

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PROCEEDING BEFORE SPECIAL MASTER DONALD T. BLISS

LABOR/COMMUNITY STRATEGY  
CENTER, *et al.*,

Plaintiffs,

vs.

LOS ANGELES COUNTY METROPOLITAN  
TRANSPORTATION AUTHORITY, *et al.*

Defendants.

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) Case No. CV 94-5936 TJH (MCx)  
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) MEMORANDUM DECISION  
) AND ORDER ON SERVICE  
) REDUCTIONS  
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MEMORANDUM DECISION AND ORDER

I. General Introduction

The Consent Decree was entered into voluntarily by the MTA and the BRU to settle litigation alleging that resources were being diverted from the bus system to fund other transportation initiatives including a rail system. The alleged effect was a substantial deterioration of bus service upon which the vast majority of the MTA's overwhelmingly minority ridership at that time depended. The deterioration was reflected in an aging, smaller, mechanically deficient fleet of buses and increased passenger overcrowding. The Consent Decree's overarching purpose was to improve the quality of bus service for transit-dependent bus riders and to ensure that funds were not diverted from buses to fund other transportation initiatives.<sup>1</sup>

<sup>1</sup> The Ninth Circuit explained,

The suit alleged that MTA was spending a disproportionately large portion of its budget on rail lines and suburban bus systems that would primarily benefit white suburban commuters, while intentionally neglecting inner-city and transit-dependent minority bus riders who relied on the city bus system. The lawsuit was triggered by MTA's decision to spend several hundred million

In settling the litigation the parties could not agree on a specific number of additional buses to be added to the fleet. Instead, they agreed upon a formula for reducing overcrowding. *See* Consent Decree at 4 – 6. To achieve the load factor reduction targets, the MTA would need to improve reliability by replacing the aging fleet, improve schedule management and add capacity. It would be self-defeating, however, if the MTA sought to meet the load factor targets on crowded lines by eliminating bus service on less busy lines, thereby adversely affecting the transit-dependent bus ridership that the Consent Decree was designed to protect.<sup>2</sup> Indeed, the Consent Decree specifies that any failure to meet load factor targets shall be remedied by an allocation of resources from outside the bus system. Consent Decree at 5.

Although the Consent Decree sometimes has been depicted as bus vs. rail, it need not -- and should not -- be perceived as such. This is not a range war between the farmers and the cowboys. While experts may debate the utility of rail service in Los Angeles County, which lacks the high density of some urban areas, such arguments are beyond the scope of the Consent Decree. Given the MTA's substantial investment in a rail system, it is apparent today that rail as well as buses provides important transportation services to the transit dependent. Moreover, the efficient integration of bus and rail service is entirely consistent with the Consent Decree.

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dollars on a new rail line, foregoing an opportunity to reduce overcrowding problems on city buses, while at the same time increasing bus fares and eliminating monthly discount passes. In October 1996, after over two years of discovery and just before a trial was scheduled to begin, the parties reached a settlement and submitted to the district court a proposed consent decree that set forth a detailed plan to improve bus service.

*Labor/Community Strategy Center et al. v. Los Angeles Metropolitan Transportation Authority*, 263 F.3d 1041, 1043 (9<sup>th</sup> Cir. 2001).

<sup>2</sup> The term "transit dependent" has been used frequently in proceedings under the Consent Decree, but it has not been defined specifically. The MTA's CEO has expressed discomfort with the term, which admittedly is inadequate to express fully the population protected by the Consent Decree. Nevertheless, in fulfilling its obligations under the Consent Decree, the MTA must take specific actions to ensure that its decisions do not unduly burden public transit riders who have no other reasonably viable transportation alternative to get to places of employment, education and health care, whether because of finances, geographical location or other circumstances. In Los Angeles County, this is an overwhelmingly minority population, for whom minimal standards of mobility, including also the ability to visit family, friends and recreational facilities, are essential to their quality of life.

Nowhere does the Consent Decree expressly require the MTA to forego opportunities to expand and improve the rail system. However, it is the Consent Decree's clear mandate that rail and other transportation programs are not to be funded by diverting resources from the bus system, resulting, once again, in a deterioration of bus service. Nor can the load factor targets be met simply by realigning bus service from less crowded to more crowded lines. There must be a net system wide improvement in bus service.

This proceeding on MTA cuts in bus service, therefore, goes to the heart of the Consent Decree. The MTA cannot eliminate or reduce bus service in ways that adversely affect the transit-dependent ridership to meet the load factor targets on overcrowded lines, to fund new rail systems, or solely to meet budget constraints (at least when similar constraints are not placed on other transportation initiatives.) Improvement of the bus system must continue to be a top priority in the use of bus-eligible funds. That goal was the MTA Board's "highest priority" when the Consent Decree was adopted, and it must continue to be so now. *See* Consent Decree at 3.

## II. Background and Procedural History

A recurring issue in this litigation has been to what extent the MTA may fulfill its obligations under the Consent Decree, or manage its budget, through substantial service modifications, including line cancellations, within the bus system. During the .25/1.20 Remedial Load Factor proceeding, the issue arose as to whether the MTA may meet its load factor compliance obligations by shifting bus resources around the system to overcrowded lines. The Special Master set forth guidelines on when the MTA may utilize service reductions (discussed at length below), but the BRU pressed for a detailed analysis as to whether the MTA had followed those guidelines in past reductions, and whether the MTA's current criteria for

implementing efficiency-producing service reductions, as articulated in the Transit Service Policy, are consistent with the Consent Decree.

In the Memorandum Decision II and Final Order on Remedial Service Plan to Meet 1.25 and 1.20 Load Factor Target Requirements (January 12, 2004) (“Memorandum Decision II and Final Order”), I directed the JWG to review “significant service reductions” as well as the MTA’s criteria contained in the Transit Service Policy:

**5. Evaluate reductions in service**

To address whether significant service modifications (such as curtailments, cancellations, or reallocations of bus service) that are used to meet the load factor targets are in compliance with the Consent Decree, the JWG shall:

- (a) Review the following issues and agree upon recommendations, if any, to the MTA:
- Appropriateness of the criteria set forth in the MTA’s Transit Service Policy, or other criteria proposed by the MTA, used to modify or curtail significantly existing bus service in meeting Consent Decree obligations;
  - Whether significant service curtailments proposed to meet Consent Decree obligations are justified independently on the basis of such objective criteria;
  - Effect of such service curtailments on transit-dependent riders; and
  - Adequacy of steps taken to mitigate any adverse effect of such service curtailments on transit-dependent riders.
- (b) Taking into account the issues set forth in (a) above:

Analyze whether MTA’s proposed service modifications (involving reallocation of 30 buses and 70,000 revenue hours) will adversely impact the transit dependent and, if necessary, recommend service adjustments to address these adverse impacts; and

Review any past or proposed significant reductions in service that have been allocated to load factor reduction, review the impact of such service changes on the transit dependent, and, if necessary, recommend service adjustments.

Final Order at 6-7.



The JWG, however, was unable to reach agreement on a joint recommendation.

A conference call with the parties was held on September 1, 2004. Procedural Order (September 2, 2004) at 1 ("September 2<sup>nd</sup> Procedural Order."). In order to limit further analysis to the most important and controversial service reductions, I then directed the parties and the JWG to review ten (10) past service modifications (selected by the BRU), as well as the service modifications referenced in ¶5(b)(1) of the Final Order (involving the reallocation of 30 buses and 70,000 revenue hours). This limited review of a total of 13 lines was to take into account both the criteria outlined in ¶ 5 of the Final Order (quoted above) and additional criteria suggested by the BRU, including:

- an identification of the bus line or route affected and a description of the service cut;
- the specific MTA policy utilized in making the service cut;
- the amount of resources associated with the service cut;
- the number of bus riders impacted by the service cut, categorized by the type of impact (e.g. increased waiting and travel times);
- whether access to educational, medical and employment centers was hindered by the change;
- whether countywide mobility was hindered by the change; and
- whether the cut created an adverse impact or burden on the transit dependent.

September 2<sup>nd</sup> Procedural Order at 2 *citing* Letter from Eric Mann and Layla Welborn to the Special Master dated August 25, 2004. directed the JWG to complete its analysis of the service modifications by October 15, 2004. *Id.* at 3 – 4.

Although the MTA provided the BRU with some information on the selected service modifications, the parties continued to disagree on whether that information was sufficient for the 13 lines selected for review.<sup>3</sup> therefore clarified each party's obligations, and given the

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<sup>3</sup> The 13 lines selected by the parties are Lines 105, 107, 188, 209, 250/253, 270, 401, 471, 483, 561, 418, 426, and 720.

likelihood that the JWG would not reach an agreement on recommendations, allowed the BRU to “present testimony or analysis from its own experts and/or transit-dependent riders...about the effect of the service reductions on actual ridership experience.” Procedural Order Re JWG Review of Service Reductions dated December 3, 2004 at 11 – 12.

The following relevant documents and pleadings are currently before the Special Master:

- Letter from Roderick T. Goldman to Layla Welborn dated October 29, 2004 (enclosing a packet of information on the service modifications)(“October 29<sup>th</sup> Packet”)
- Letter from Roderick T. Goldman to Layla Welborn dated January 5, 2005 (enclosing an update of information on service modifications)
- Letter from Roderick T. Goldman to Special Master dated February 10, 2005 (describing MTA mitigation strategies on Lines 611, 761, and 607) (“February 10<sup>th</sup> Letter”)
- Declaration of Edward Clifford re Comments on MTA Transit Service Policy by Tom Rubin (“Clifford Decl.”) dated February 9, 2005
- Plaintiffs’ Memorandum Opposing MTA’s Severe and Ongoing Cuts in MTA Bus Service and Supporting the BRU’s Plan to Remedy Adverse Impact dated February 10, 2005 (“BRU Memorandum”)
- BRU Evaluation of MTA Service Cuts & Transit Service Policy & Plan to Remedy Adverse Impact dated February 10, 2005 (“BRU Evaluation”)
- Declaration of Thomas A. Rubin Opposing MTA’s Severe and Ongoing Cuts in MTA Bus Service and Supporting the BRU’s Plan to Remedy Adverse Impact, attached Thomas A. Rubin, Concerns and Comments re September 2003 Transit Service Policy (“Rubin Expert Report”)
- Declaration I of Layla Welborn Opposing MTA’s Severe and Ongoing Cuts in MTA Bus Service and Supporting the BRU’s Plan to Remedy Adverse Impact (“Welborn Decl. I”)
- Declaration II of Layla Welborn Opposing MTA’s Severe and Ongoing Cuts in MTA Bus Service and Supporting the BRU’s Plan to Remedy Adverse Impact (“Welborn Decl. II”)

