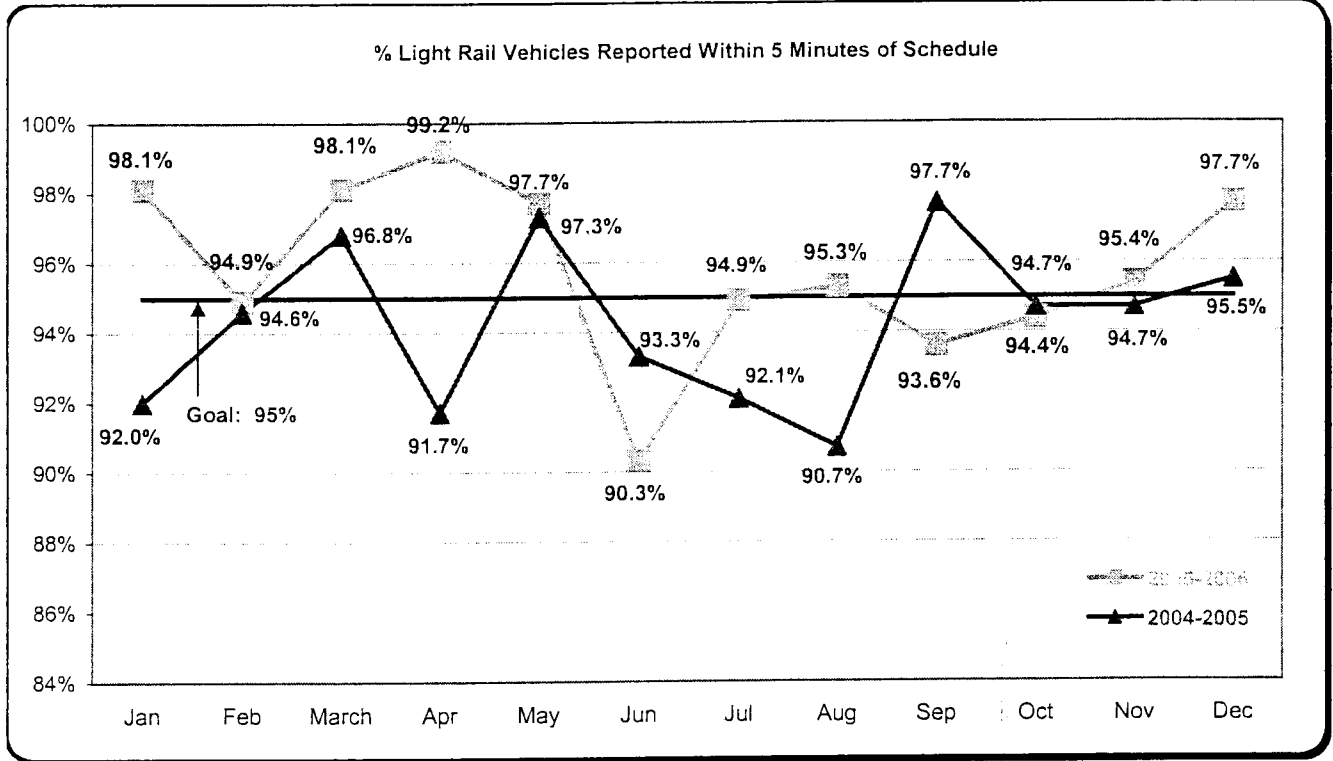
Scheduled maintenance work on December 3rd and 17th;

An automobile on the tracks on December 8th; and

Programmed construction work on December 12th, 14th, and 16th.

The 12-month average for HBLR On-Time Performance for January 2005 - December 2006 was 96.9%, 1.4 percentage points below the average of the previous 12-month period.

# NJ TRANSIT ON-TIME PERFORMANCE River LINE JANUARY 2005 - DECEMBER 2006



	2005	2006	# Change
December Comparison	95.5%	97.7%	2.2%

	2005	2006	# Change
12-Month Average January - December	94.3%	95.8%	1.5%

**Analysis:**

River LINE On-Time Performance for December 2006 was 97.7%. Of the 2,975 trips scheduled for the month, 69 (or 2.3%) were delayed. Causes of delay included:

Signal system failures on December 12th and 21st; and

A switch failure on December 20th.

The 12-month average for River LINE On-Time Performance for January 2005 - December 2006 was 95.8%, an increase over the performance of the previous 12-month period.

# **ACTION ITEMS**

## **ITEM 0701-1: PURCHASE OF 1,145 TRANSIT AND SUBURBAN BUSES**

### **BENEFITS**

The purchase of 1,145 transit and suburban-style buses will renew NJ TRANSIT's bus fleet over a period of six years. This purchase represents nearly 80 percent of the entire transit and suburban bus fleet and by 2011 the average age of these buses will be reduced to five years from a current average of 10 years. The new buses will improve service reliability and offer upgraded, comfortable interiors for customers. All buses will be equipped with wheelchair lifts and a kneeling feature to aid mobility impaired customers with boarding. Additionally, the new buses will meet or exceed the latest environmental standards by incorporating technologies to reduce exhaust emissions including particulate matter and nitrogen oxides. These clean diesel technologies will achieve emissions levels comparable to compressed natural gas powered buses.

### **PURPOSE**

Authorization of this contract will allow for the purchase of 1,145 new transit and suburban-style buses for use by NJ TRANSIT Bus Operations and private carriers. This multi-year contract will deliver approximately 200 buses per year over a six-year period, replacing transit and suburban buses that will have exceeded their 12-year useful economic life and will be eligible for replacement under Federal Transit Administration guidelines. The new buses will replace the aging 1994 Flexible Metro D, 1995 Nova A and 1999 Nova B bus fleet.

There are two different configurations of buses in the proposed purchase – 1,070 transit-style buses seating 42 customers and 75 suburban-style buses seating 42 customers. All buses will be 102 inches wide by 40 feet long. The operating life of the new buses is expected to be 12 years or 500,000 miles.

### **ACTION (Justification: State of Good Repair)**

Staff seeks authorization to contract (No. 06-085) with North American Bus Industries, Inc. of Anniston, AL for the acquisition of 1,145 buses at a cost not to exceed \$409,871,962, plus five percent for contingencies, subject to the availability of funds.

### **FISCAL IMPACTS**

<b>Requested Authorization:</b>	\$409,871,962 plus 5% for contingencies
<b>Total Project Cost:</b>	\$433,625,000
<b>Projected Date of Completion:</b>	August 2013
<b>Anticipated Source of Funds:</b>	Transportation Trust Fund

**Diversity Goal:**

SBE 10%

**Future Expected Authorizations:**

The contract provides an option for the purchase of up to 25 additional buses per contract year.

## RESOLUTION

**WHEREAS**, NJ TRANSIT's aging 1994 Flexible Metro D, 1995 Nova A and 1999 Nova B bus fleet will be eligible for replacement under Federal Transit Administration guidelines; and

**WHEREAS**, new transit and suburban-style buses will improve service reliability and offer upgraded, comfortable interiors for customers; and

**WHEREAS**, the new buses will be fully accessible for all customers and meet the latest environmental standards; and

**WHEREAS**, as a result of the negotiated procurement process, North American Bus Industries, Inc. of Anniston, AL has been deemed the most responsive proposer;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to contract (No. 06-085) with North American Bus Industries, Inc. of Anniston, AL for the acquisition of 1,145 buses at a cost not to exceed \$409,871,962, plus five percent for contingencies, subject to the availability of funds.

**ITEM 0701-2: NEWARK PENN STATION MARKET STREET  
ENHANCEMENTS: CONTRACT AMENDMENT FOR DESIGN  
SERVICES**

**BENEFITS**

Newark Penn Station is both a strategic regional transportation facility for NJ TRANSIT and a highly visible gateway to the City of Newark. Each weekday, more than 50,000 customers use the station to access NJ TRANSIT's rail, bus, and light rail services, PATH, Greyhound, and other private carrier bus routes. The station is located between Newark's bustling Ironbound section and the downtown business district which includes the site of the new arena. The proposed Market Street upgrades are one element in NJ TRANSIT's program of Newark Penn Station investments which are designed to enhance station safety and security and open-up the station to ongoing development including the arena. The Market Street upgrades will also improve pedestrian connections for Newark's residents and businesses on either side of the station.

In June 2005, NJ TRANSIT's Board of Directors authorized a contract for final design for rehabilitation and extension of Track 5 Platform E in Newark Penn Station. The project will restore the deteriorated station platform, improve the appearance and functionality of customer queuing areas, and extend the platform to provide capacity for longer Raritan Valley Line trains. The contract for design services will be amended to include enhancements to the Market Street area of Newark Penn Station. These station upgrades will include new lighting, signage, communication systems and architectural treatments to make the area more attractive and inviting for customers and better connect the station with ongoing development in the City of Newark. In addition, design plans will be developed to demolish and remove the former station heating plant at the southern end of the station along Track 5 and to relocate a retaining wall, signals, and traction power systems at the west end of Track 5.

**PURPOSE**

Authorization of this contract amendment will expand the scope of services for rehabilitation and extension of Track 5 Platform E in Newark Penn Station. The contract amendment will include design services for enhancements to the station stairways from Market Street, for the demolition of the former station heating plant at the southern end of the station, and for relocation of a retaining wall, signals, and traction power systems at the west end of Track 5.

**ACTION (Justification: Capacity, Customer Service)**

Staff seeks authorization to amend contract (No. 04-101) with Clough Harbour & Associates LLP of Parsippany, NJ for design services for enhancements to the Market Street area of Newark Penn Station and demolition of the former station heating plant at a cost not to exceed \$1,104,675, plus five percent for contingencies, for a total contract authorization of \$4,624,909, subject to the availability of funds.

This item has been reviewed and recommended by the Board Capital Planning Policy & Privatization Committee.

