

Massachusetts Bay Transportation Authority v. Northeast Corridor Commission

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GOODWIN

PRIIA Section 212

- Northeast Corridor (Boston-Washington)--Amtrak's most profitable line (Acela)
- 2008: PRIIA 212 enacted to address concerns that capital funding for the Corridor is insufficient
 - Generally, Amtrak owns the Northeast Corridor
 - Congress concerned that some States were not paying their fair share for access
- PRIIA 212: created the Northeast Corridor Commission to overhaul funding
 - Half of members appointed and removable by federal DOT/Amtrak, half by governors of States
 - Commission tasked with developing uniform cost-sharing policy to replace terms of existing trackage rights agreements between Amtrak and commuter rail authorities
 - If commuter authority refuses to agree, Surface Transportation Board may enforce
- Cost sharing policy finalized in late 2015, resulted in savings to Amtrak and substantially increased costs for some States
 - Massachusetts: +\$29 million/year
 - Representatives of three States dissented/abstained: Massachusetts, New York, New Jersey

MBTA Lawsuit versus NEC/Amtrak

MBTA had rights that PRIIA 212 simply disregarded

- MBTA had a contract with Amtrak
 - Amtrak is a federal government agency – *DOT v. AAR*
 - In 2003 contract, MBTA traded dispatch priority to Amtrak for free maintenance
 - Congress cannot simply abrogate its agencies' contracts – *US v. Winstar*
- Background law assumes that Amtrak owns the rail and is charging state authorities for access and services
 - MBTA owns the “Attleboro Line,” the track between Boston and Rhode Island
 - Without PRIIA 212, no way for Amtrak to force MBTA to pay for Amtrak to provide services on MBTA's own track
- PRIIA 212 modeled on relationship between Amtrak and freight railroads
 - MBTA is a state entity, cannot have its property commandeered – *Printz v. United States*
 - Congress cannot require access on terms set by federal Commission
- The Northeast Corridor Commission is itself unconstitutional
 - Makes federal law (the cost sharing policy) enforceable by STB
 - But the Commission is not appointed by or answerable to the President – *Free Enterprise Fund v. PCAOB*
 - And Commission has competitors regulating each other – *AAR v. DOT*

MBTA Lawsuit versus NEC/Amtrak

- Complaint filed in January 2016
- Amtrak/NEC moved to dismiss, and Amtrak filed action with the STB to enforce the cost-sharing policy
 - NEC motion to dismiss: no district court jurisdiction because Congress intended fights over PRIIA only to be heard before STB (*Thunder Basin Coal* abstention)
 - MBTA response: STB only has jurisdiction to apply the cost sharing policy, not to adjudicate constitutional claims
- MBTA moved to stay Amtrak's STB action
 - STB cannot consider constitutional claims, and if PRIIA 212 is unconstitutional then nothing for STB to decide
 - STB granted this motion, agreeing that it lacked authority to adjudicate constitutional claims, and that Amtrak's case should wait until after court case
- Eventually, parties agreed to settle
 - MBTA continues to trade dispatch priority for maintenance
 - Deal reduces MBTA obligations by about \$10 million/year from PRIIA cost-sharing formula
 - Possible that same issues could arise between Amtrak and another state, or after expiration of new MBTA-Amtrak agreement

Takeaways for other public transit entities

Issues to consider whenever the federal government “changes the deal”

- Do you have a contract with a federal entity?
 - Need not be formal contact, could be legislative promise that induces reliance
 - *United States v. Winstar*
- Do you have rights as a public body that a private entity would not?
 - Various laws designed to address private entities, uneasy fit to public entities
 - Federal government has greater authority over private entities than public authorities
 - *Printz v. United States*
- Can you avoid adjudication before a federal agency?
 - Do you have a threshold constitutional argument?
 - Important to win the “race to the courthouse”
 - *Thunder Basin Coal*
- Is the federal standard-setting body properly constituted?
 - Politics drive inclusion of state/private commission members, but that makes body constitutionally vulnerable
 - *Free Enterprise Fund*