### **III. Service Reduction and Restructuring Precedent**

In considering the parties’ analysis of service cuts, I have taken into account the extensive precedents on service reductions and modifications already established under the Consent Decree

A Night Owl Decision (March 2, 1998)

The Special Master addressed the MTA's ability to restructure bus service to accomplish budgetary goals in the Memorandum Decision and Recommendations of the Special Master in re Late Night and Owl Service Modifications dated March 2, 1998 ("Night Owl Decision.") The Night Owl Decision evaluated the propriety of service cancellations and reductions on 15 owl service lines (offering service between midnight and 5 a.m.) and seven late night lines (offering service between 9 p.m. and midnight) placed into effect in December 1997. Night Owl Decision at 2. The service reductions were aimed at achieving a savings of \$1 million in fiscal year 1998 *Id.* at 1. The MTA argued that the Consent Decree did not explicitly prohibit "reductions in bus service or other restructuring efforts designed to enhance productivity and efficiency." *Id.* at 2. I agreed. However, while the Consent Decree does not prohibit efficiency-producing service reductions, it would be contrary to the Consent Decree for the MTA to eliminate or reduce bus service that disproportionately disadvantaged the transit dependent solely for budgetary reasons. Instead, any service restructuring must be part of an overall program to improve bus service for transit-dependent riders:

MTA is correct that there is no specific provision in the Consent Decree that prohibits MTA from changing schedules to achieve efficiency and productivity enhancements...However, it is not consistent with the Consent Decree for MTA to implement service reductions solely for budget-related reasons if such service reductions disproportionately adversely affect transit-dependent riders without, at the same time, implementing an adequate mitigation strategy. Nor is it consistent with the Consent Decree, in the absence of demonstrated overall bus service improvements, to allow access to employment by the most transit-dependent population to deteriorate as the direct result of the restructuring of bus service.<sup>4</sup>

If MTA had shown that a restructuring of bus service would have resulted in productivity and efficiency enhancements that are necessary to achieve a comprehensive plan that will bring about an overall net improvement in bus

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<sup>4</sup> See also 1.25/1.20 Memorandum Decision and Proposed Order at 53

service to the transit dependent, then the fact that some riders may lose service or be greatly inconvenienced would not necessarily be inconsistent with the Consent Decree. But that is not the case here. MTA confines its argument here to the monetary savings that will be achieved as a result of the elimination of bus lines that are not heavily utilized and its conclusion that it has only been shown that transit-dependent bus riders will be inconvenienced but not that they will suffer actual job loss. This reasoning, however, is insufficient to discharge MTA's obligations under the Consent Decree.

Night Owl Decision at 15.

While the MTA was not required to reinstitute the reduced and cancelled service, it was directed to implement "mitigation strategies that would alleviate employment-related hardships imposed upon transit-dependent bus riders as a result of the late night and owl service reductions plans."<sup>5</sup> *Id.* at 16.

B. District Court Decision (September 23, 1999) and the Remedial Methodology Order (September 9, 2002)

During the 1.35 load factor proceedings, the Honorable Terry J. Hatter issued a Memorandum Opinion and Order directing the Special Master to consider further whether the MTA was capable of meeting the 1.25 load factor target:

[The Special Master should] consider, with the input of the Joint Working Group, the MTA and the Bus Riders, other capacity increasing measures beyond the purchase of additional buses. For example, *the Special Master should consider the movement of buses from less crowded lines to more crowded lines, and the possibility of reducing or eliminating MTA service to those municipalities served by the sixteen municipal bus lines that offer overlapping service to the service provided by the MTA.*

Memorandum Opinion and Order dated September 23, 1999 at 5 ("District Court Decision")(emphasis added.)

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<sup>5</sup> At the time of the Night Owl proceeding, the MTA had already implemented some mitigation strategies, including the operation of one-way loops and the retention of bus lines close to the cancelled lines. Night Owl Decision at 16. However, I suggested the MTA consider other mitigation strategies, such as "taxi service, vouchers, on-demand service, vans, mini-buses, shuttle service, restructured or rescheduled bus routes or other cost-efficient transportation services." *Id.*

As directed by the District Court, I adopted a remedial methodology for meeting the 1.25 and 1.20 load factor load factor targets that considered “alternative remedies to adding expansion buses...in order to address overcrowding conditions in an effective and multifaceted way that accounts for the complexities of urban transit.” Memorandum Decision and Order on Remedial Methodology; Meeting the 1.25 and 1.20 Load Factor Targets at 24-25 (December 9, 2002)(“Remedial Methodology Order.”). These alternative remedies, as set forth in the Remedial Methodology Order, included improved coordination with municipal operators, reallocation of buses from less crowded lines to more crowded lines, the use of higher capacity vehicles, efficient scheduling techniques, improved on-street supervision, technological innovation, and re-routing of bus lines. *See id.* at 27, 42, 43, 53.

C. Memorandum Decision and Proposed Order (September 5, 2003)

During the 1.25/1.20 Remedial load factor proceeding, I considered the appropriateness of the MTA’s utilization of service modifications (which encompassed service reductions on some lines) to alleviate overcrowding on other bus lines. *See generally* Memorandum Decision and Proposed Order on Remedial Service Plan to Meet 1.25 and 1.20 Load Factor Target Requirements (September 5, 2003) (“Memorandum Decision and Proposed Order.”) Specifically, the MTA proposed reallocating the equivalent of 30 buses and 70,000 revenue hours from routes with low ridership to “overcrowded, high-demand bus lines.” *Id.* at 53.

After considering the precedents of the District Court Order and the Remedial Methodology Order, I explained that such service changes require “an adequate showing by the MTA that such corrective actions will alleviate overcrowding on specific bus lines without unduly diminishing existing service to the transit-dependent.” *Id.* at 52 *citing* Remedial Methodology Order at 53-54. Additionally, I emphasized the principle articulated in the Night Owl Decision that service restructuring is only appropriate as part of an overall plan to enhance

bus service for the transit dependent. *Id.* at 52-53 citing Night Owl Decision at 4 then concluded, “any evaluation of the impact of service modifications on the transit-dependent should take into account whether access to jobs, education, and health centers for the transit-dependent is improved or hindered. *Id.* at 53

After analyzing the MTA’s proposal and the parties’ arguments, I found the MTA’s proposed service modifications to “fit within the context of an overall Remedial Plan designed to improve bus service through a reduction in overcrowding” and therefore to be appropriate *Id.* at 53-54. Accordingly, the Proposed Order enabled the MTA to implement service reductions freeing up the equivalent of 30 additional buses for overcrowded lines. Proposed Order at 2. However, I further proposed that the JWG review the MTA’s proposed service reductions and past route restructurings, in order to determine whether the transit dependent had been adversely impacted. Proposed Order at 3-4

D. Memorandum Decision II and Final Order (January 12, 2004)

In the Memorandum Decision II and Final Order, I considered the parties’ arguments on the MTA’s proposal to utilize service reductions to provide the equivalent of 30 buses on overcrowded bus lines. *Id.* at 8 – 21. Although I again concluded the MTA’s proposal was allowable under the Consent Decree, I refined further the standard applicable to the MTA’s service reductions and directed the JWG to apply this standard to historical service restructurings. *Id.* at 20 – 21 Final Order at 3, 6-7. It is that review and analysis that is at issue in this memorandum.

The Memorandum Decision II and Final Order established the following test for when the MTA may utilize efficiency-producing modifications for load factor reduction purposes:

[I]n accordance with the intent and meaning of Section II.A.4. of the Consent Decree, efficiency-producing modifications to scheduled bus service appropriately may be applied to reduce overcrowding when two factors are met:

(1) such service reductions are *independently justified on the basis of objective efficiency and resource allocation criteria*; and (2) *the transit-dependent are not adversely impacted*.

Memorandum Decision II at 17 (emphasis added); *see also* Final Order at 6 – 7.

In elaborating upon the “adverse impact” prong, I explained,

In order to fulfill the fundamental purpose of the Consent Decree to improve bus service to the transit-dependent, the MTA bears the burden of demonstrating that any such bus service modifications will not adversely affect existing service or impose additional burdens.

*Id.* at 13. (discussing reallocation of funds from the bus budget) (citations omitted.)

The MTA argued that the application of the Transit Service Policy satisfied the objective and adverse impact criteria. *Id.* at 19. I expressed concern, however, that the MTA was not entirely clear as to how it applied the Transit Service Policy to the contested service cuts. *Id.* Moreover, the BRU raised two additional and important issues. First, the BRU argued that the Transit Service Policy criteria were not appropriate for guiding service reallocations made to reduce load factors. *Id.* at 19 – 20. Second, the BRU pointed out that the MTA was planning a large number of future service reductions. *Id.* at 20. Given these concerns, in the Final Order, I directed the JWG to review specific service reductions that were part of a service reallocation to meet load factor targets.<sup>6</sup>

Although I emphasized the importance of the JWG’s review of these service reductions and the Transit Service Policy, it was not my intention to “immerse the JWG in the MTA’s ongoing responsibility to make schedule changes and service modifications that improve system efficiency and reflect changing demographics.” Memorandum Decision II at 20. Instead, the MTA bears the responsibility and burden for “demonstrating that any such bus service

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<sup>6</sup> See full text of ¶5 of the Final Order at 4 above.

modifications will not adversely affect existing service or impose additional burdens on MTA ridership." *Id.* at 13.

#### IV. Transit Service Policy (January 27, 2005)

The MTA Board approved the updated Transit Service Policy on January 27, 2005 ("TSP").<sup>7</sup> See Los Angeles Metropolitan Transportation Authority, Recap of Proceedings for Regular Board Meeting dated January 27, 2005, attached to Welborn Decl. II at Exhibit 4. The MTA Staff describe the updated policy as "directed at improving service quality and operational efficiency, improving the timeliness of public notification, and incorporating performance targets from the FY2005 budget into the program review and monitoring process." MTA Staff Memorandum to Operations Committee re Metro Transit Policy Update dated January 20, 2005, attached to the Welborn Decl. II as Exhibit 5.<sup>8</sup>

The TSP clearly sets forth its purpose:

The purpose of the policy is to guide decision-making during the service change process and ensure fair and consistent evaluation of service. It calls for service adjustments that best meet customer needs and expectations within the constraints of the budget and equipment availability. For the public, the policy communicates agency priorities and initiatives.

TSP at 1. The TSP also identifies three "guiding principles": (1) increasing ridership; (2) improving service quality; and (3) using resources wisely. *Id.* at 1 – 2.