**FISCAL IMPACTS**

<b>Requested Authorization:</b>	\$1,104,675 + 5% for contingencies for a total contract authorization of \$4,624,909
<b>Total Project Cost:</b>	\$35,619,000
<b>Project Date of Completion:</b>	Completion of final design – July 2007
<b>Anticipated Source of Funds:</b>	FTA/TTF
<b>Diversity Goal:</b>	DBE 20%
<b>Future Related Authorizations:</b>	construction, construction assistance, construction management

## RESOLUTION

**WHEREAS**, Newark Penn Station is both a strategic regional transportation facility for NJ TRANSIT and a highly visible gateway to the City of Newark; and

**WHEREAS**, new lighting, signage, communication systems and architectural treatments will make the Market Street area of Newark Penn Station more inviting for customers and will better connect the station with ongoing development in the City of Newark; and

**WHEREAS**, the Market Street upgrades are one element in NJ TRANSIT's program of Newark Penn Station investments which are designed to enhance station safety and security and open-up the station to ongoing development including the arena; and

**WHEREAS**, NJ TRANSIT previously selected Clough, Harbour & Associates, LLP through a competitive procurement process for design services for the Newark Penn Station Track 5 Platform E rehabilitation and extension project;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to amend contract (No. 04-101) with Clough Harbour & Associates LLP of Parsippany, NJ for design services for enhancements to the Market Street area of Newark Penn Station and demolition of the former station heating plant at a cost not to exceed \$1,104,675, plus five percent for contingencies, for a total contract authorization of \$4,624,909, subject to the availability of funds.

**ITEM 0701-3: DOVER RAIL YARD PEDESTAL TRACK: CONSTRUCTION CONTRACT AWARD**

**BENEFITS**

Construction of a pedestal track and associated systems at Dover Yard will facilitate NJ TRANSIT's compliance with federal requirements for brake service and inspections of rail cars. A pedestal track is a single track installed over a concrete lined pit – equipped with lighting, hot and cold water service and drainage – which permits train crews to inspect and repair brakes and other components on the underside of rail cars.

The Federal Railroad Administration regulations require NJ TRANSIT to conduct daily inspections of rail car brakes. The newest rail cars use disc braking systems which can only be inspected from the underside of the wheel carriage. That requirement in combination with the low track clearances of the new multilevel vehicles will require staff to walk beneath the trains to conduct inspections of the vehicle brakes.

**PURPOSE**

Authorization of this contract will allow for the construction of a pedestal track with lighting, compressor upgrades, and hot and cold water service. Currently, maintenance crews have limited ground clearance to make inspections and replace disc brakes. The limited vehicle clearances make maintenance more difficult and time consuming on conventional equipment and or, in the case of multilevel vehicles, impossible to perform.

**ACTION (Justification: State of Good Repair)**

Staff seeks authorization to contract (No. 07-023X) with J.H. Reid General Contractor of South Plainfield, New Jersey for construction of a pedestal track and associated systems at Dover Rail Yard at a cost not to exceed \$7,850,550, plus five percent for contingencies, for a total contract authorization of \$8,243,078.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

**FISCAL IMPACTS:**

**Requested Amount:** \$7,850,550 + 5% for contingencies

**Total Project Cost:** \$13,419,000

**Projected Date of Completion:** Aug 2008

**Anticipated Source of Funds:** TTF

**Diversity Goal:** 20% SBE

**Future/Related Authorizations:** None

## RESOLUTION

**WHEREAS**, Federal Railroad Administration regulations require daily inspection of rail car brakes; and

**WHEREAS**, NJ TRANSIT's new multilevel vehicles require employees to walk beneath the vehicle to conduct these inspections; and

**WHEREAS**, construction of a pedestal track with associated systems at Dover Rail Yard will allow full compliance with Federal Railroad Administration regulations and will facilitate inspection and repairs of the rail fleet to maintain service reliability; and

**WHEREAS**, following completion of a competitive procurement process, it was determined that J.H. Reid General Contractor of South Plainfield, New Jersey was the lowest responsive, responsible bidder;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to contract (No. 07-023X) with J.H. Reid General Contractor of South Plainfield, New Jersey for construction of a pedestal track with associated systems at Dover Rail Yard at a cost not to exceed \$7,850,550, plus five percent for contingencies, for a total contract authorization of \$8,243,078.

**ITEM 0701-4: MEADOWS MAINTENANCE COMPLEX (MMC) –  
REPLACEMENT OF HEATING AND VENTILATION SYSTEM:  
CONSTRUCTION CONTRACT AWARD AND CONTRACT  
AMENDMENT FOR CONSTRUCTION MANAGEMENT  
SERVICES**

**BENEFITS**

The Meadows Maintenance Complex (MMC) in Kearny, New Jersey opened in 1987 and is NJ TRANSIT's primary facility for maintaining locomotives and rail cars. The maintenance complex includes layover yards and buildings that accommodate vehicle cleaning, inspections, and servicing, rail car and locomotive repairs, and testing and commissioning of new equipment.

As a 24-hour, year round facility, the MMC is equipped with a heating and ventilation system to maintain a consistent work environment for maintenance personnel. The original heating and ventilation system is periodically out of service and requires frequent repairs. The replacement of this system will ensure that working conditions are conducive to maintaining the rail fleet and delivering safe, clean, and reliable rail service.

**PURPOSE**

Authorization of this contract will allow for the replacement of 45 heating and ventilating rooftop units in Building 1, 2, 3, and 4 at the MMC and the addition of one heating, ventilating and air conditioning (HVAC) unit in Building 1. The heated and ventilated areas of the maintenance complex include the locomotive shop, car shop, wheel and truck shop, the service & inspection facility and the vehicle shop annex. Tishman Construction Corporation of Newark, New Jersey is under contract to provide construction management services for the Meadows Maintenance Complex Expansion Project.

**ACTION (Justification: State of Good Repair)**

Staff seeks authorization to contract (No. 07-020X) with A&A Industrial Piping, Inc. of Fairfield, New Jersey for the replacement of the heating and ventilation system at the Meadows Maintenance Complex in Kearny, New Jersey at a cost not to exceed \$1,470,000, plus five percent for contingencies, for a total contract authorization of \$1,543,500, subject to the availability of funds.

Staff also seeks authorization to amend professional services contract (No. 99CA074) with Tishman Construction Corporation of Newark, New Jersey to provide construction management services for the replacement of the heating and ventilation system at the Meadows Maintenance Complex in the amount of \$150,000, plus five percent for contingencies, for a total contract authorization of \$9,032,940, subject to the availability of funds.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

**FISCAL IMPACTS**

**Requested Authorizations:** Construction - \$1,470,000  
+ 5% for contingencies (\$1,543,500)

Construction Management - \$150,000  
+ 5% for contingencies (Tishman)  
for a total contract amount of \$9,032,940

**Total Project Cost:** \$2,280,000

**Projected Date of Completion:** September 2007

**Anticipated Source of Funds:** TTF

**Diversity Goal:** SBE 10%

**Future Related Authorizations:** None

## RESOLUTION

**WHEREAS**, the Meadows Maintenance Complex is NJ TRANSIT's primary facility for maintaining locomotives and rail cars; and

**WHEREAS**, the Meadows Maintenance Complex is a 24-hour, year round facility that is equipped with heating and ventilation systems to maintain a consistent work environment for maintenance personnel; and

**WHEREAS**, the original heating and ventilation systems require replacement to ensure that working conditions are conducive to maintaining the rail fleet and delivering safe, clean, and reliable rail service; and

**WHEREAS**, upon completion of a competitive procurement process it was determined that A&A Industrial Piping, Inc. of Fairfield, New Jersey is the lowest responsive, responsible bidder; and

**WHEREAS**, NJ TRANSIT previously selected Tishman Construction Corporation through a competitive procurement process for construction management services for the Meadows Maintenance Complex Expansion Project;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to contract (No. 07-020X) with A&A Industrial Piping, Inc. of Fairfield, New Jersey for the replacement of the heating and ventilation systems at the Meadows Maintenance Complex in Kearny, New Jersey at a cost not to exceed \$1,470,000, plus five percent for contingencies, for a total contract authorization of \$1,543,500, subject to the availability of funds; and

**BE IT FURTHER RESOLVED** that the Chairman or Executive Director is authorized to amend professional services contract (No. 99CA074) with Tishman Construction, Inc. of Newark, New Jersey, to provide construction management services for the replacement of the heating and ventilation systems at the Meadows Maintenance Complex in the amount of \$150,000 plus five percent for contingencies, for a total contract authorization of \$9,032,940, subject to the availability of funds.

**ITEM 0701-5: METROPARK STATION – PLATFORM REPLACEMENT AND STATION EXPANSION: CONSTRUCTION MANAGEMENT SERVICES CONTRACT AWARD**

**BENEFITS**

Metropark Station was constructed in 1971 to serve Amtrak's Metroliner trains. Today, the station is the busiest outlying station on the NJ TRANSIT rail system and serves more than 7,200 NJ TRANSIT customers daily. After four decades of intense use, the station requires complete reconstruction to serve current and future ridership levels and to meet customer expectations for service quality.

In December, NJ TRANSIT's Board of Directors approved the construction contract to replace the platforms and expand the station building. The project will be phased and constructed during off-peak periods to minimize disruptions to NJ TRANSIT and Amtrak customers. Construction management services are required to ensure that the project is staged and constructed in coordination with railroad operations and that the project complies with contract plans and specifications, building codes, permits, and other ongoing railroad projects.

**PURPOSE**

The construction management services contract will manage construction of the project in the field and ensure timely completion of project phases to minimize disruptions to rail service and station customers. The contract also will provide staff support to coordinate with NJ TRANSIT and Amtrak railroad operations and to review project invoices as necessary.

**ACTION (Justification: Capacity, Customer Service)**

Staff seeks authorization to contract (No. 07-024) with Urban Engineers, Inc. of Pennsauken, New Jersey to provide construction management services for the replacement of platforms and expansion of the station building at Metropark at a cost not to exceed \$3,819,111, plus five percent for contingencies, subject to the availability of funds.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

**FISCAL IMPACTS**

**Requested Authorization:** \$3,819,111 + 5% for contingencies

**Total Project Cost:** \$49,191,000

**Projected Date of Completion:** March 2010

**Anticipated Source of Funds:** TTF

**Diversity Goal:** DBE 15%

**Future Related Authorizations:** N/A

## RESOLUTION

**WHEREAS**, NJ TRANSIT's Board of Directors previously approved the construction contract to replace the platforms and expand the station building at Metropark Station; and

**WHEREAS**, construction management services are required to ensure that the project is constructed in coordination with railroad operations and complies with contract plans and specifications; and

**WHEREAS**, upon completion of a competitive procurement process, it was determined that Urban Engineers, Inc. submitted the most advantageous proposal that provided the best value and is in the best interest of NJ TRANSIT;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to contract (No. 07-024) with Urban Engineers, Inc. of Pennsauken, New Jersey to provide construction management services for the replacement of platforms and expansion of the station building at Metropark at a cost not to exceed \$3,819,111, plus five percent for contingencies, subject to the availability of funds

# **CONSENT CALENDAR**

**ITEM 0701-6: LICENSE AGREEMENT WITH BANK OF AMERICA FOR THE INSTALLATION OF AUTOMATED TELLER MACHINES AT HOBOKEN TERMINAL AND NEWARK PENN AND PRINCETON JUNCTION TRAIN STATIONS**

**BENEFITS**

Approval of this item will authorize the execution of a License Agreement with Bank of America, for Automated Teller Machines (ATMs) at Hoboken Terminal and Newark Penn and Princeton Junction train stations. NJ TRANSIT will realize \$405,000 annually in non-fare box revenue, which is an increase of \$145,000 over the prior License Agreement. The execution of the License Agreement with Bank of America will enhance the commuter experience for NJ TRANSIT customers by offering convenient banking services.

**PURPOSE**

Authorization will allow execution of a License Agreement with Bank of America to install ATMs at Hoboken Terminal and Newark Penn and Princeton Junction train stations. As a result of NJ TRANSIT's Request for Proposal process, Bank of America was selected for submitting the best proposal for these three locations. The presence of the ATMs will provide convenient banking services to NJ TRANSIT ridership using these stations. This License Agreement is a part of a wider effort to install ATMs at rail, bus, and light rail stations on the basis of competitive bidding. NJ TRANSIT may terminate the License Agreement on six months notice without cause.

**ACTION (Justification: Business Efficiencies)**

Staff seeks authorization to enter into all necessary agreements and take all necessary actions to execute a License Agreement with Bank of America for a term of five years to install ATMs at Hoboken Terminal and Newark Penn and Princeton Junction train stations in consideration of Bank of America paying \$405,000 annually in monthly installments.

This item has been reviewed and recommended by the Board Administration Committee.

**FISCAL IMPACTS**

The new License Agreement with Bank of America will generate \$405,000 annually in non-farebox revenue, an increase of \$145,000 annually over the prior License Agreement.

**Requested Authorization:**

Authorize the Chairman or Executive Director to enter into all necessary agreements and take all necessary actions with regard to NJ TRANSIT executing a License Agreement with Bank of America for a term of five years to install ATMs at Hoboken Terminal, Newark Penn and Princeton Junction train stations in consideration of Bank of America paying \$405,000 annually in monthly installments.

**Total Project Cost:**

N/A

**Projected Date of Completion:**

N/A

**Anticipated Source of Funds:**

N/A

**SBE Goal:**

N/A

**Related/Future Authorizations:**

N/A

## RESOLUTION

**WHEREAS**, based upon the completion of a competitive solicitation process requesting proposals, it was determined that Bank of America submitted the most advantageous proposal to install Automated Teller Machines at Hoboken Terminal and Newark Penn and Princeton Junction train stations; and

**WHEREAS**, Bank of America seeks to execute a five year License Agreement with NJ TRANSIT; and

**WHEREAS**, by executing this License Agreement to install Automated Teller Machines at the aforementioned locations NJ TRANSIT will benefit in the form of increased non-fare box revenue, as well as providing a convenient service to commuters;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to enter into all necessary agreements and take all necessary actions to execute a License Agreement with Bank of America for a term of five years to install ATMs at Hoboken Terminal and Newark Penn and Princeton Junction train stations in consideration of Bank of America paying \$405,000 annually in monthly installments.

**ITEM 0701-7: LABOR NEGOTIATIONS – SPECIAL COUNSEL****BENEFITS**

There are a total of 39 collective bargaining agreements between NJ TRANSIT and its subsidiaries and 20 labor unions covering approximately 9,000 employees. The agreements with Bus Operations cover 4,500 employees and expired in June 2005 with the Amalgamated Transit Union agreement currently in arbitration. Of the agreements with Rail Operations which expired in June 2004, only the Brotherhood of Locomotive Engineers contract has been settled. Also, negotiations are continuing on the Police labor agreements which expired in June 2006.

The Attorney General has previously designated Genova, Burns & Vernoia to provide necessary labor negotiations expertise to NJ TRANSIT. Their duties have included:

- Review proposals, develop strategy and participate in negotiations in conjunction with the negotiating team;
- Determine legal implication of negotiating strategy;
- Make presentations before the Public Employment Relations Commission and the National Mediation Board in any mediation or arbitration proceedings; and
- Represent NJ TRANSIT on specific bus arbitrations.

NJ TRANSIT Rail is an employer under the Railroad Retirement Act and related Federal programs and its employees are members of that retirement system. This is a complex and specialized area of expertise for which Special Counsel is required.

It may also be necessary during the course of these representations to retain experts, court reporters and other providers of mediation and arbitration support services in accordance with N.J.A.C. 16:72-1.5(c).

**PURPOSE**

NJ TRANSIT requires Special Labor Counsel to assist in providing the expertise necessary to successfully negotiate new labor contracts including representing the Company in arbitration proceedings. This authorization will also approve the retention of experts, court reporters or other providers of mediation and arbitration supplement services, should same become necessary in the course of this work.

This retention pertains to ongoing negotiations only. The Attorney General, in conjunction with NJ TRANSIT, will select new counsel as appropriate to handle future labor contract negotiations, consistent with Executive Order #37.

**ACTION**

Staff seeks authorization to continue to retain Genova, Burns & Vernoia as Special Labor Counsel to represent NJ TRANSIT, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, in connection with ongoing labor negotiations and arbitration proceedings as necessary to replace currently expired agreements in an amount not to exceed \$750,000 and for a period not to exceed 36 months, to continue the same level of effort, subject to the availability of funds.

Staff also seeks authorization to enter into agreements as needed to retain experts, court reporters or other providers of mediation or support services.

This item has been reviewed and recommended by the Board Administration Committee.

**FISCAL IMPACTS**

Requested Authorization:	\$750,000
Total Project Cost:	\$750,000
Projected Date of Completion:	December 2009
Anticipation Funding Source:	Operating Budget

## RESOLUTION

**WHEREAS**, various Labor Unions represent employees at NJ TRANSIT, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer; and

**WHEREAS**, the existing labor agreements with these unions have expired; and

**WHEREAS**, in order to assist staff in these negotiations, the Attorney General has previously designated Genova, Burns & Vernoia as Special Labor Counsel to represent NJ TRANSIT and its subsidiaries in its labor negotiations; and

**WHEREAS**, such Labor Counsel provides assistance to in-house negotiating teams as well as assistance in preparation of contract documents and preparation and presentation of arguments to mediators and arbitrators and before the Public Employment Relations Commission or National Mediation Board, if necessary; and

**WHEREAS**, it may also be necessary during the course of this representation to retain experts, court reporters and other providers of mediation and arbitration support services;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to continue to retain Genova, Burns & Vernoia as Special Labor Counsel to represent NJ TRANSIT, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, in connection with any ongoing labor negotiations and arbitration proceedings as necessary to replace currently expired agreements in an amount not to exceed \$750,000 and for a period not to exceed 36 months, to continue the same level of effort, subject to the availability of funds; and

**BE IT FURTHER RESOLVED** that the Chairman or Executive Director is authorized to enter into agreements as needed to retain experts, court reporters or other providers of mediation or support services.

**ITEM 0701-8: NEW JERSEY TRAVEL INDEPENDENCE PROGRAM PILOT EXTENSION (NJ TIP)****BENEFITS**

The New Jersey Travel Independence Program (NJ TIP) offers completely individualized one-on-one instruction for customers with disabilities. The program focuses on developing skills including getting to and from bus stops or stations, paying fares, appropriate passenger behavior, self-advocacy and conflict resolution. The goal of the program is to enable and encourage independent mobility for customers with disabilities to utilize NJ TRANSIT's bus, rail and light rail services.

**PURPOSE**

NJ TIP embodies the philosophy of the Americans with Disabilities Act to promote independence, choice, and integration of people with disabilities into the mainstream of society. The program currently provides travel instruction to Access Link customers offering opportunities for the transition of trips from Access Link to fixed route service.

Access Link customers who successfully complete NJ TIP may learn to use a fixed route bus, rail and or light rail for some (or all) of their trips. To that end, NJ TRANSIT's investments in system-wide accessibility will be realized by a wider cross section of New Jersey residents.

Additionally, people with newly acquired disabilities, while they may have the ability to use the bus, are often intimidated by the experience and never try. Thus, in the absence of a service like NJ TIP, they apply for and are often granted Access Link eligibility.