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<sup>7</sup> The historical service modifications reviewed by the parties and the JWG were actually guided by the Transit Service Policy dated September 2003, attached to the Welborn Decl. II as Exhibit 3 ("2003 TSP"), the Consolidated Transit Service Policies reissued March 1, 1993, attached to the Welborn Decl. II as Exhibit 11, and the Bus/Rail Interface Design Guideline Manual. See Policy Criteria chart, attached to the October 29<sup>th</sup> Packet. Where appropriate, I discuss the past policies. However, given that the updated Transit Service Policy currently guides MTA decision-making on service modifications, it is appropriate to evaluate whether it satisfies the requirements of the Consent Decree and the Memorandum Decision II and Final Order.

<sup>8</sup> Attachment 2 to the TSP summarizes the key changes made to the 2003 version of the Transit Service Policy. Among the changes, the 2005 TSP revised bus stop spacing guidelines, established Metro Rapid service warrants, recalculated the Route Performance Index with updated budget targets, and adjusted the frequency of service levels. TSP, Attachment 2 at 1.



Several components of the policy have generated substantial discussion between the parties, which I summarize and discuss in turn below. In summary, the MTA maintains that the updated Transit Service Policy, as well as its predecessor, has produced historical service changes that were “appropriate and meet the criteria set by the Special Master.” According to the MTA, service changes made pursuant to the TSP were “based on objective criteria and measures were taken to mitigate the impact on the transit-dependent.” February 10<sup>th</sup> Letter at 1. In opposition, the BRU argues: (1) the TSP is budget-driven and not designed to improve service for the transit dependent; (2) the TSP criteria heavily favor overcrowded bus lines in violation of the load factor requirements of the Consent Decree; (3) bus service cuts are not consistently and objectively applied; and (4) service modifications have created a “devastating” adverse impact on the transit dependent. BRU Memorandum at 4.

This section addresses whether the TSP criteria are consistent with the Consent Decree when applied to reductions in service intended to meet load factor targets, divert resources to non-bus initiatives, or meet budget constraints. Specific line-by-line service reductions, as evaluated by the parties, are discussed in Section V below.

A. Service Frequency

The TSP establishes a frequency goal of at least 30 minutes,

All bus routes shall provide at least a 30-minute service during weekday rush hours, as resources permit. Routes that cannot support this level of service shall be modified or operated by other means.

TSP at 2, 11. For Metro Local service, the maximum defined headway is 30 minutes during peak hours, and 60 minutes during midday, evening/owl, and weekend hours. *Id.* at 11. The policy states, “[l]ines that cannot support the 30-minute service may be modified, cancelled, or operated by other means, subject to the approval of the Sector Governance Council.” *Id.*

The BRU expresses two concerns with the TSP's 30-minute service frequency standard. First, the BRU argues that although the 30-minute maximum headway is described by the MTA as a service improvement, in practical terms the standard operates to encourage the cancellation of service rather than the improvement of service. The BRU points out that 12 of the 38 bus lines listed in the 2003 Transit Service Policy with trunk headways greater than 30 minutes were subject to recent service reductions. BRU Evaluation at 6 (questioning the policy underlying the maximum headway standard). *See also* Rubin Expert Report at 6.

In evaluating the service improvement aspect of the frequency standard, the BRU argues that the TSP creates a disparity between bus service and rail service. While the bus service standard is 30 minutes during peak hours and 60 minutes during off-peak hours, the rail service standard is 5–12 minutes peak and 7–20 minutes off-peak.<sup>9</sup> BRU Evaluation at 4. Although the BRU acknowledges that the MTA regularly operates buses more frequently than every 30 minutes, it argues, “nonetheless, the inferior standards for bus service exemplify how the Transit Service Policy codifies the implementation of MTA’s rail priorities over bus service for the transit dependent.” *Id.* The BRU emphasizes that while the service frequency guidelines for bus routes are “based on demand,” the rail guidelines are set to achieve “a reasonable, attractive level of service” in addition to being responsive to rider demand. In other words, the BRU argues that rail service is designed to encourage ridership, while bus service is based only on demand. *Id.* at 3 – 4.

The BRU appears to be arguing that, from a service improvement perspective, bus and rail service frequency standards should be equivalent. From an efficiency and service reduction

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<sup>9</sup> In its FY 2005-06 budget proposal, the MTA apparently is considering lengthening the time between trains by a few minutes and reducing the number of rail cars on some runs. *See* “MTA To End Some Midnight Runs,” Los Angeles Times, May 12, 2005, at B4.

standpoint, the BRU argues that the 30-minute standard should not be utilized to justify widespread service reductions in bus service.

The MTA offers three arguments to counter the BRU concerns. First, the MTA explains that the 30-minute standard is not arbitrary but based on the results of customer satisfaction survey data. Clifford Decl. at 5 (“[o]ur customers do not find services with headways greater than 30-minutes attractive.”) Second, the MTA points out that Section 2.5 of the TSP contemplates serving smaller markets, including those that cannot support 30-minute headways, with van, contracted, and taxi services, as well as scrip programs and BDOF operators. *Id.* Lastly, the MTA emphasizes that the 30-minute standard does not mandate service modification or cancellation, providing instead that final service modification decisions are left to the Sector Governance Council. *Id.* at 7.

I find that TSP’s service frequency standard, as written, satisfies the first requirement of the Memorandum Decision II and Final Order’s service modification test. As articulated in the TSP, the 30-minute service frequency standard is not designed solely to secure resources for load factor reduction (as prohibited by the Memorandum Decision II and Final Order) or primarily due to budget constraints (as prohibited by the Night Owl Decision.) Instead, the MTA asserts that it has evaluated customer survey data and established 30-minute maximum headways as independently justified on the basis of objective criteria, thus satisfying the first prong of the Final Order’s requirement. In applying the service frequency standard to bus service with low ridership, the MTA should consider whether more frequent service, targeted marketing of the service or better communication with potential riders would make the service more attractive to transit-dependent riders.

When the application of the service frequency standard results in cancelled lines or service reductions, however, it is not clear that the TSP has always been applied effectively in evaluating and mitigating adverse impact experienced by transit-dependent bus riders. Section 2.5 does provide that alternative service options should be evaluated for lines not performing according to the TSP's articulated standards.<sup>10</sup> In addition, after further evaluation, the Sector Governance Council has the final decision on whether service on the affected line should be modified or cancelled and may take steps to mitigate adverse impact. Nevertheless, given the practical evidence presented by the BRU that lines with trunk headways greater than 30 minutes are often subject to service reductions, which have resulted in adverse impact on transit-dependent riders, *see* below at Section V., the MTA needs to clarify this standard and the practical application of it, so that service reductions are not made in order to reallocate resources to load factor reduction or fund non-bus initiatives without a full and careful evaluation of the adverse impact on the transit dependent and a specific plan to mitigate such effects.

**B. Span of Service**

Sections 2.15 and 4.2 of the TSP govern the span of service hours for bus routes:

Service	Weekdays	Weekends
Express	peak hours	none
Metro Rapid	5 a.m. – 9 p.m.	6 a.m. – 9 p.m.
Local	5 a.m. – 11 p.m.	6 a.m. – 9 p.m.
Feeder/Shuttle for Metro Rail	5 a.m. – 9 p.m.	6 a.m. – 9 p.m.

TSP at 16.

<sup>10</sup> Section 2.5 provides,

Alternative service delivery options are other methods of providing service other than a standard transit bus that is directly operated by a Metro employee. These options include van service, taxicabs, flexible destination operations, contracted services, scrip programs and beginning tier/wages operators. When designing new services or assessing marginally performing existing services, each of these delivery options should be considered.

TSP at 8 (emphasis added.)

The BRU complains that the rail standards, contained in Section 4.2 of the TSP allow for a greater span of service for rail lines. The span of service for light rail (the Blue, Green, and Gold lines) is from 3:50 a.m. to 2 a.m. (on both weekdays and weekends) and for heavy rail (the Red line) is from 4:30 a.m. to 1:30 a.m. *Id.* at 24. The BRU argues that when comparing local bus lines to rail service, the TSP provides for three to four fewer hours of service on weekdays and six to seven fewer hours of service on weekends.<sup>11</sup> BRU Evaluation at 4. The MTA does not directly respond to the BRU's concern. Section 2.15, however, emphasizes that "individual bus routes or rail lines are ultimately based on demand and resource availability." *Id.* For example, 18 of the "busiest" local lines provide 24-hour a day service, and certain express routes operate outside of peak hours and on the weekends. *Id.*

The TSP sets forth several additional criteria to be used to determine span of service for specific bus or rail lines. For example, Section 2.15 states that "existing ridership and productivity levels, span of service on connecting and alternative services with expanded service, resource availability, customer requests, and the hours of operation of major job sites or activity centers along the alignment" are considered when evaluating the appropriate span of service for a specific bus route. TSP at 16. Rail criteria for span of service similarly include ridership demand, the hours of key activity centers, and system connectivity. *Id.* at 24. I find that the decisions made by the MTA based on the TSP's span of service criteria would appear to be independently justified on the basis of objective criteria as contemplated by the first prong of the service modification test.

Again however, given the evidence presented by the BRU, *see* below at Section V., it is not clear that in practical application the MTA sufficiently considers the "adverse impact" prong,

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<sup>11</sup> The MTA apparently has recently proposed to reduce somewhat the span of service for rail in its proposed budget for FY 2005-06. *See* "MTA To End Some Midnight Runs," Los Angeles Times, May 6, 2005, at B4.

which could come into play, as it did with the Night Owl Decision, when the transit-dependent riders rely upon transit service to get to night jobs or classes during evening hours generating lower ridership demand. Presumably, under the TSP's span of service standards, the hours of operation are set, or modified, according to the listed criteria. The TSP should therefore include an effective mechanism for evaluating and mitigating the potential adverse impact experienced by the transit dependent who rely on transit service outside of the span of service hours to get to places of employment, education, or health care. In other words, the MTA needs to do more than simply consider the impact; it should take appropriate action to mitigate it.

C. Elimination of Duplicate Service

There are two TSP provisions raised by the parties that address the elimination of bus service when it is deemed to be duplicative. Section 2.6, entitled "Bus/Rail Interface Guidelines" provides, "[c]ompeting limited stop and express service, which parallel the rail corridor, will be discontinued when duplication exists." TSP at 8. Additionally, Section 2.8 provides:

Service duplication occurs when two or more bus routes operated by one or more carriers serve the same roadways in a transit corridor.

In some instances duplication is desirable and unavoidable, due to the presence of activity centers or the lack of alternate routing options. However, duplication is not desirable in those instances where it is avoidable and it results in either sub-optimal resource utilization or passenger confusion caused by different fare structures applied to the same set of origin/destination pairs.

TSP at 10 – 11. In short, Section 2.6 states that limited stop and express lines deemed duplicative of rail lines are to be discontinued, and Section 2.8 focuses on reducing avoidable duplication with other carriers (i.e. municipal bus operators.) The BRU argues that there are significant problems with the TSP's duplication provisions in both instances.