Including NJ TIP as an accessible service option helps manage the demand on the Access Link system, capitalize on the investment NJ TRANSIT has made in fixed route accessibility and allow for more efficient use of operating funds.

Other benefits of this program for customers:

- Convenience and flexibility that will allow customers to make and change plans at the last minute.
- Increased self-esteem and confidence.
- Potential for participation in employment, social, recreational, educational and religious activities in the community.
- Feeling of accomplishment

The goal of this pilot program is to develop the requirements for an RFP for the continuation and expansion of a statewide NJ TIP program.

**ACTION (Justification: Mandate)**

Staff seeks authorization to extend for six months a contract with Small & Associates, Inc., of Livingston, New Jersey for the provision of one-on-one travel instruction to people with disabilities to utilize the NJ TRANSIT fixed route bus, rail and light rail systems in the Region 5 Access Link service area comprised of Essex, Morris, Somerset and Union counties, in an amount not to exceed \$155,000, plus five percent for contingencies; subject to the availability of funds.

This item has been reviewed and recommended by the Board Administration Committee.

**FISCAL IMPACTS**

<b>Requested Authorization:</b>	Not to exceed \$155,000 + 5% contingency
<b>Total Project Cost:</b>	Not to exceed \$155,000 + 5% contingency
<b>Projected Date of Completion:</b>	Pilot Completion July 2007
<b>Anticipated Source of Funds:</b>	Casino Revenue Funds
<b>DBE Goal:</b>	none for this pilot
<b>Related/Future Authorization:</b>	n/a

## RESOLUTION

**WHEREAS**, in July 1990, the Americans with Disabilities Act (ADA) was signed into law requiring public entities operating fixed route transportation systems to provide paratransit services for individuals with disabilities; and

**WHEREAS**, the extension of the NJTIP pilot travel instruction program offers Access Link passengers in Essex, Morris, Somerset and Union counties an alternative mobility choice to the more costly ADA paratransit service;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to enter into a contract extension with Small & Associates, Inc., of Livingston, New Jersey for the provision of one-on-one travel instruction to people with disabilities to utilize the NJ TRANSIT fixed route bus, rail and light rail systems in the Region 5 Access Link service area comprised of Essex, Morris, Somerset and Union counties, for a total amount not to exceed \$155,000 plus five percent for contingencies; subject to the availability of funds.

**ITEM 0701-9: REGULATIONS: READOPTION WITH AMENDMENTS TO  
N.J.A.C. 16:74 PROCEDURE FOR CLAIMS (DESTRUCTIVE  
 COMPETITION)**

**BENEFITS**

NJ TRANSIT's enabling legislation provides that, in the provision of public transportation services, it is desirable to encourage to the maximum extent feasible the participation of private enterprise and to avoid destructive competition. It further provides that NJ TRANSIT shall promulgate rules and regulations setting forth the procedures for hearings before NJ TRANSIT's Board of Directors relating to claims of destructive competition, arising from alleged actions by NJ TRANSIT, brought by private entities providing motorbus regular route service.

**PURPOSE**

On October 20, 1986, NJ TRANSIT adopted rules establishing procedures for private entities providing motorbus regular route service to file claims of destructive competition against NJ TRANSIT. Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 16:74, Procedure for Claims, expires on January 12, 2007 (Exhibit A). NJ TRANSIT proposes to readopt with amendments N.J.A.C. 16:74, which shall govern the procedure for claims of destructive competition.

Staff reviewed the regulations and determined that the rules are necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated, with the exception of a few minor amendments.

The proposed readoption with amendments was published in the New Jersey Register on August 21, 2006 (Exhibit B) and amendments are described in the summary (Exhibit C). The comment period expired on October 20, 2006, and no comments were received.

**ACTION (Justification: Mandate)**

Staff seeks authorization to take all actions necessary to readopt with amendments the regulations, N.J.A.C. 16:74 et seq., Procedure for Claims (Destructive Competition), consistent with this Board item and exhibits, put the regulations in the appropriate format and take all other actions necessary to effectuate the final adoption and promulgation of NJ TRANSIT's Procedure for Claims (Destructive Competition).

This item has been reviewed and recommended by the Board Administration Committee.

**FISCAL IMPACTS**

**Requested Authorization:** Readopt with amendments the regulations N.J.A.C. 16:74 et seq. Procedure for Claims

**Total Project Cost:** N/A

<b>Projected Date of Completion:</b>	N/A
<b>Anticipated Source of Funds:</b>	N/A
<b>DBE Goal:</b>	N/A – No goods or services to be procured.
<b>Related/Future Authorizations:</b>	N/A

## RESOLUTION

**WHEREAS**, staff seeks authorization to take all actions necessary to readopt with amendments the regulations N.J.A.C. 16:74 et seq., Procedure for Claims; and

**WHEREAS**, in accordance with N.J.S.A. 52:14B-5.1c, the rules at N.J.A.C. 16:74 will expire January 12, 2007 (Exhibit A); and

**WHEREAS**, NJ TRANSIT's enabling legislation provides that, in the provision of public transportation services, it is desirable to encourage to the maximum extent feasible the participation of private enterprise and to avoid destructive competition; and

**WHEREAS**, it further provides that NJ TRANSIT shall promulgate rules and regulations setting forth the procedures for hearings before NJ TRANSIT's Board of Directors relating to claims of destructive competition, arising from alleged actions by NJ TRANSIT, brought by private entities providing motorbus regular route service; and

**WHEREAS**, staff reviewed the regulations and determined that the rules are necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated, with the exception of a few minor amendments; and

**WHEREAS**, the proposed readoption as published in the New Jersey Regulation August 21, 2006 (Exhibit B) and amendments are described in the summary (Exhibit C). The comment period expired on October 20, 2006 and no comments were received;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director or his designee is hereby authorized to take all actions necessary to readopt N.J.A.C. 16:74 et seq. consistent with this Board item and exhibits, put the regulations in the appropriate format, and to take all other actions necessary to effectuate the final readoption and promulgation of NJ TRANSIT's Procedure for Claims.

## PROCEDURE FOR CLAIMS

16:74-1.2

**CHAPTER 74**  
**PROCEDURE FOR CLAIMS**

**Authority**

N.J.S.A. 27:25-2(a), 27:25-5(e), (h) and (k), and 27:25-7(b).

**Source and Effective Date**

R.2001 d.275, effective July 16, 2001.  
See: 33 N.J.R. 1503(a), 33 N.J.R. 2693(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 74, Procedure for Claims, expires on January 12, 2007. See: 38 N.J.R. 3281(a).

**Chapter Historical Note**

Chapter 74, Procedure for Claims, was adopted as R.1986 d.434, effective October 20, 1986. See: 18 N.J.R. 1255(a), 18 N.J.R. 2133(a). Pursuant to Executive Order No. 66(1978), Chapter 74, Procedure for Claims, expired on October 20, 1991.

Chapter 74, Procedure for Claims, was adopted as new rules by R.1991 d.593, effective December 16, 1991. See: 23 N.J.R. 1773(a), 23 N.J.R. 3770(b). Pursuant to Executive Order No. 66(1978), Chapter 74, Procedure for Claims, expired on December 16, 1996.

Chapter 74, Procedure for Claims, was adopted as new rules by R.1997 d.117, effective March 17, 1997. See: 28 N.J.R. 5058(a), 29 N.J.R. 913(a).

Chapter 74, Procedure for Claims, was readopted as R.2001 d.275, effective July 16, 2001. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. GENERAL PROVISIONS**

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- 16:74-2.3 Transmittal to Office of Administrative Law (OAL)
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- 16:74-2.5 Remedy and Order

**SUBCHAPTER 1. GENERAL PROVISIONS****16:74-1.1 Purpose**

(a) The New Jersey Transit Corporation (NJ TRANSIT) was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as the instrumentality of the State Government responsible to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the legislative findings set forth in the Act is that, in the provision of public transportation services, it is desirable to encourage to the maximum extent feasible the participation of private enterprise and to avoid destructive competition. To

insure the accomplishment of this goal, N.J.S.A. 27:25-7(b) requires NJ TRANSIT to establish procedures for the handling of claims of destructive competition which are brought by carriers providing motor bus regular route service.

(b) Certain mass transit services or service improvements by NJ TRANSIT shall be excluded from the scope of these rules as they are, as a matter of law, in the public interest and have been authorized for funding, construction and implementation by Congress and/or the New Jersey State Legislature. Consistent with various legislative procedures and enactments by Congress and the President of the United States and/or by the Legislature and Governor of the State of New Jersey, the implementation and operation of any mass transit service or service improvements on certain identified Federal or State mass transit projects which are specified in these rules shall be excluded from the ambit of these rules.

Amended by R.2001 d.275, effective August 6, 2001.  
See: 33 N.J.R. 1503(a), 33 N.J.R. 2693(a).

Designated existing paragraph as (a) and added (b).

**16:74-1.2 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the New Jersey Public Transportation Act of 1979.

“Actions by NJ TRANSIT” means the operation of equipment or facilities by NJ TRANSIT, its subsidiaries, or other carriers contracting with NJ TRANSIT pursuant to Section 6 of the Act to the extent that such operation by contract carriers is within the control of NJ TRANSIT.

“Board” means the Board of Directors of NJ TRANSIT.

“Carrier” means any individual, co-partnership, association, corporation, joint stock company, trustee or receiver or any operating or controlling regular route motor bus service on established routes within the State or between points in this State and points in adjacent states.

“Established routes” means all regular intrastate or interstate routes as authorized by NJ TRANSIT, the New Jersey Department of Transportation, the Interstate Commerce Commission, a municipality, or any other regulatory body.

“Equipment or facilities” means passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motor bus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or

## 16:74-1.2

property useful for or related to the provision of public transportation service.

“Executive Director” means the Executive Director of NJ TRANSIT or his designee.

“Motorbus regular route services” means the operation of any motor bus or motor buses on streets, public highways or other facilities, over a fixed route and between fixed termini on a regular schedule for the purpose of carrying passengers for hire or otherwise, in this State or between points in this State and points in other states.

“NJ TRANSIT” means the New Jersey Transit Corporation.

“Rail passenger service” means and includes the operations of a railroad, subway, street, traction or electric railway for the purpose of carrying passengers in this State or between points in this State and points in other states.

## SUBCHAPTER 2. PROCEDURES

## 16:74-2.1 Filing of claims

(a) All claims must be filed in writing with NJ TRANSIT’s Department of Corporate Affairs, One Penn Plaza East, Newark, New Jersey 07105-2246.

(b) Claims may be filed only by properly certified carriers providing regular route motor bus services.

(c) The claim must contain the following information or it will not be cognizable under this chapter or N.J.S.A. 27:25-7(b):

1. The names and addresses of the carrier and its officers;

2. A copy of the relevant operating authority or Certificate of Public Convenience and Necessity issued by the New Jersey Department of Transportation, Interstate Commerce Commission, a municipality, or any other regulatory body;

3. A description of the actions of NJ TRANSIT alleged to be destructively competitive including but not limited to the date of such actions and the actions taken by the carrier in response thereto. This statement must contain the facts upon which the carrier relies to support its claim of destructive competition;

4. The economic and operational impact of the alleged acts of destructive competition on the carrier or its employees and users;

5. A statement setting forth the carrier’s reasons why particular competitive actions of NJ TRANSIT are alleged to be “destructively competitive”;

6. A statement of the relief sought, including alternatives deemed appropriate by the carrier.

(d) Nothing in this section shall be construed to prevent the carrier from presenting additional facts to the Administrative Law Judge (ALJ) for his or her consideration.

Amended by R.1997 d.117, effective March 17, 1997.  
See: 28 N.J.R. 5058(a), 29 N.J.R. 913(a).

In (a), amended Department reference and address.

## 16:74-2.2 Conferences

(a) Settlement conference will be held in accordance with the provisions of N.J.A.C. 1:1-5.4.

(b) Unaccepted proposals of settlement or of adjustment not agreed to shall be privileged and shall not be admissible in evidence against NJ TRANSIT, the carrier, or their attorneys.

## 16:74-2.3 Transmittal to Office of Administrative Law (OAL)

When the carrier has satisfied all of the requirements of N.J.A.C. 16:74-2.1, the matter shall be considered a contested case and the Executive Director or his or her designee shall, within 30 days of receipt of the completed claim, refer the complaint to the OAL to be processed in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.1991 d.593, effective December 16, 1991.  
See: 23 N.J.R. 1773(a), 23 N.J.R. 3770(b).

Revised text.

## 16:74-2.4 Factors to be considered

(a) The following factors may be considered by the Board in determining whether NJ TRANSIT has engaged in destructive competition:

1. Which carrier was the first to provide the service;

2. Whether the action of NJ TRANSIT was a significant cause of the adverse impact on the carrier;

3. Whether NJ TRANSIT is complying with all applicable Federal and State laws, its Certificates of Public Convenience and Necessity and applicable tariffs, in providing the service alleged to be destructively competitive;

4. The inherent benefits of the services to the rider, including, but not limited to, destination, door to door travel time, frequency of service, comfort, cost, transfer frequencies or proximity to the riders’ residence;

5. Whether the NJ TRANSIT service alleged to be destructively competitive is in the public interest; and

6. Whether the level of service and/or fares of NJ TRANSIT is destructively competitive.

(b) For purposes of this section, when considering whether the NJ TRANSIT service alleged to be destructively competitive is in the public interest, implementation and operation of any new mass transit service or any service improvements resulting from any of the projects contained in the "Circle of Mobility" as defined in P.L. 1984, c.73 (N.J.S.A. 27:1B-3) or amendments thereto shall be deemed to be in the public interest and not a violation of N.J.S.A. 27:25-1 et seq. and these rules. As defined in that law, "Circle of Mobility" means an essential group of related transit projects that include:

1. The New Jersey Urban Core Project, as defined in section 3031 of the "Intermodal Surface Transportation Efficiency Act of 1991," Pub. L. 102-240, and consisting of the following elements:

- i. Secaucus Transfer;
- ii. Kearny Connection, that is, the NJ TRANSIT service known as Midtown Direct;
- iii. Waterfront Connection;
- iv. Northeast Corridor Signal System;
- v. Hudson River Waterfront Transportation System; that is, the Hudson Bergen Light Rail System;
- vi. Newark-Newark International Airport Elizabeth Transit Link;
- vii. A rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station concourse; and
- viii. The equipment needed to operate revenue service associated with improvements made by the projects;

2. The modification and reconstruction of the West Shore Line in Bergen County connected to Allied Junction/Secaucus Transfer Meadowlands Rail Center; the

construction of a rail station and associated components at the Meadowlands Sports Complex; the modification and reconstruction of the Susquehanna and Western Railway, as defined and provided in section 3035(a) of the "Intermodal Surface Transportation Efficiency Act of 1991"; the modification and reconstruction of the Lackawanna Cutoff Commuter Rail Line connecting Morris, Sussex and Warren Counties to the North Jersey Transportation Rail Centers; and

3. Commuter rail service in the central New Jersey region terminating at the proposed Lakewood Transportation Center in Ocean County or other location as determined by the Board of the New Jersey Transit Corporation pursuant to a resolution of the Board providing for the achievement of a consensus among the interested parties as to the direction of the proposed rail line.

(c) Nothing in this section should be construed to prevent the Board from considering factors other than those set forth in this section in determining whether NJ TRANSIT has engaged in destructive competition.

Amended by R.2001 d.275, effective August 6, 2001.  
See: 33 N.J.R. 1503(a), 33 N.J.R. 2693(a).

Inserted a new (b) and recodified former (b) as (c).  
Administrative correction.  
See: 33 N.J.R. 4151(a).

#### 16:74-2.5 Remedy and Order

(a) The sole remedy that may be considered by the Board pursuant to this chapter and N.J.S.A. 27:25-7(b), is to direct NJ TRANSIT to cease and desist in whole or part from using its equipment or facilities in a destructively competitive manner.

(b) Upon receipt of the Initial Decision of the ALJ, the Executive Director shall present the matter to the Board and the Board shall adopt an order or final decision accepting, rejecting, or modifying the Initial Decision by the ALJ or remanding the decision to the OAL all in accordance with N.J.A.C. 1:1-16.5 and 1:1-16.6.

## PROPOSALS

## TRANSPORTATION

## TRANSPORTATION

## (a)

## NEW JERSEY TRANSIT CORPORATION

## Procedure for Claims

## Proposed Readoption with Amendments: N.J.A.C. 16:74

Authorized By: New Jersey Transit Corporation, George D. Warrington, Executive Director.

Authority: N.J.S.A. 27:25-2(a), 27:25-5(e), (h) and (k) and 27:25-7(b).

Calendar Reference: See Summary below for explanation to exception to calendar requirement.

Proposal Number: PRN 2006-264.

Submit Comments by October 20, 2006 to:

Joyce J. Zuczek  
New Jersey Transit Corporation  
One Penn Plaza East  
Newark, NJ 07105-2246

The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 16:74, Procedures for Claims, expires on January 12, 2007. The New Jersey Transit Corporation (NJ TRANSIT) has reviewed these rules, which were first adopted effective October 20, 1986, and has determined that the rules are necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated, with the exception of a few amendments.

NJ TRANSIT's enabling legislation provides that, in the provision of public transportation services, it is desirable to encourage to the maximum extent feasible the participation of private enterprise and to avoid destructive competition. It further provides that NJ TRANSIT shall promulgate rules and regulations setting forth the procedures for hearings before NJ TRANSIT's Board of Directors relating to claims of destructive competition, arising from alleged actions by NJ TRANSIT, brought by private entities providing motorbus regular route service.

A summative review of each of the subchapters of N.J.A.C. 16:74 follows:

Subchapter 1, General Provisions, delineates the purpose of the rules and contains definitions of words and terms used in the chapter. Subchapter 2 contains rules on procedures, including filing of claims, conferences, transmittal to the Office of Administrative Law, factors to be considered in determining whether destructive competition has taken place and rules on the allowable remedy and action of NJ TRANSIT'S Board of Directors after receipt of the decision of an administrative law judge.

The rules proposed for re adoption at N.J.A.C. 16:74 contain the following amendments:

N.J.A.C. 16:74-1.1(a) has been amended to delete "Government responsible" after State and replace it with "of New Jersey to carry out the State's responsibility" for clarification purposes. Additionally, the last sentence has been restructured to delete "To insure the accomplishment of this goal," at the beginning of the sentence and "procedures for the handling of claims of destructive competition which are brought by carriers providing motor bus regular route service" and replace it with "rules and regulations regarding procedures for hearings before the Board of claims of destructive competition arising from alleged actions by NJ TRANSIT which are brought by private entities providing motorbus regular route service" to utilize language similar to language in N.J.S.A. 27:25-7(b).

N.J.A.C. 16:74-1.1(b) has been amended to replace "shall be" with "are" twice in the subsection for clarification purposes.

The definition of "act" was amended to add the statutory reference to the New Jersey Public Transportation Act of 1979.

The definition of "actions by NJ TRANSIT" was amended to delete "contract" before carriers for clarification purposes.

The definition of "carrier" was amended to change "co-partnership" to "partnership," add "limited liability company," and change "any operating or controlling regular route motor bus service" to "any other private entity operating or controlling regular route motorbus service," for clarification purposes.