With regard to the bus/rail interface guidelines, the BRU complains that Section 2.6 is an example of a provision in the TSP that “[has] no pretense of improving bus service – [it] simply establish[es] guidelines for where to look in the bus system to cut resources.” BRU Evaluation at 6. The BRU’s expert explains, “[t]here is an unstated assumption that, wherever bus and rail service operate what appears to be duplicate service, and the duplication is to be eliminated, it is the bus service that will be deleted. In fact, there are cases where it is the rail service that should be eliminated.” Rubin Expert Report at 8 – 9 (discussing the Metrolink and Antelope Valley Transit Authority’s service to north Los Angeles County).

The MTA responds that redundant services are not cost-effective, and “[b]us service is eliminated because it is more flexible and rail offers a higher quality of service. From a customer’s perspective, rail is more comfortable, faster, and offers better on-time performance.” Clifford Decl. at 6.

In considering Section 2.8’s preference to avoid duplication with other carriers, the BRU expresses two concerns. First, the BRU takes issue with what the MTA defines as duplication, arguing that a so-called “duplicate” route should not be eliminated if the result is “inferior service options” such as longer wait and/or travel times, additional transfers, increased fares, and additional walking distances. BRU Evaluation at 6.

Second, the BRU contends that when the MTA considers eliminating duplicative service, there is no policy to ensure the provision of: (1) the same origin/destination links, (2) similar route coverage, (3) the same span and frequency of service, and (4) equal or lower fares. BRU Evaluation at 6. *See also* Rubin Expert Report at 6 – 8. The BRU cites the example of Line 188, which was cancelled in June 2003 because it duplicated the Pasadena ARTS Shuttle. However, the ARTS Shuttle: (1) offered five hours less service on the weekdays and 8 – 11 fewer hours on

weekends, (2) provided service in only one direction on a portion of the line, (3) did not provide service on the eastern three-fourths of the route, and (4) added an additional transfer. BRU Evaluation at 6 – 7.

The MTA points out that Section 2.8 acknowledges there are circumstances where service duplication is “beneficial and/or unavoidable” but seeks to avoid inefficient use of resources and passenger confusion. Clifford Decl. at 6.

Section 2.8 establishes a policy that is independently justified on the basis of objective criteria. The policy recognizes that there are cases where service duplication is appropriate, yet seeks to eliminate duplication where it is not beneficial and can be avoided. Importantly, the policy is consistent with the District Court Decision, which encouraged the MTA to consider reducing or eliminating service to areas served by municipal operators. *See* District Court Decision at 5.

Section 2.6, however, raises some additional concerns. Under the TSP, express or limited stop bus lines deemed to “compete” with rail service are considered duplicative. As written, it is not self-evident that this policy is clearly independently justified and objective – it appears to be a preference for rail service over bus service. However, several factors weigh in the alternative. First, Section 2.6 is limited to express and limited stop service, not local service. Second, bus routes are obviously more flexible than train tracks; it is therefore far easier for the MTA to modify bus service than rail service. Lastly, all of the previous decisions on service modifications have emphasized that the underlying goal of the Consent Decree is to provide an overall improvement in service for the transit dependent. As I emphasized above, the efficient integration of bus and rail services benefits the transit dependent. For the most part Section 2.6 provides for the efficient integration of bus and rail service, minimizing waiting time for



intermodal transferees and encouraging route modifications that link the two systems together efficiently. Therefore, on balance, I have concluded that Section 2.6 satisfies the first prong of the service modification test.

The BRU raises important concerns, however, about the negative effect the duplication provisions may have on the transit dependent on certain lines. As with the TSP's standards for frequency and span of service, there is no concrete provision that ensures sufficient evaluation and mitigation of adverse impact on transit-dependent riders. The MTA should have an effective mechanism that addresses this issue before it eliminates "duplicative" service. Moreover, the MTA should validate its assertion that the customer perceives rail to be a higher "quality" service than bus service. Before relying upon such an assertion in eliminating duplicative bus service, the MTA should ensure that its conclusion is based on customer survey data relating to specific lines and not rely solely on internal MTA priorities.

D. Route Performance Index

The Route Performance Index ("RPI") explained in Section 3.3 and Appendix C of the TSP is the subject of substantial controversy between the parties. It therefore warrants further analysis.

First, bus lines are compared to other lines in their service category, which include Metro Express, Metro Rapid, Metro Local, and Metro Rail/Feeder Shuttles. TSP at 19.

Second, there are three factors used to ascertain a line's RPI:

- *Utilization of Resources*: This measure determines how effectively resources are being used and is calculated by dividing the total number of boardings on the line by the service hours operating. The TSP explains, "[r]outes having a higher number of passengers per hour represent a better utilization of resources such as buses, operators, and fuel." TSP at 18.

*Utilization of Capacity:* This factor is a measure of passenger miles per seat miles. It is used to determine how well the seating capacity of the bus system is being used.

Passenger miles is calculated by multiplying the average distance traveled per passenger by the number of passengers. Seat miles is calculated by number of seats per vehicle by the number of service miles operated. *Id.*

*Fiscal Responsibility:* Subsidy is the amount of public funding required to cover the difference between the cost of operation and the passenger revenues collected.

Third, the RPI standard for each service category is formulated through a combination of the average **performance** for all factors in each service category. Performance targets are adjusted based on the annual budget. TSP at 47. Each bus line is then evaluated and assigned RPI, with a score of “1” representing the standard (average) for that category. *See id.* at 48 (explaining the mechanics of the RPI analysis).

Lastly, the TSP provides that routes with an RPI lower than 0.6 are defined as “performing poorly” and “targeted for corrective action.” *Id.* at 19. Bus lines are evaluated annually, and those not meeting the performance standard after a year will be subject to “corrective actions” which include marketing, service restructuring, alternative service, and elimination of service. *Id.* at 2, 18. Those lines not meeting the standards after 8 months may be cancelled. TSP at 2.

The BRU advances four main **complaints** with the RPI process: (1) it is **budget-driven**, not service-driven, and (2) the RPI favors overcrowded lines and these lines skew the service category average upwards, (3) the RPI standard is **designed** to become increasingly stringent over time, and (4) the RPI process does not protect against adverse **impact** on the transit dependent.

## 1. The RPI's Budget Component

The BRU argues that the RPI is budget driven because both the subsidy per passenger boarding measurement and passenger boardings per revenue hour measurement are adjusted for the current year's budget. BRU Evaluation at 8.<sup>12</sup> For example, the FY 2005 target subsidy per bus rider is \$1.40 (compared to \$2.91 for light rail and \$1.52 for heavy rail). FY05 MTA Adopted Budget at III-6 and III-8, attached to Welborn Decl. II as Ex. 6. The BRU's expert adds the argument that in budget constrained times, the MTA should be making decisions to achieve "the most effective allocation of available resources" that benefits "the greatest good for the greatest number." Rubin Expert Report at 3.

## 2. Favoring of Overcrowded Lines

Next, the BRU argues that the RPI mechanism favors and rewards overcrowded lines, directly contrary to the load factor reduction provisions of the Consent Decree:

The RPI effectively sets up a performance standard that competes with the Consent Decree load factor standard. The more overcrowded a bus line is, the better it performs according to each of the RPI performance measures...the heavier the ridership of a bus line, the higher it will perform according to each of the RPI performance measures. As a result, the performance standard for each type of bus service is driven upwards by the most overcrowded bus lines.

BRU Evaluation at 9. This skewing effect may encourage the elimination of lines that are meeting load factor targets and the retention of those that are not.

The MTA responds that the BRU exaggerates the effects of the RPI measurement, since it is just one component of the TSP. Specifically, the MTA argues that a line with a low RPI simply requires "corrective action." Discontinuation of service is just one possibility (and only when approved by the Sector Governance Council). Clifford Decl. at 3. The MTA cites the fact

<sup>12</sup> Appendix C of the RPI states, "[t]he index is based on system ridership and financial targets from the FY 2004 Operating Budget." TSP at 46. Additionally, computing the standard involves, "[o]btaining the budget performance measurement targets for FY 2004, and increasing the average category performance measurement by the percentage increase established for that measure." *Id.* at 47.

that between June 2003 and December 2004, the annual number of service hours has increased from 6.7 million to 7.1 million and the number of bus lines has only decreased by 1 (from 165 to 164). Clifford Decl. at 3.

The BRU argues that all five of the five highest performing local lines in the FY 2005 RPI have “widespread recorded peak period load factor violations” Welborn Decl. II at Ex. 16. *See also* BRU Evaluation at 9 (*citing* Line-by-Line Mapping for Lines 18, 105, 111, 204, and 207, attached as Welborn Decl. II at Ex. 17.) Line 204 had the lowest subsidy per passenger, yet had “93 recorded peak period lack of capacity load factor violations at just one location in calendar year 2003.” *Id.* at 9 – 10 (*citing* BRU Ex. 17, Mapping for Line 204). The BRU maintains that overcrowding exists even on lines performing at the RPI standard: Line 180, rated as 1.0 on the FY05 RPI, has exhibited “consistent[]” overcrowding. BRU Evaluation at 10 (*citing* BRU Ex. 18, Mapping for Line 180).

I will note at this point that load factor overcrowding persists on at least some of the lines the MTA has identified as performing at or above the RPI standard. The TSP cites two local lines performing at or above the RPI in Appendix C – Lines 2 and 207. Line 2 has an RPI rating of 0.9 in the TSP, which is slightly below average. TSP at 48. Yet, there has been significant evidence of overcrowding on Line 2. From my review of the load factor mapping for 2004, Line 2 had 18 exceedences in the first half of 2004 and 17 in the second half due to lack of capacity and schedule adherence at the Sunset/Echo Park and Sunset/Western checkpoints during the weekday peak hours. Line 2 had 49 exceedences in all of 2004 (including those the MTA attributes to missed trips.) For the first quarter of 2005, Line 2 already had 22 exceedences at the Sunset/Echo Park and Sunset/Western checkpoints during weekday peak hours.

Line 207 has an RPI rating of 1.80, which is three times the 0.6 minimum performance index. TSP at 48. However, it also has evidence of overcrowding. Line 207 had a total of 53 exceedences in 2004 during the weekday peak hours (including those the MTA attributes to missed trips) at the Western/Wilshire checkpoint. Specifically, Line 207 had 19 exceedences in the first half of 2004 and 13 exceedences in the second half due to lack of capacity and schedule adherence. There have already been 20 exceedences on Line 207 during weekday peak hours for the first quarter of 2005.

One additional example is Line 20, which had an RPI rating of 1.00 in 2003. Chart entitled "MTA Line Performance Index – May 2003," attached to Welborn Decl. II at Ex. 19 ("FY 2004 RPI"). Given its RPI rating of 1.00, Line 20 is exactly at the standard as a performer. However, Line 20 had 34 exceedences during 2004; there were 26 exceedences that the MTA attributed to schedule adherence and lack of capacity during the weekday peak hours. Overcrowding on Line 20 seems to be improving somewhat; the load factor mapping showed only 2 exceedences at the Wilshire/La Brea and Wilshire/Western checkpoints during weekday peak hours for the first quarter of 2005.

Thus, the record appears to support the BRU's contention that the RPI formula devised by the MTA ranks as best performing the bus lines that fail to meet the load factor targets required by the Consent Decree. While reducing the subsidy and optimizing utilization of capacity are worthy and important goals, they cannot be achieved in a way that encourages deterioration in the quality of service in violation of the Consent Decree.<sup>13</sup>

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<sup>13</sup> To make an admittedly very imperfect analogy to another mode of transportation, if more people show up for an airline flight than there are seats in the aircraft, the airline cannot simply fill the plane with passengers standing in the aisles even though such actions would increase revenues, reduce unit costs, and these days, reduce operating losses – all worthy objectives.

### 3. Higher Standards Over Time

The BRU's next argument is that the RPI standard, by design, will become more stringent over time. The BRU's rationale is that a line may perform at or above the RPI one year, but once the MTA cuts a line deemed underperforming, the average will be driven higher, and therefore more stringent, the next year. The concern is that a line's RPI may decrease from one year to the next without any changes in its actual performance. BRU Evaluation at 10. The BRU's expert concludes, "[a] large portion of the bus lines must, mathematically, every year, fail the standard of not meeting standards based on average performance." Rubin Expert Report at 5.

The MTA counters that it is simply incorrect that there will always be bus lines within a category that are not performing and subject to "corrective actions." Clifford Decl. at 3. For example, the MTA points out that all Metro Rapid lines meet the RPI for the Metro Rapid category. *Id.*

There is actually merit to both parties' positions. Arguably, it is possible to have all buses within one service category meet the performance goal, while buses in another service category are continually subject to an increasingly stringent RPI. If all buses in a service type operate in a similar manner with similar attributes, then the performance will be similar. Therefore, individual bus lines will all fall close to the average. However, if bus lines with dissimilar attributes are compared, the average will be skewed.

For example, take three bus lines, all with 48 boardings per hour.<sup>14</sup> The average boardings per hour would be 48 and all three bus lines (assuming no adjustment for budget) would meet the standard (48 plus 48 plus 48 divided by 3 lines equals 48). However, the standard for three bus lines with different boardings per hour will be skewed by the bus with

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<sup>14</sup> The systemwide average boardings per hour in FY 2005 was 48.3. FY05 MTA Adopted Budget at III-5, available at [http://www.metro.net/other\\_info/budget\\_online/images/budget\\_adopted\\_fy05.pdf](http://www.metro.net/other_info/budget_online/images/budget_adopted_fy05.pdf).

much higher boardings over time. If Bus X has 24 boardings per hour, Bus Y has 48 boardings per hour, and Bus Z has 72 boardings per hour, the average is still 48 (24 plus 48 plus 72 divided by 3 lines equals 48) but bus X exhibits substandard performance. Moreover, if Bus X is cut and Bus Y and Z remain the same, Bus Y will fall below average the following year since the standard is now 60 boardings per hour (48 plus 72 divided by 2 equals 60). In this example, if Bus Z is an extremely overcrowded line, and Bus X is performing right at the 1.20 load factor target, it is contrary to the Consent Decree to allow Bus Z to skew the standard, and define bus X as underperforming.

#### 4 Failure to Consider Adverse Impact

The BRU last argues that the RPI measurement does not contain a provision for considering the adverse impact on the transit dependent. BRU Evaluation at 10. The BRU maintains that in the past year, 19 of the 42 lines falling below 0.6 on the FY 2004 RPI had service reductions. *Id.* It argues that the 30 lines falling below 0.6 on the FY 2005 RPI carry 57,000 weekday riders who should be protected against adverse impact from service cuts.<sup>15</sup> *Id.*

#### 5. Findings on RPI

I find that the BRU has made a sufficient showing that the RPI component of the TSP, as it is currently formulated and applied, is not consistent with the MTA's Consent Decree obligations. Although the MTA has provided only a little information on how the RPI functions, the measurement appears to be guided in large part by budget concerns, and the concern of the

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<sup>15</sup> The BRU complains that the TSP generally does not contain minimum service standards as the predecessor policy, the Consolidated Transit Service Policies did. BRU Evaluation at 5 citing MTA Consolidated Transit Service Policies at 7, attached at Welborn Decl. II at Ex. 11. The BRU argues that the Consolidated Transit Service Policies provided, "a minimum route and service level system will be maintained regardless of performance." *Id.* Nothing in the Consent Decree, however, requires the MTA to provide service regardless of rider demand, and finding so would be contrary to the precedents already established in these proceedings. What the consent decree does require, as is explained throughout this memorandum, is that service changes be guided by objective criteria, that there be an evaluation of the adverse impact on the transit dependent, and that service restructuring be designed to achieve an overall improvement in bus service.

RPI measurement being skewed by overcrowded lines is at least a possibility if not a likelihood. To satisfy its burden that the TSP is, overall, a policy constructed of appropriate criteria, the MTA should revise, amend, or supplement the RPI with an alternative provision that does not run afoul of the Consent Decree's load factor provisions. One approach might be to eliminate severely overcrowded lines from the various calculations, including subsidy per passenger. There may be other ways in which the MTA can reconcile its use of the RPI with its specific Consent Decree obligations.

For example, as observed above, the TSP does not appear to contain an effective process providing for the evaluation and mitigation of the adverse impact of bus service reductions on the transit dependent. Therefore, to satisfy the second prong of the modification test, the MTA needs to have an effective mechanism that sufficiently provides for mitigation when bus service is cancelled based on the RPI formula.

Finally, while the MTA must operate within its budget, its reliance on any efficiency-producing measurements must be part of a plan to "bring about an overall net improvement in bus service to the transit-dependent" and not simply an exercise in budget management. See *Night Owl Decision* at

#### **V Service Cuts on Individual Lines**

Turning to the lines analyzed by the parties, we will briefly examine basic characteristics of each service reduction at issue. The BRU generally argues that all 13 service reductions were inconsistent with the requirements of the Consent Decree, and that the service cuts adversely impacted the transit dependent resulting in increased travel times, increased fares, continued overcrowding, and other factors (e.g., placing transit riders in increased danger) that have not been sufficiently mitigated by the MTA. BRU Evaluation at 8. The MTA,



however, maintains that the specific service cuts at issue were, "based on objective criteria and measures were taken to mitigate the impact on the transit-dependent." February 10<sup>th</sup> Letter at 1

While the BRU raises specific concerns about each service reduction, I will not make specific findings on individual service cuts. It is simply not the role of the Special Master to micromanage the MTA's bus schedule. Based on the record before me, I will reiterate what the Consent Decree requires. The MTA, as discussed below in Section VII., will be directed to address these service reductions in its report due to the Special Master on July 31, 2005. See below at Section VII. I have summarized below both the BRU's concerns and the MTA's response to facilitate the MTA's review of the impact of these service reductions on the transit dependent under the criteria set forth in this Memorandum Decision and Order. The MTA should consider these concerns and any relevant updated information in determining what, if any, additional mitigating actions should be taken by the end of calendar year 2005.

A. Line 107 (Cancelled)

Prior to June 2004, Line 107 offered service along 54<sup>th</sup> Street between Inglewood and Huntington Park. BRU Evaluation at 19. It had weekday ridership of 2,266, and scored a 0.56 on the FY 2004 RPI. *Id. citing* MTA "Passengers Impacted" chart dated November 10, 2004 ("Passengers Impacted Chart"), also attached to Welborn Decl. II at Ex. 26; FY 2004 RPI at 5. The MTA cancelled the entire route of Line 107 in June 2004. *Id. citing* MTA "Operating Resource Impacts" chart dated October 26, 2004 ("Operating Resource Impacts Chart"), also attached to Welborn Decl. II at Ex. 24.

The MTA states that it relied upon the TSP in deciding to cancel Line 107. MTA "Policy Criteria" chart dated October 26, 2004 ("Policy Criteria Chart"), also attached to Welborn Decl. II at Ex. 21. The BRU complains that Line 107 carried a full passenger load on average, and had a subsidy of \$2.57 (below the \$2.91 FY05 target for light rail, but well above the \$1.40 FY05

target for bus lines). *See* BRU Evaluation at 19 (citation omitted.) *See also* FY05 Adopted Budget at III-6 and III-8.

Moreover, the BRU contends that the MTA did not adequately evaluate and address the adverse impact Line 107's cancellation would have on the transit dependent. In mitigation, the MTA created Shuttle Line 607, rerouted and extended Shuttle Line 681 during weekday peak hours, and suggested use of the DASH Southeast/Pueblo del Rio line. Passengers Impacted Chart at 1; *see also* MTA "Service Impacts" chart dated November 10, 2004 at 1 ("Service Impacts Chart"), also attached to Welborn Decl. II at Ex. 29. The BRU complains that these alternatives created added waiting time, walking, transfers, and additional fares for the transit dependent. BRU Evaluation at 20 – 22. Additionally, the alternatives create gaps in service once offered by Line 107. BRU Evaluation at 20 (describing gaps in time period and area covered between Line 107 and the DASH alternative.)

The testimony of several riders support the BRU's claim of adverse impact. For example, Bernadette Ransom, a disabled nurse, stated, "[t]here is no service, no transportation at all in my area, from about 9 in the morning until after 3 in the afternoon during the week and none on the weekend either." Declaration of Bernadette Ransom at 1 – 2, attached to Welborn Decl. I at "Line 107" Tab. One self-described "elderly and physically disabled" rider commented that she feels like a "prisoner" in her neighborhood. Declaration of Eva Torrence at 1 – 2, attached to Welborn Decl. I at "Line 107" Tab.

Line 107 also offered many riders safety in a neighborhood perceived to be dangerous, as described by the Assistant Principal of Crenshaw High School,

The loss of this bus line has also created for our students a situation of extreme danger that could be life-threatening. Our students – especially the significant numbers traveling to/from the east side each day – who are now forced to traverse the Slauson/Crenshaw intersection (and respective corridors), when walking to

and from school, are now at extreme risk of being intimidated, harassed, attacked and beaten and/or shot by gang members who also patrol those same corridors in the late afternoon and evenings looking for their rivals or trying to "recruit" new members, among other things.