The definition of "established routes" was amended to replace "all regular intrastate" with "the intrastate" and change "interstate routes" to "interstate motorbus regular route service of the carrier" for grammatical and clarification purposes. Additionally, the reference to the entities that authorized the routes was amended to delete "NJ TRANSIT" and the "New Jersey Department of Transportation" and replace them with the "Office of Regulatory Affairs of the New Jersey Motor Vehicle Commission, the Federal Motor Carrier Safety Administration or Surface Transportation Board of the United States Department of Transportation (or its predecessor the Interstate Commerce Commission)" to update the regulation with the new names of the entities that authorize routes.

The definition of "equipment of facilities" was amended to delete "automobile" before parking facilities to clarify that parking facilities are not limited to automobiles.

The definition of "Executive Director" was amended to add "or her" before designee to provide gender flexible language.

The definition of "motorbus regular route services" was amended to delete the last "s" in "services," making it singular.

The definition of "rail passenger service" was amended to delete the "s" in "operations," making it singular.

N.J.A.C. 16:74-2.1(a) was amended to delete the reference to NJ TRANSIT's Department of Corporate Affairs and replace it with "Executive Director" to direct claims to the Executive Director since the Department of Corporate Affairs no longer exists.

N.J.A.C. 16:74-2.1(b) was amended to delete "regular route motorbus services" and replace it with "motorbus regular route service" for clarification purposes.

N.J.A.C. 16:74-2.1(c) has been amended to rephrase the overall subsection for clarification purposes. It now states that "All claims must contain the following information; otherwise such claims will not be cognizable."

New N.J.A.C. 16:74-2.1(c)2 was added to include "An identification and description of the established route or routes of the carrier alleged to have been impacted by the actions of NJ TRANSIT:" to the list of information required to submit a claim.

N.J.A.C. 16:74-2.1(c)3, recodified from N.J.A.C. 16:74-2.1(c)2, was amended to delete "New Jersey Department of Transportation, Interstate Commerce Commission, a municipality, or any other" before regulatory body and replace them with "a regulatory body" and add "for each established route of the carrier alleged to have been impacted by the actions of NJ TRANSIT;" These changes were made to simplify the references to the various entities to the broader reference to a regulatory body, and provide clarification regarding the information required to submit a claim.

N.J.A.C. 16:74-2.1(c)4 was amended to add commas before and after the phrase "but not limited to" for grammatical clarification.

N.J.A.C. 16:74-2.1(c)5 was amended to add a comma after carrier, delete "or" before its employees and add a comma after employees for grammatical clarification.

N.J.A.C. 16:74-2.1(c)6 was amended to add "the" before particular to clarify that the claim must state the reasons related to the particular or specific actions of NJ TRANSIT that are the basis for the allegation and described in N.J.A.C. 16:74-2.1(c)4 and delete "competitive" after particular and before actions to avoid redundancy.

N.J.A.C. 16:74-2.1(e) was added to provide information about how NJ TRANSIT will process the claim.

N.J.A.C. 16:74-2.2(a) has been amended to pluralize "conference" and update the reference of N.J.A.C. 1:1-5.4 to 4.2 to reflect the new citation caused by the recodification of the Office of Administrative Law's rules.

N.J.A.C. 16:74-2.2(b) was amended to delete "not agreed to shall" after adjustment, replace it with "will" and replace "shall" with "will" before not be admissible. The deletion of "not agreed to" was made to avoid redundancies and "shall" was replaced with "will" for stylistic reasons.

## TRANSPORTATION

## PROPOSALS

N.J.A.C. 16:74-2.3 was amended to replace "shall" with "will" for stylistic reasons.

N.J.A.C. 16:74-2.4(a) was amended to replace "may" with "should" for stylistic reasons and delete "by the Board" to clarify that these are the factors to be considered in determining these types of claims, and is not limited to decisions by NJ TRANSIT's Board.

N.J.A.C. 16:74-2.4(a)1 was amended to add "in question" to the end of the paragraph for clarification purposes.

N.J.A.C. 16:74-2.4(a)2 was amended to delete "cause of" after significant, replace it with "factor in causing" and add "alleged" before adverse impact to provide clarification regarding the factor.

N.J.A.C. 16:74-2.4(a)4 was amended to delete the "s" in "services" to make it singular and add an "s" to "riders" to make it plural.

N.J.A.C. 16:74-2.4(a)6 was amended to delete "or" after "and" to clarify that both factors should be considered and replace "is" with "are" to reflect the new pluralized state of the paragraph.

N.J.A.C. 16:74-2.4(b) was amended to add "the" before public interest to make the sentence grammatically correct.

N.J.A.C. 16:74-2.4(b)1ii was amended to change "Midtown" to "MidTOWN" to reflect the proper spelling of the service.

N.J.A.C. 16:74-2.4(b)1v was amended to replace the semicolon with a comma to make the sentence grammatically correct.

N.J.A.C. 16:74-2.4(b)1vii was amended to replace the comma with "; and" to make the rest of that subparagraph a new subparagraph at N.J.A.C. 16:74-2.4(b)1viii.

N.J.A.C. 16:74-2.4(b)1viii was deleted and incorporated into the new paragraph at N.J.A.C. 16:74-2.4(b)4 to correct the misplacement of this language and clarify that this language applies to all projects included in the "Circle of Mobility" and not just the "Urban Core Project."

N.J.A.C. 16:74-2.4(b)2 was amended to delete "and" since it is no longer the second to last paragraph.

N.J.A.C. 16:74-2.4(b)3 was amended to change "other location" to "another location," and delete "of the New Jersey Transit Corporation pursuant to a resolution of the Board providing for the achievement of a consensus among the interested parties as to the direction of the proposed rail line" to eliminate language that is not needed. Additionally, the period at the end of the paragraph was deleted and "; and" was added since this is now the second to last paragraph.

N.J.A.C. 16:74-2.4(b)4 was added to correct the misplacement of the language that was previously in N.J.A.C. 16:74-2.4(b)1viii and add "facilities" so that the paragraph states "The equipment or facilities needed to operate revenue service associated with the improvements made by the above projects."

N.J.A.C. 16:74-2.4(c) was amended to add "preclude additional factors from being considered" and delete "prevent the Board from considering factors other than those set forth in this section" for clarification purposes.

N.J.A.C. 16:74-2.5(a) was amended to delete "by the Board" and the comma after the citation to N.J.S.A. 27:25-7(b) for clarification and grammatical purposes.

N.J.A.C. 16:74-2.5(b) was amended to delete the references to N.J.A.C. 1:1-16.5 and 1:1-16.6 and replace them with N.J.A.C. 1:1-18.6 and 18.7, the new citations due to a recodification of the Office of Administrative Law's rules.

As NJ TRANSIT has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

It is not anticipated that the rules proposed for re adoption with amendments will have significant social impact. However, if unchecked, destructive competition could lead to the loss of service to the public as the carrier's costs of providing such service become prohibitive. The rules continue to provide a procedure for the resolution of claims of destructive competition where it is alleged that NJ TRANSIT destructively competes with a private carrier.

#### Economic Impact

It is not anticipated that the rules proposed for re adoption with amendments will have significant economic impact because they merely provide for a procedure required by law. The results of a proceeding in a

particular case could have an economic impact upon a carrier or NJ TRANSIT, their employees or users. The existence of the rules serves as a deterrent to destructive competition. Such competition would otherwise waste scarce public resources.

#### Federal Standards Statement

There are no Federal standards that apply to the rules proposed for re adoption with amendments and, therefore, no Federal standards analysis is required.

#### Jobs Impact

It is not anticipated that the rules proposed for re adoption with amendments will result in the creation or loss of jobs because they merely provide for a procedure required by law. The results of a proceeding in a particular case could result in the creation or loss of jobs at the particular carriers that are involved.

#### Agriculture Industry Impact

The rules proposed for re adoption with amendments will have no impact on the agriculture industry.

#### Regulatory Flexibility Analysis

The rules proposed for re adoption with amendments impose no reporting or recordkeeping requirements on small businesses. These businesses are bus companies engaged in the provision of regular route service. NJ TRANSIT presently contracts under its numerous private sector support programs with over 100 separate small businesses, as such businesses are defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules contain specific requirements for the filing and content of claims. As set forth above, the proposed amendments will have no impact on these businesses as the rules are designed to maintain a procedure for resolving claims of destructive competitions. The rules proposed for re adoption with amendments will not result in any expenditure for capital equipment or professional services. There will be no initial compliance costs.

The rules were designed to minimize any adverse economic impact on small businesses. Accordingly, the rules do not establish differing compliance or reporting requirements. The only reporting requirements relate to the filing of the claim itself, a simple procedure calling for the submission of specified data.

#### Smart Growth Impact

The rules proposed for re adoption with amendments have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:74.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 16:74-1.1 Purpose

(a) The New Jersey Transit Corporation (NJ TRANSIT) was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as the instrumentality of the State [Government responsible] of New Jersey to carry out the State's responsibility to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the legislative findings set forth in the Act is that, in the provision of public transportation services, it is desirable to encourage to the maximum extent feasible the participation of private enterprise and to avoid destructive competition. [To insure the accomplishment of this goal,] N.J.S.A. 27:25-7(b) requires NJ TRANSIT to establish [procedures for the handling of claims of destructive competition which are brought by carriers providing motor bus regular route service] rules and regulations regarding procedures for hearings before the Board of claims of destructive competition arising from alleged actions by NJ TRANSIT which are brought by private entities providing motorbus regular route service.

(b) Certain mass transit services or service improvements by NJ TRANSIT [shall be] are excluded from the scope of these rules as they

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are, as a matter of law, in the public interest and have been authorized for funding, construction and implementation by Congress and/or the New Jersey State Legislature. Consistent with various legislative procedures and enactments by Congress and the President of the United States and/or by the Legislature and Governor of the State of New Jersey, the implementation and operation of any mass transit service or service improvements on certain identified Federal or State mass transit projects which are specified in these rules [shall be] are excluded from the ambit of these rules.