Letter from Douglass Pozzo, Assistant Principal of Crenshaw High School to MTA Board Members Martin Ludlow and Yvonne B. Burke dated September 22, 2004, attached as Ex. 36 to Welborn Decl. II. *See also* Declaration of Sonissa Norman, attached to Welborn Decl. at "Line 107" Tab ("I don't feel safe walking in the dark at that time of the night but obviously I don't have a choice."); Declaration of Anna Alvarenga at 2, attached to Welborn Decl. I at "Line 107" Tab (describing son's mugging after cancellation of Line 107).

B. Line 720 (Shortlined)

In June 2003, the MTA shortlined 40% of trips on Metro Rapid Bus Line 720, which generally operates between Santa Monica and Montebello. BRU Evaluation at 24. The MTA also reduced eastbound trips from Santa Monica by 25% and Westbound trips from Montebello by 17%. *Id.* The service reduced on Line 720 amounts to an estimated 35,400 annual in-service hours during weekday hours.<sup>16</sup> MTA "Additional Data – Line 720" chart addendum dated January 20, 2005, attached to Welborn Decl. II at Ex. 25. The RPI for Line 720 was slightly above average, however, scoring a 1.09 for FY 2004. FY 2004 RPI at 6.

The MTA cites the Consolidated Transit Service Policies as the policy guiding the service restructuring.<sup>17</sup> Policy Criteria Chart at 2. The BRU complains, however, that the

<sup>16</sup> The BRU acknowledges that the MTA's figure of 35,400 annual in-service hours is an overstatement that does not account for the amount of service reinvested in other portions of the line. The BRU estimated the actual amount was closer to a net reduction of 32,000 annual in-service hours. BRU Evaluation at 24.

<sup>17</sup> Although the MTA does not specify the criteria in the Consolidated Transit Service Policies it relied upon, Section 3.4 entitled "Criteria for Cancellation of Services" provides,

Procedures for the cancellation of service will be reviewed in the following order.

3.4.1 Eliminate, Reduce and/or Subcontract Delivery of Internal and Administrative Support Services.

3.4.2 Reschedule Service on Routes With Excess Capacity.

.1 Prepare schedules on temporary letters to meet actual demand.

MTA's decision was not guided by objective criteria, but was made in an effort to shift resources within the bus system to remedy overcrowding on portions of Line 720. BRU Evaluation at 24 – 25 *citing* MTA Operations Committee report on FY 2004 Service Change Program for Metro Westside/Central at Attachment A, attached as Ex. 37 to Welborn Decl. II (MTA staff comment that the 720 service restructuring proposal was intended to “create shortline in downtown Los Angeles, and in Westwood so as to provide more trips between these two proposed terminals.”) Additionally, the BRU notes that Line 720 was supposed to receive 24 a.m. and 29 p.m. expansion service units (“ESU”) prior to the restructuring in order to relieve overcrowding on the line, 7 of these ESUs were needed at Soto and Whitter, an area where service was actually reduced by the eastbound shortline. *Id.* at 26.<sup>18</sup>

The BRU maintains the shortlining on Line 720 has created an adverse impact on the transit dependent, creating increased overcrowding, slower service, and in some cases, additional transfers for riders who need to travel from one end to another. BRU Evaluation at 25 – 26. *See also* Declarations of Joseph Scroggins and Heroul Lopez Fabian, attached to Welborn Decl. I at “Line 720” Tab.

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- .2 Implement additional shortline operations.
  - 3.4.3 Cancel or Shorten Route on Underutilized Night Trips.
  - 3.4.4 Consider Conversion of Line or Route Segment to Municipal Operation or Subcontract to Private Carrier.
  - 3.4.5 Cancel Very Low Productivity Lines by Time Period.
  - 3.4.6 Periods of Service Cancellation.
    - .1 Holidays (six national holidays)
    - .2 Owls
    - .3 Nights
    - .4 Weekends
  - 3.4.7 Restructure Bus System to Improve Efficiencies.

<sup>18</sup> The BRU points out that overcrowding on Line 720 went from 29 recorded lack of capacity violations in the 18 months preceding the shortlining to 60 lack of capacity violations in the 18 months following the shortline. *Id.* at 25, n. 121 *citing* Line-by-Line Mapping of Load Factor Violations, Line 720, attached as Ex. 38 to Welborn Decl. II.

C. Line 209 (Midday and Sat. Cancelled)

In June 2004, the MTA cancelled weekday midday service, and all Saturday service, on Line 209. BRU Evaluation at 27. Line 209 provides north-south service along Van Ness and Arlington Avenues, from Hawthorne in the south to Koreatown in the north. *Id.* Before the service cuts, Line 209 offered service all day Monday through Saturday. *Id.* Line 209 had a RPI rating of 0.53. FY 2004 RPI at 5. The service restructuring eliminated 4,100 annual in-service hours. Operating Resource Impacts Chart at 1

The MTA asserts that it relied upon the TSP in cutting service on Line 209. Policy Criteria Chart at 1. The BRU argues that Line 209's performance was not measured objectively given its argument that the RPI is skewed by budget concerns and overcrowded bus lines. BRU Evaluation at 28.

Additionally, the BRU argues that the service restructuring on Line 209 has had an adverse impact on transit-dependent riders, resulting in increased walking distance, travel time, transfers, and additional fares. *Id.* The MTA recommends that former Line 209 riders use Lines 210 (along Crenshaw) and 207 (along Western) as alternatives. Service Impacts Chart at 2. However, the BRU complains that Line 209 bus riders must walk one-half mile in each direction to utilize Lines 210 and 207 during weekday midday and Saturdays, a distance difficult if not impossible for elderly and/or disabled riders. *Id.* at 28 - 29. Those riders who take a bus to the 210 and 207 instead of walking must pay between \$.50 - \$1.75 more than before the service cuts on Line 209 in transfer fees. *Id.* at 28.

Line 209 riders echo the BRU's concerns. One disabled rider explains, "All of those streets are a very long walk for me...I could walk the distance to take other buses but it hurts me physically to walk that much." Declaration of Michael D. White at 2, 3, attached to Welborn Decl. I at "Line 209" Tab. Another describes traveling in the corridor on Saturdays as "a big

ordeal" after the cuts. Declaration of Tiara Fuller at 2, attached to Welborn Decl. I at "Line 209" Tab. Still another describes the difficulty of traveling on Line 210 as an elderly person during crowded periods, "[t]hat Crenshaw bus I'm taking now is most of the times overcrowded. When people see me with my cane and everything, they usually give up their seat, so that helps me out." Declaration of Charles Crosby at 2, attached to Welborn Decl. I at "Line 209" Tab.

D. Line 401 (Cancelled)

The MTA cancelled Line 401 in June 2003, which previously operated express service between Altadena and Pasadena to downtown Los Angeles via the I-110 freeway. BRU Evaluation at 31. Line 401 had a RPI rating of 1.34. FY 2004 RPI at 1. The cancellation of Line 401 created a service reduction of 21,500 annual in-service hours and affected a weekday ridership of 3,109 riders. Operating Resource Impacts Chart at 1; Passengers Impacted Chart at 1.

The MTA states that it relied upon the TSP in canceling Line 401. Policy Criteria Chart at 1. The BRU argues that this was not the real reason behind the cuts for two reasons. First, the service was cancelled three months before the MTA Board approved the TSP. BRU Evaluation at 31. Second, MTA Staff reported to the MTA Board that the reason for cutting Line 401 was to reduce service duplication with the Gold Line. *Id. citing* MTA Operations Committee Report dated February 20, 2003, Attachment B at 4, attached as Ex. 41 to Welborn Decl. II.

The MTA recommended that riders use the Gold Line and new Shuttle Line 686 as alternatives. Service Impacts Chart at 3. However, the BRU maintains that the cancellation of Line 401 adversely impacted the transit dependent by eliminating a unique express service, and adding travel time, transfers, and fares. *Id.* at 31 – 32. Rider testimony supports the BRU's contention, especially regarding increased travel time, and assert that cancellation of Line 401 has increased their already lengthy commute by 40 – 60 minutes a day. Declarations of Mitch

Pomerantz at 1; Declaration of Martha Joseph at 1-2; Declaration of Carolina Garcia at 2 (all attached to Welborn Decl. I at "Line 401" Tab).

E. Line 188 (Cancelled)

Line 188 was cancelled in June 2003. It previously offered service from Altadena through Pasadena to the City of Hope National Medial Center in Duarte. BRU Evaluation at 34. The cancellation affected 2,914 weekday riders and resulted in a cut of 21,600 annual in-service hours. Passengers Impact Chart at 1; Operating Resource Impacts Chart at 1. Line 188 had a RPI rating of 0.68. FY 2004 RPI at 4.

The MTA cites the TSP as the policy underlying Line 188's cancellation. Policy Criteria Chart at 1. The BRU notes that the MTA considered Line 188 to be duplicative service. BRU Evaluation at 34 (citations omitted.) However, the BRU questions the MTA's definition of service duplication, arguing that the MTA does not adequately consider added transfers, frequency and span of service, and route coverage in defining a line as duplicative. *Id.* Specifically, the BRU argues that the alternatives suggested by the MTA, Lines 181, 264, and 260, actually split one continuous trip previously provided by Line 188 into three segments. *Id.* at 35.

For example, one rider explains that her trip has gone from 30 – 35 minutes up to an hour and a half. Declaration of Teresa Garcia at 1-2, attached to Welborn Decl. I at "Line 188" Tab. Another rider iterated that he left one job due to a lack in bus service, and even now must choose between walking an extra eight blocks, or increasing his trip home by 40 minutes in waiting time. Declaration of Rodolfo Hernandez at 2, attached to Welborn Decl. I at "Line 188" Tab. Yet another rider decided to leave her job rather than travel the extra hour that the cancellation of Line 188 added to her one-way trip. Declaration of Marina Morales at 1, attached to Welborn

Decl. I at "Line 188" Tab. The same rider commented on the difficulty created by frequent service changes. *Id.*

F. Line 483 (Cancelled)

In June 2003, the MTA cancelled Line 483, which provided service between Pasadena and Los Angeles via Fair Oaks Avenue and the I-10 Freeway. BRU Evaluation at 37. Line 483 had an RPI rating of 1.16. FY 2004 RPI at 1. Line 483's cancellation resulted in a cut of 21,900 annual in-service hours. MTA "Additional Data – Line 483" chart addendum dated January 20, 2005, attached to Welborn Decl. II at Ex. 25.

The MTA cites the TSP as the policy underlying Line 483's cancellation. Policy Criteria Chart at 1. The BRU argues that the TSP was not adopted until September 2003, three months after Line 483 was cancelled. BRU Evaluation at 37. Additionally, MTA Staff has stated that it considered Line 483 to be duplicative to service offered by the Gold Line. MTA Operations Committee Report dated February 20, 2003, Attachment B at 4, attached to Welborn Decl. II at Ex. 41. The BRU again questions the MTA's definition of duplicative service, asserting that it does not actually provide similar service options. BRU Evaluation at 37.

The BRU complains that cancellation of Line 483 has resulted in reduced service, and increased travel time, transfers, and fares for riders. BRU Evaluation at 37 – 38. Former Line 483 riders comment on the additional travel time it now requires to transfer to the MTA-recommended alternatives such as the Gold Line and Line 485. See Declarations of Manuel Ordoñez at 1-2 and Margarita Cruz at 1-2, , attached to Welborn Decl. I at "Line 483" Tab. One rider states that she lost her job after the cancellation of Line 483, since her travel time increased to almost two hours one way; after finding only temporary work during the past year, she is currently unemployed. Declaration of Ana Villalvazo at 2-3, attached to Welborn Decl. I at "Line 483" Tab.



G Line 561 (Cancelled)

The MTA cancelled Line 561 in June 2003, which ran Limited-stop service from the San Fernando Valley through UCLA/Westwood on to Los Angeles International Airport (via the I-405 freeway.) BRU Evaluation at 40. At the same time, the MTA implemented Line 761, a Metro Rapid line running along the northern end of Line 561's route. *Id.* This service restructuring (including the implementation of Metro Rapid Line 761) resulted in a net reduction of 11,200 annual in-service hours on the southern portion of former Line 561 and affected 650 weekday riders. Operating Resource Impacts Chart at 1; Passengers Impacted Chart at 2. Line 561 had a rating of 2.12, making it the highest scoring express line for FY 2004. FY 2004 RPI at 1

The MTA reports that it relied upon the Consolidated Transit Service Policies in deciding to cancel Line 561. Policy Criteria Chart at 1. Specifically, MTA Staff characterized the southern portion of Line 561, between Westwood and LAX, as "infrequent due to low demand." MTA Operations Committee Report dated February 20, 2003 at Attachment A – Exhibit 3, attached as Ex. 42 to Welborn Decl. II. In response, the BRU argues that the MTA plans on implementing Metro Rapid Line 706 on the southern portion of former Line 561 in June 2008. BRU Evaluation at 40 *citing* Metro Rapid Implementation Plan, attached as to Welborn Decl. II as Ex. 43. The BRU contends this is the MTA's recognition that the higher quality service provided by Metro Rapid, including higher service frequency, will attract additional riders. *Id.*

The MTA recommends riders who used the southern portion of Line 561 now use Culver City Line 6 as an alternative. Passengers Impacted Chart at 2. The BRU argues that this alternative creates additional fares and transfers, as well as increasing travel times. BRU Evaluation at 41. Former riders of the 561 also complain about the additional transfers and

travel time. Declaration of Aminta Girón at 1-2; Declaration of Vivian Rupert at 2-3, attached to Welborn Decl. I at "Line 561" Tab.

H. Line 105 (Truncated)

Before service was truncated in June 2003, Line 105 ran from southeast Los Angeles to West Hollywood via La Cienega Boulevard. BRU Evaluation at 43. In the restructuring, the MTA cut service along the eastern end through the cities of Maywood, Bell, and Cudahy, resulting in a reduction of 3,200 annual in-service hours. *Id.* Line 105 had a RPI rating of 1.11. FY 2004 RPI at 3.

The MTA cites the Consolidated Transit Service Policies as the guiding criteria. Policy Criteria Chart at 1. The BRU argues that the MTA does not provide an adequate explanation for the criteria underlying its decision. BRU Explanation at 43.

The MTA implemented Shuttle Line 611 to serve the truncated portion of Line 105. Service Impacts Chart at 1. However, the BRU asserts that this alternative eliminates the seamless service previously provided by Line 105, provides slower service, and increases transfers and fares. BRU Evaluation at 44. Moreover, there are frequent complaints that Shuttle Line 611 provides unreliable service and does not adhere to its scheduled arrival and departure times, making it an untenable alternative to Line 105. Declaration of Maria Argeaga at 2-3; Declaration of Araceli Cano at 2-3 (both attached to Welborn Decl. I at "Line 105" Tab).<sup>19</sup>

I. Line 250/253 (Cancelled)

Line 250/253 was cancelled in February 2004. BRU Evaluation at 46. Before its cancellation, it operated in the Boyle Heights area of Los Angeles. *Id.* This resulted in a cut of 6,400 annual in-service hours. Line 250/253 had a 0.25 rating. FY 2004 RPI at 6.

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<sup>19</sup> As described below at Section VI., the MTA has already agreed to investigate problems with schedule adherence on Line 611. The MTA will be directed to update the Special Master on the status of its efforts to improve service on Line 611 in its report to the Special Master due by July 31, 2005.

The MTA reports that it based the cancellation of Line 250/253 on the TSP Policy Criteria Chart at 1. Additionally, MTA Staff stated the line suffered from “low ridership, high cost per passenger, and the availability of duplicative or nearby alternative bus service” and pointed to replacement service on Shuttle Line 620. Metro San Gabriel Governance Council Report dated October 7, 2003 at 4. Attachment B, Exhibit 1 at 1 attached to Welborn Decl. II at Ex. 46. The BRU argues that Line 250/253’ low RPI rating is primarily due to the skewing effect caused by overcrowding in the bus system. BRU Evaluation at 46.

The BRU complains that Shuttle Line 620 should not be considered an alternative to service on Line 250/253 since it operates on a different route (causing increased travel time and transfers), runs service only in one direction, and does not offer service on the weekend. *Id.* Transit-dependent riders echo the BRU’ remarks. See Declaration of Maria M. Garcia at 1; Declaration of Ernestina Montellano at 2, attached to Welborn Decl. I at “Line 250/253 Tab.

#### Line 471 (Cancelled)

The MTA cancelled Line 471 in February 2004, which previously operated in eastern Los Angeles County in La Habra, Hacienda Heights, and the City of Industry. BRU Evaluation at 49. The service cut equated to a reduction of 2,900 annual in-service hours. Line 471 had an RPI rating of 0.72. FY 2004 RPI at

The MTA states it relied upon the TSP in deciding to cancel the line. Policy Criteria Chart at 1. The BRU hypothesizes that the MTA negotiated with two municipal operators, Foothill Transit (Line 285) and Orange County Transportation Authority (“OCTA” (Line 29) in order to take over service on the former Line 471 route. BRU Evaluation at 49.

The BRU argues that the MTA’s practice of allowing service to be operated by municipal operators, “results in a deterioration of service for MTA riders. *Id.* The BRU specifically complains that Line 471 provided seamless transportation to employment-dense areas. *Id.* at 50.

Moreover, the BRU points out riders must pay two separate bus fares – one on Foothill Transit and one on OCTA – resulting in a fare almost double that of Line 471. *Id.* (discussing the difference between the \$1.25 cash fare on Line 471 and the \$2.35 fare riders must now pay on Foothill Transit and OCTA.) Transit-dependent riders testified about the increased travel time and fares caused by the cancellation of Line 471. Declaration of Maria Cruz at 1-2; Declaration of Roxana Rodriguez at 1-2 (both attached to Welborn Decl. I at “Line 471” Tab).

K. Lines 418 and 426 (Truncated)<sup>20</sup>

Line 418 operated east-west through the San Fernando Valley on the Roscoe Boulevard corridor. BRU Evaluation at 57. Line 426 previously offered peak express service in Hollywood and San Fernando Valley along the Sherman Way corridor. *Id.* at 52. In June 2003, the MTA truncated both lines. *Id.* at 52, 57. For Line 418, this meant rerouting the line to serve the North Hollywood Red Line Station. *Id.* at 57. For Line 426, the restructuring meant canceling service into Hollywood and terminating service at the North Hollywood Red Line Station. *Id.* at 52; Policy Criteria Chart at 2. This resulted in a reduction of 5,200 annual in-service hours (2,700 on Line 418 and 2,500 on Line 426) and has affected 1150 riders during peak hours (500 on Line 418 and 650 on Line 426.) Operating Resource Impacts Chart at 2; Passengers Impacted Chart at 2. Lines 418 and 426 had a rating of 1.01 and 1.16 respectively. FY 2004 RPI at 1.

The MTA states it relied upon the Bus/Rail Interface Design Guideline Manual in deciding to truncate both lines. Policy Criteria Chart at 2. The BRU takes issue with the MTA's decision, arguing that Lines 418 and 426 provided better service for some riders than the Red

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<sup>20</sup> The BRU evaluates Lines 418 and 426 separately. See BRU Evaluation at 52 – 54 (discussing Line 426) and 57 – 58 (discussing Line 418). Since the MTA policy underlying the service changes, and the BRU argument against the cancellation of express service to serve rail lines, are very similar for both lines, I discuss Lines 418 and 426 here together.

Line, and noting that 1150 riders choose to utilize the express bus lines over the Red Line. BRU Evaluation at 52, 57. Basically, the BRU disagrees with the MTA policy of canceling express service in favor of rail service. *Id.*<sup>21</sup>

The main complaint from former Line 418 and 426 riders, as well as the BRU, is that the truncations have caused increased transfers and travel time. BRU Evaluation at 53, 58. One Line 426 rider complained about the additional transfers, “[e]ven before MTA made the cut, service wasn’t too good on Line 426. But it’s definitely worse service now, for all of us.” Declaration of Vera Howard at 2, attached to Welborn Decl. I at “Line 426” Tab; *see also* Declaration of Sarah Massengale at 1-2, attached to Welborn Decl. I at “Line 426” Tab. Another rider explained that her one-way commute, which was already 75 minutes on Line 418, has increased to 2 hours and 45 minutes each way. Declaration of Julia Isabel Vivas at 2, attached to Welborn Decl. I at “Line 418” Tab.

L. Line 270 (Sunday Cancelled)

The MTA cancelled Sunday service on Line 270 in December 2003. BRU Evaluation at 55. Line 270 serves Monrovia, El Monte, Whittier, and Norwalk. *Id.* The cancellation of Sunday service affected 400 riders, and cut 2,400 annual in-service hours. Passengers Impacted Chart at 1; Operating Resource Impacts Chart at 1. Line 270 scored a rating of 0.46. FY 2004 RPI at 5.

The MTA relied upon the TSP in cutting Sunday service. Policy Criteria Chart at 1. The BRU takes issue, however, with the MTA Staff comment that “[v]ery limited alternative transit service is available on Sundays for Line 270 riders.” BRU Evaluation at 55 *citing* Metro San Gabriel Governance Council Report dated October 27, 2003, Attachment B, Exhibit 1 at 2. The

<sup>21</sup> The BRU notes that the MTA plans to cancel all service on Lines 426 and 418 to reduce duplication with the Orange Line. The BRU argues that canceling these lines completely will adversely affect the transit dependent. BRU Evaluation at 54, n. 298.