## 16:74-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" means the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.).

"Actions by NJ TRANSIT" means the operation of equipment or facilities by NJ TRANSIT, its subsidiaries, or other carriers contracting with NJ TRANSIT pursuant to Section 6 of the Act to the extent that such operation by [contract] carriers is within the control of NJ TRANSIT.

"Carrier" means any individual, [co-]partnership, association, corporation, **limited liability company**, joint stock company, trustee or receiver or any other private entity operating or controlling regular route [motor bus] **motorbus** service on established routes within the State or between points in this State and points in adjacent states.

"Established routes" means [all regular] the intrastate or interstate [routes as] **motorbus regular route service of the carrier** authorized by [NJ TRANSIT, its subsidiaries, or other carriers contracting with NJ TRANSIT pursuant to Section 6 of the Act to the extent that such operation by [contract] carriers is within the control of NJ TRANSIT,] the Office of Regulatory Affairs of the New Jersey Motor Vehicle Commission, the Federal Motor Carrier Safety Administration or Surface Transportation Board of the United States Department of Transportation (or its predecessor the Interstate Commerce Commission), a municipality, or any other regulatory body.

"Equipment or facilities" means passenger stations, shelters and terminals, [automobile] parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, [motor bus] **motorbus** and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

"Executive Director" means the Executive Director of NJ TRANSIT or his or her designee.

"Motorbus regular route service[s]" means the operation of any [motor bus or motor buses] **motorbus or motorbuses** on streets, public highways or other facilities, over a fixed route and between fixed termini on a regular schedule for the purpose of carrying passengers for hire or otherwise, in this State or between points in this State and points in other states.

"Rail passenger service" means and includes the operation[s] of a railroad, subway, street, traction or electric railway for the purpose of carrying passengers in this State or between points in this State and points in other states.

## 16:74-2.1 Filing of claims

(a) All claims must be filed in writing with NJ TRANSIT's [Department of Corporate Affairs] **Executive Director**, One Penn Plaza East, Newark, New Jersey 07105-2246.

(b) Claims may be filed only by properly certified carriers providing **motorbus** regular route [motor bus] service[s].

(c) [The] All claims must contain the following information [or it]; otherwise such claims will not be cognizable [under this chapter or N.J.S.A. 27:25-7(b)]:

1. (No change.)  
2. An identification and description of the established route or routes of the carrier alleged to have been impacted by the actions of NJ TRANSIT;

[2.] 3. A copy of the relevant operating authority or Certificate of Public Convenience and Necessity issued by [the New Jersey Department of Transportation, Interstate Commerce Commission, a municipality, or

any other] a regulatory body for each established route of the carrier alleged to have been impacted by the actions of NJ TRANSIT;

[3.] 4. A description of the actions of NJ TRANSIT alleged to be destructively competitive including, but not limited to, the date of such actions and the actions taken by the carrier in response thereto. This statement must contain the facts upon which the carrier relies to support its claim of destructive competition;

[4.] 5. The economic and operational impact of the alleged acts of destructive competition on the carrier [or], its employees, and users;

[5.] 6. A statement setting forth the carrier's reasons why the particular [competitive] actions of NJ TRANSIT are alleged to be "destructively competitive";

[6.] 7. (No change in text.)

(d) (No change.)

(e) Upon receipt of the claim, the Executive Director or his or her designee shall provide the claimant with an acknowledgement of receipt of the claim and shall perform a review of the submitted claim within 30 days of receipt to ensure that it is complete with respect to the requirements of this section. The purpose of this review is not to pass judgment on the accuracy or completeness of the facts relating to the allegation or on the merits of the claim, but rather to ensure its completeness.

## 16:74-2.2 Conferences

(a) Settlement conferences will be held in accordance with the provisions of N.J.A.C. 1:1-[5.4]4.2.

(b) Unaccepted proposals of settlement or of adjustment [not agreed to shall] will be privileged and [shall] will not be admissible in evidence against NJ TRANSIT, the carrier, or their attorneys.

## 16:74-2.3 Transmittal to Office of Administrative Law (OAL)

When the carrier has satisfied all of the requirements of N.J.A.C. 16:74-2.1, the matter [shall] will be considered a contested case and the Executive Director or his or her designee shall, within 30 days of receipt of the completed claim, refer the complaint to the OAL to be processed in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

## 16:74-2.4 Factors to be considered

(a) The following factors [may] should be considered [by the Board] in determining whether NJ TRANSIT has engaged in destructive competition:

1. Which carrier was the first to provide the service in question;
2. Whether the action of NJ TRANSIT was a significant [cause of] factor in causing the alleged adverse impact on the carrier;
3. (No change.)
4. The inherent benefits of the service[s] to the riders, including, but not limited to, destination, door to door travel time, frequency of service, comfort, cost, transfer frequencies or proximity to the riders' residence;
5. (No change.)
6. Whether the level of service and/[or] fares of NJ TRANSIT [is] are destructively competitive.

(b) For purposes of this section, when considering whether the NJ TRANSIT service alleged to be destructively competitive is in the public interest, implementation and operation of any new mass transit service or any service improvements resulting from any of the projects contained in the "Circle of Mobility" as defined in P.L. 1984, [c.73] c. 73 (N.J.S.A. 27:1B-3) or amendments thereto shall be deemed to be in the public interest and not a violation of N.J.S.A. 27:25-1 et seq. and these rules. As defined in that law, "Circle of Mobility" means an essential group of related transit projects that include:

1. The New Jersey Urban Core Project, as defined in section 3031 of the "Intermodal Surface Transportation Efficiency Act of 1991," Pub. L. 102-240, and consisting of the following elements:

- i. (No change.)
- ii. Kearny Connection, that is, the NJ TRANSIT service known as [Midtown] MidTOWN Direct;
- iii.-iv. (No change.)
- v. Hudson River Waterfront Transportation System[;], that is, the Hudson Bergen Light Rail System;

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- vi. (No change.)
- vii. A rail connection between Penn Station Newark and Broad Street Station, Newark[,] and
- viii. New York Penn Station concourse; [and]
- [viii. The equipment needed to operate revenue service associated with improvements made by the projects;]

2. The modification and reconstruction of the West Shore Line in Bergen County connected to Allied Junction/Secaucus Transfer Meadowlands Rail Center; the construction of a rail station and associated components at the Meadowlands Sports Complex; the modification and reconstruction of the Susquehanna and Western Railway, as defined and provided in section 3035(a) of the "Intermodal Surface Transportation Efficiency Act of 1991"; the modification and reconstruction of the Lackawanna Cutoff Commuter Rail Line connecting Morris, Sussex and Warren Counties to the North Jersey Transportation Rail Centers; [and]

3. Commuter rail service in the central New Jersey region terminating at the proposed Lakewood Transportation Center in Ocean County or [other] another location as determined by the Board [of the New Jersey Transit Corporation pursuant to a resolution of the Board providing for the achievement of a consensus among the interested parties as to the direction of the proposed rail line.]; and

4. The equipment or facilities needed to operate revenue service associated with the improvements made by the above projects.

(c) Nothing in this section should be construed to [prevent the Board from considering factors other than those set forth in this section] preclude additional factors from being considered in determining whether NJ TRANSIT has engaged in destructive competition.

16:74-2.5 Remedy and Order

(a) The sole remedy that may be considered [by the Board] pursuant to this chapter and N.J.S.A. 27:25-7(b)[,] is to direct NJ TRANSIT to cease and desist in whole or part from using its equipment or facilities in a destructively competitive manner.

(b) Upon receipt of the Initial Decision of the ALJ, the Executive Director shall present the matter to the Board and the Board shall adopt an order or final decision accepting, rejecting, or modifying the Initial Decision by the ALJ or remanding the decision to the OAL, all in accordance with N.J.A.C. [1:1-16.5 and 1:1-16.6] 1:1-18.6 and 18.7.

TREASURY - GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS  
POLICE AND FIREMEN'S RETIREMENT SYSTEM

Retirement Applications

Proposed Amendment: N.J.A.C. 17:4-6.1

Authorized By: Police and Firemen's Retirement System Board of Trustees, Wendy Jamison, Secretary.

Authority: N.J.S.A. 43:16A-13(7)

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006-275.

Submit comments by October 20, 2006 to:

Joseph B. Reilly  
Assistant Director  
Division of Pensions and Benefits  
PO Box 295  
Trenton, NJ 08625-0295

The agency proposal follows:

Summary

The Police and Firemen's Retirement System (PFRS) proposes to amend N.J.A.C. 17:4-6.1(d) due to concerns expressed regarding the requirements relating to medical reports required in support of applications for disability retirements. The subsection requires that an

application for disability retirement be supported by two medical reports, one from the member's personal or attending physician and the other in the form of either hospital records supporting the disability or a report from a second physician. The subsection does not distinguish between a physical disability retirement application and a mental health disability retirement application. The subsection is proposed to be amended to distinguish between medical reports required in support of a physical disability retirement application and medical reports required in support of a mental health disability retirement application. It is proposed that subsection (d) be restructured as two paragraphs, the first addressing medical reports required in support of a physical disability retirement application and the second addressing medical reports required in support of a mental health disability retirement application.

The Public Employees' Retirement System and the State Police Retirement System have proposed that their corresponding rules be amended in this same manner. The Division of Pensions and Benefits is required to administer the State-administered retirement systems in a manner that is uniform, to the extent possible, across the retirement systems.