BRU maintains that eliminating the only transit option for the transit dependent causes adverse impact. *Id.* See also Declaration of Cati Arce, attached to Welborn Decl. I. at "Line 270" Tab.

M. Summary

As stated above, I am not making specific findings on the service cuts on the 13 lines analyzed in this proceeding or on any other service reductions not subject to this focused analysis. The BRU's comments and the MTA's responses are summarized above in order to facilitate the MTA's review under the revised standard and process described in Section VII below. Efficient integration of bus and rail service and the elimination of inefficient duplication of service between bus and rail and between the MTA and municipal operators are objectives that are fully consistent with the Consent Decree. Inevitably, some riders will be disadvantaged by such changes. The MTA, however, needs to take a harder look at any adverse impact and devise remedies that will ensure an overall net benefit in the quality of bus services for the transit dependent as a result of its service changes.

VI. Additional MTA Mitigation From JWG Review

As part of this analysis, the MTA has committed to implementing, or has already implemented, mitigation strategies on Lines 611, 761, and 607. Letter to Special Master from Roderick Goldman dated February 10, 2005 at 1. On Line 611, the MTA has committed to investigate complaints of poor on-time performance and take necessary action. *Id.* On Line 761, the MTA agreed to investigate complaints regarding difficulties in reaching the airport area and work with the Culver City Municipal Bus Lines to improve transfer connections if necessary. *Id.* Lastly, the MTA extended Line 607 in September 2004 based on passenger comments. *Id.*

The MTA, should include in its July 31, 2005 report, *see* below at Section VII., information on the status of these mitigation efforts, the effectiveness of those efforts, and whether additional mitigation strategies are necessary on those lines.

## VII. Comprehensive Standard

After reviewing the arguments and analysis provided by the parties, several conclusions are in order

First, any analysis of historical or future service modifications cannot ignore budget and resource-driven considerations in providing bus service. However, as iterated in the Memorandum Decision II and Final Order, “[d]uring times of financial constraints, it is especially important that the MTA fulfill its Consent Decree mandates and ensure that the bus riders who depend on public transit for access to employment, health care and other activities are not the victims of budget cuts.” Memorandum Decision II at 15. Resource-driven decision making may not be distorted by attempts artificially to improve load factor performance, may not divert funds from bus operations to finance other transportation initiatives, and must adhere to the Consent Decree’s mandate that the priority in the use of bus-eligible funds should be the improvement of bus service.<sup>22</sup>

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<sup>22</sup> Neither party has pressed the Special Master to make specific funding and resource allocation decisions. The MTA must have the ability to adopt a budget that is consistent with its legal and contractual obligations and responsive to the transportation needs of Los Angeles County. The Consent Decree, of course, establishes certain legal and contractual obligations to which the MTA must adhere. In adopting a budget during times of fiscal constraints and financial uncertainty, the MTA is faced with difficult choices, and it must have the flexibility to adapt to changing circumstances or new opportunities that arise. *See, e.g.,* “Gov. Scraps \$1.3-Billion Transit Cut” Los Angeles Times, May 12, 2005, at B5, B11 (Governor calls for full funding of transportation restoring \$1.3 billion cut, after \$2 billion in unanticipated revenues due to surge in California economy). Given the size of its budget and the numerous sources of its funding, the MTA has shown that it is resourceful and able to identify and allocate funds to meet its obligations and undertake new initiatives. For example, the MTA announced on April 28, 2005 that the Board of Directors approved a \$640 million full funding plan for construction of the Exposition Light Rail Transit Project. The plan uses local funding instead of federal New Starts funding. New funding includes \$127.5 million in federal Congestion Mitigation and Air Quality Improvement (CMAQ) funds, \$90.3 million in Proposition C 25% funds, \$9.8 million in federal Transportation Enhancement Activities (TEA) funds, \$15 million in other federal discretionary funds, and up to \$50 million in local contributions. This new funding is in addition to existing CMAQ funding (\$87.5 million); Proposition C 25% transit-related highway funds (\$240.9 million); TEA funds (\$3.8 million); Proposition C 10% funds (\$4.2 million), and state funds from the Traffic Congestion Relief Program (\$11.0 million). *See* Metro Press Release “Metro Approves Exposition Light Rail Transit Project Funding Plan – Funding Plan Keeps Project on Accelerated Schedule for June 2010 Completion,” April 28, 2005. Similar resourcefulness and ingenuity may be needed at times to fulfill the MTA’s obligations under the Consent Decree to improve the quality of bus service for the transit dependent.

Second, it is well established under the Consent Decree that in proposing efficiency-producing bus service modifications as part of a restructuring that helps reduce overcrowding, the MTA must meet two factors: (1) such service modifications must be independently justified on the basis of objective efficiency and resource allocation criteria; and (2) the transit dependent must not be adversely impacted. In order to measure adverse impact, it is the MTA's burden to show there has been an overall improvement in bus service as a result of the service modifications. In other words, there inevitably will be some riders who are inconvenienced by service changes. However, if the MTA can show that it has taken reasonable cost-effective steps to mitigate any adverse effect on the transit dependent and that there has been a net positive benefit to transit-dependent riders system wide, the service modification will not be deemed to impact the transit dependent adversely. On the record of this proceeding thus far, the MTA has not met this burden.

While for the most part the Transit Service Policy is an objective, thoughtful and transparent articulation of the criteria that should govern bus and rail service decisions, it does not fully reflect – as it has been applied in practice – the special demands made on the MTA by the Consent Decree. Moreover, it is not clear that certain provisions contained in the TSP are being adhered to consistently.<sup>23</sup> The TSP properly is focused on improving the quality of bus service, efficiently integrating bus and rail, and allocating limited resources fairly and efficiently based on objective criteria; however, the Consent Decree requires special attention be given to the impact of service changes on the transit dependent and specific steps taken to mitigate

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<sup>23</sup> One example is the use of the RPI measurement. As shown by the BRU evidence on the 13 lines, bus lines are sometimes cut despite being considered high performing. Additionally, there are several specific provisions in the TSP that are not being fully taken into account. For example, Section 2.6 entitled "Bus/Rail Interface Guidelines" counsels MTA Staff to divert bus service to rail stations when "[t]here is a net travel time benefit for connecting and through traveling riders." TSP at 8. However, there is evidence provided by transit-dependent riders that travel time has sometimes increased by the diversion of bus service to rail stations. See discussion regarding Lines 418 and 426 above at 40 – 41.



adverse impact. The extensive testimony provided by transit-dependent riders makes clear that more can be done to consider potential adverse impact and implement mitigation strategies.

For this reason, the Transit Service Policy should be revised, amended or supplemented to incorporate standards and a process that will ensure that the MTA can fulfill this obligation for both the 13 lines at issue in this proceeding, as well as future service changes. Such a standard and process shall specifically take into account:

- 1 the effect on the transit dependent of service cuts (waiting time, additional transfers, increased walking distance, additional fare costs, safety considerations, etc.) and any mitigation strategies that should be implemented as a result;
- 2 the specific benefits to the transit dependent resulting from the reallocation of bus resources, *e.g.*, how new routes, services (including bus and rail) made possible by the service cuts on underperforming routes will result in new benefits;
- 3 whether there is an overall net positive benefit to the transit dependent from the service restructuring or reallocation during the semi-annual service changes or at any other time there are substantial changes in bus service; and
- 4 whether bus service restructuring or reallocation will result in any reduction in the MTA's budget for bus service system wide or the percentage of the MTA's total budget allocated to bus service.

Third, the MTA should modify the RPI formula utilized in the Transit Service Policy so that any evaluation of the performance of a bus line is not skewed by overcrowding within that service category. A standard must be set, and a budget must support, the operation of a bus system that does not reward or tolerate overcrowding in violation of the Consent Decree's load factor provisions.

Fourth, the Special Master is not in a position to micromanage service modifications. The MTA needs the flexibility to implement service changes that improve system efficiency and that are responsive to rider demand. Moreover, this proceeding was limited to service reductions on 13 lines. Given the showing by the BRU that raises serious questions about the effect on the transit dependent of the MTA's *implementation* of the Transit Service Policy (and other policy

criteria) and the lack of a specific standard and process in the Transit Service Policy for the mitigation of adverse impact on transit-dependent riders, the MTA should establish standards and a process (described above) consistent with this proceeding, and should utilize these standards and process to re-evaluate the 13 lines at issue here. In addition, the MTA should utilize this standard and process to guide all upcoming service modifications. After applying this standard and process to the 13 lines and to any service modifications or reductions planned for the June 2005 service change, the MTA should determine what additional actions should be taken by the end of calendar year 2005 to mitigate any adverse effect on the transit dependent.

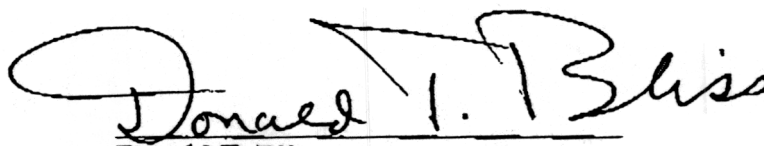
Lastly, the MTA shall submit to the Special Master by **July 31, 2005**, a report which describes:

- any revision, amendment or supplement to the Transit Service Policy that incorporates the findings and directives of this Memorandum Decision and Order;
2. the adoption of a standard and process that will: (a) *define* and *evaluate* any adverse impact on the transit dependent resulting from reductions, elimination, modification, or restructuring of bus service; (b) provide for *specific actions to remedy such impact*; and (c) show that any substantial changes to bus service during the semi-annual service changes or at any other time will result in an *overall net benefit* to the transit dependent;
3. an amended procedure for evaluating line performance that is not skewed by overcrowding in violation of the Consent Decree's load factor provisions;
4. additional steps that the MTA plans to take by the end of calendar year 2005 to mitigate the adverse impact on the transit dependent resulting from service reductions on the 13 lines reviewed by the JWG, addressing the issues concerning such lines raised in this Memorandum Decision and Order;
5. after applying the new standard and process referred to in 1 and 2 above, additional service modifications, if any, that the MTA plans to make by the end of calendar year 2005 to address adverse impact on the transit dependent of service changes made during the June 2005 service change;
6. an update on any continuing mitigation strategies implemented on Lines 607, 611 and 761.

A copy of the report should be served on BRU counsel and the BRU representative to the JWG.

Any interested party may file comments on the MTA's report with the Special Master by **August 31, 2005**. A copy of those comments should be served on MTA counsel and the MTA representative to the JWG.

The MTA shall have until **September 20, 2005** to reply to any comments. At that time, the Special Master shall consider whether an expedited hearing is needed.<sup>24</sup>

  
Donald T. Bliss  
SPECIAL MASTER

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<sup>24</sup> These dates are consistent with the deadlines set forth in the Memorandum and Order re New Service Plan dated April 14, 2005.