N.J.A.C. 17:4-6.1(d)1, relating to medical reports required in support of a physical disability retirement application, reflects the rule's present requirements, that is, the submission of two medical reports, one from the member's personal or attending physician and the other in the form of either hospital records supporting the disability or a report from a second physician. Paragraph (d)1 is amended to clarify that it only applies to physical disability retirement applications. Proposed new paragraph (d)2, relating to medical reports required in support of a mental health disability application, states that the two medical reports required in support of a mental health disability retirement application are, one from the member's personal or attending psychiatrist or psychologist and the other in the form of either hospital records supporting the disability or a report from another psychiatrist or psychologist or from a physician or licensed clinical social worker.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendment would have a beneficial effect on members filing applications for mental health disability retirements. The proposed amendment states which medical professionals may submit medical reports in support of a member's mental health disability retirement application. This is expected to result in fewer rejected mental health disability applications and the expedited approval of qualifying mental health disability applications.

Economic Impact

The proposed amendment will have a positive economic impact on members filing applications for mental health disability retirements. Accepting a second report from a member's personal or attending physician or licensed clinical social worker allows those members receiving treatment from a physician or a licensed clinical social worker to avoid the costs associated with securing the second medical report from a second psychiatrist or psychologist. In addition, the proposed amendment is expected to expedite the processing of applications for mental health disability applications, which in turn will result in the earlier receipt of disability retirement benefits by members whose applications are approved.

The Division of Pensions and Benefits will continue to monitor the impact of the proposed amendment. The Division is not aware of any provisions in the proposed amendment that would impose any hardship or costs on PFRS members or on the public in general.

Federal Standards Statement

A Federal standards analysis is not required because N.J.S.A. 43:16A-13(7) governs the subject of this rulemaking, and there is no Federal requirement or standard that affects the subject of this rulemaking.

Jobs Impact

The operation of the proposed amendment will not result in the generation or loss of jobs.

**EXHIBIT C****REGULATIONS: READOPTION WITH AMENDMENTS OF N.J.A.C. 16:74  
PROCEDURE FOR CLAIMS (DESTRUCTIVE COMPETITION)  
PROPOSED AMENDMENTS**

There are no major modifications included. The rules proposed for readoption at N.J.A.C. 16:74 are proposed for amendment as follows:

N.J.A.C. 16:74-1.1(a) has been amended to delete "Government responsible" after State and replace it with "of New Jersey to carry out the State's responsibility" for clarification purposes. Additionally, the last sentence has been restructured to delete "To insure the accomplishment of this goal," at the beginning of the sentence and "procedures for the handling of claims of destructive competition which are brought by carriers providing motor bus regular route service" and replace it with "rules and regulations regarding procedures for hearings before the Board of claims of destructive competition arising from alleged actions by the Corporation which are brought by private entities providing motorbus regular route service" to utilize the same language reference in N.J.S.A. 27:25-7(b).

N.J.A.C. 16:74-1.1(b) has been amended to replace "shall be" with "are" and "shall" with "will" for clarification purposes.

The definition of "act" was amended to add the statutory reference to the New Jersey Public Transportation Act of 1979.

The definition of "actions by NJ TRANSIT" was amended to delete "contract" before carriers for clarification purposes.

The definition of "carrier" was amended to change "co-partnership" to "partnership," add "limited liability company," change "any operating or controlling regular route motor bus service" to "any private entity operating or controlling regular route motorbus service," change "State" to "State of New Jersey (State)" and change "this State" to "the State" for clarification purposes.

The definition of "established routes" was amended to replace "all regular intrastate" with "the intrastate" and change "interstate routes" to "interstate motorbus regular route service of the carrier" for grammatical and clarification purposes. Additionally, the reference to the entities that authorized the routes was amended to delete "NJ TRANSIT" and the "New Jersey Department of Transportation" and replace them with the "Office of Regulatory Affairs of the New Jersey Motor Vehicle Commission, the Federal Motor Carrier Safety Administration or Surface Transportation Board of the United States Department of Transportation (or its predecessor the Interstate Commerce Commission)" to update the regulation with the new names of the entities that authorize routes.

The definition of "equipment of facilities" was amended to delete "automobile" before parking facilities to clarify that parking facilities are not limited to automobiles.

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The definition of "Executive Director" was amended to add "or her" before designee to provide gender flexible language.

The definition of "motorbus regular route services" was amended to delete the last "s" in "services," making it singular.

The definition of "rail passenger service" was amended to delete the "s" in "operations," making it singular.

N.J.A.C. 16:74-2.1(a) was amended to delete reference to NJ TRANSIT's Department of Corporate Affairs and replace it with "Executive Director" to direct claims to the Executive Director since the Department of Corporate Affairs no longer exists.

N.J.A.C. 16:74-2.1(b) was amended to delete "regular route motorbus services" and replace it with "motorbus regular route service over established routes" for clarification purposes.

N.J.A.C. 16:74-2.1(c) has been amended to rephrase the overall subsection for clarification purposes. It now states that "All claims must contain the following information; otherwise such claims will not be cognizable:".

N.J.A.C 16:74-2.1(c)2 was amended to move the original paragraph to N.J.A.C 16:74-2.1(c)3 and insert "An identification and description of the established route or routes of the carrier alleged to have been impacted by the actions of NJ TRANSIT;" as paragraph 2 to provide clarification regarding the information required to submit a claim. Subsequent paragraphs were also renumbered to allow for the insertion of N.J.A.C 16:74-2.1(c)2.

N.J.A.C 16:74-2.1(c)3 was amended to delete "New Jersey Department of Transportation, Interstate Commerce Commission, a municipality, or any other" before regulatory body and replace them with "a regulatory body" and add "for each established route of the carrier alleged to have been impacted by the actions of NJ TRANSIT;". These changes were made to simplify the references to the various entities to the broader reference to a regulatory body, and provide clarification regarding the information required to submit a claim.

N.J.A.C 16:74-2.1(c)4 was amended to add commas before and after the phrase "but not limited to" for grammatical clarification.

N.J.A.C 16:74-2.1(c)5 was amended to add a comma after carrier, delete "or" before its employees and add a comma after employees for grammatical clarification.

N.J.A.C 16:74-2.1(c)6 was amended to add "the" before particular to clarify that the claim must state the reasons related to the particular of specific actions of NJ TRANSIT

**EXHIBIT C**

that are the basis for the allegation and described in N.J.A.C. 16:74-2.1(c)4 and delete "competitive" after particular and before actions to avoid redundancy.

N.J.A.C 16:74-2.1(c)7 was added to renumber paragraph six in accordance with the renumbering of paragraphs mentioned above.

N.J.A.C 16:74-2.1(e) was added to provide information about how NJ TRANSIT will process the claim.

N.J.A.C. 16:74-2.2(b) was amended to delete "not agreed to shall" after adjustment, replace it with "will" and replace "shall" with "will" before not be admissible. The deletion of "not agreed to" was made to avoid redundancies and "shall" was replaced with "will" for stylistic reasons.

N.J.A.C. 16:74-2.3 was amended to replace "shall" with "will" for stylistic reasons and change the reference from N.J.A.C. 1:1 to N.J.A.C. 1:1-8.2.

N.J.A.C. 16:74-2.4(a) was amended to replace "may" with "should" for stylistic reasons and delete "by the Board" to clarify that these are the factors to be considered in determining these types of claims, and is not limited to decisions by NJ TRANSIT's Board.

N.J.A.C. 16:74-2.4(a)1 was amended to add "in question" to the end of the paragraph for clarification purposes.

N.J.A.C. 16:74-2.4(a)2 was amended to delete "cause of" after significant, replace it with "factor in causing" and add "alleged" before adverse impact to provide clarification regarding the factor.

N.J.A.C. 16:74-2.4(a)4 was amended to delete the "s" in "services" to make it singular and add an "s" to "riders" to make it plural.

N.J.A.C. 16:74-2.4(a)6 was amended to delete "/or" after and to clarify that both factors are required and replace "is" with "are" to reflect the new pluralized state of the sentence.

N.J.A.C. 16:74-2.4(b) was amended to add "the" before public interest to make the sentence grammatically correct.

N.J.A.C. 16:74-2.4(b)1ii was amended to change "Midtown" to MidTOWN" to reflect the proper spelling of the service.

N.J.A.C. 16:74-2.4(b)1v was amended to replace the semicolon with a comma to make the sentence grammatically correct.

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N.J.A.C. 16:74-2.4(b)1vii was amended to replace the comma with “; and” to make the rest of that subparagraph a separate subparagraph.

N.J.A.C. 16:74-2.4(b)1viii was deleted and incorporated into the new paragraph at N.J.A.C. 16:74-2.4(b)4 to correct the misplacement of this language and clarify that this language applies to all projects included in the “Circle of Mobility” and not just the “Urban Core Project.” The new language at N.J.A.C. 16:74-2.4(b)1viii was taken from the last part of N.J.A.C. 16:74-2.4(b)1vii with amendments deleting “;and” and replacing it with a period to mark the end of the paragraph.

N.J.A.C. 16:74-2.4(b)3 was amended to change “other location” to “another location” and deleting “of the New Jersey Transit Corporation pursuant to a resolution of the Board providing for the achievement of a concensus among the interested parties as to the direction of the proposed rail line” to delete language that is no longer relevant.

N.J.A.C. 16:74-2.4(b)4 was added to correct the misplacement of the language that was previously in N.J.A.C. 16:74-2.4(b)1viii and add “facilities” so that the paragraph states “The facilities and equipment needed to operate revenue service associated with the improvements made by the above projects.”

N.J.A.C. 16:74-2.4(c) was amended to add “preclude additional factors from being considered” and delete “prevent the Board from considering factors other than those set forth in this section” to clarify that the factors listed in this subsection, like the rest of the section, is not limited to the Board.

N.J.A.C. 16:74-2.5(b) was amended to delete the reference to N.J.A.C. “1:1-16.5 and 1:1-16.6” and replace it with “1:1-18.6 and 1:1-18.7” the new citations due to a recodification of the Office of Administrative Law’s Regulations.