

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: MARCH 1, 2011

SUBJECT: TTC RESPONSE TO PROPOSED ONTARIO REGULATIONS FOR
INTEGRATED ACCESSIBILITY STANDARDS

ACTION ITEM

RECOMMENDATIONS

It is recommended that the Commission:

1. Note that:

- the purpose of this report is to update the Commission on the proposed *Integrated Accessibility Standards*, to identify some of the possible future risks and opportunities associated with the standards, and to recommend that the Commission convey to the Minister the TTC's concerns about specific aspects of the standards and regulations.
- Provincial approval of the proposed regulations, in their current form, will result in a downloading of operational, cost, and legal-liability issues to the City of Toronto and the TTC;
- the Commission and TTC staff, with input from the TTC's Advisory Committee on Accessible Transportation (ACAT), have repeatedly asked for a number of these issues to be addressed, but they remain unresolved;
- TTC staff will be providing more-detailed formal comments on the proposed regulations to the Minister of Community and Social Services by the March 18, 2011 deadline;

2. Request that, prior to any approvals of the proposed regulations for Integrated Accessibility Standards under the Accessibility for Ontarians with Disabilities Act (2005) (AODA), the Province of Ontario:

- clarify the wording and intent of a number of specific clauses in the regulations, with special emphasis on those involving operator responsibilities, which, if applied to the TTC's subway and RT systems and future streetcar/light-rail systems, would not be feasible given the physical design, size, and operating characteristics of the vehicles and systems. Regulations whose definitions, meaning, and intent were formulated without recognizing practical requirements that would make the implementation of such regulations infeasible will expose the TTC to unintended costs and legal liability;

- take responsibility for establishing a standardized, provincially-administered process to identify and register disabled persons who require a support person to travel;
 - commit to providing the funding to address the additional costs that arise as a result of the implementation of the regulations; and,
3. Forward this report to the Ontario Ministries of Community and Social Services, Transportation, and Public Infrastructure Renewal, the Ontario Human Rights Commission, the City of Toronto, Metrolinx, the Canadian Urban Transit Association, and the Ontario Public Transit Association.

FUNDING

The interpretation and application of a number of the clauses in the proposed regulations are not yet understood. In addition, it is unclear what actions the Province will take in support of the implementation of the regulations. For these reasons, the costs which will be incurred by the TTC from implementing the proposed regulations are not yet known.

Earlier TTC staff estimates regarding the cost implications of implementing the standards projected an additional one-time cost of approximately \$60 million and an increase in the TTC's ongoing operating costs of between \$1.5 million and \$2.5 million per year. While the details of the regulations have changed since that estimate was made, TTC staff still expect that the TTC will incur costs in this order of magnitude to implement and comply with the regulations.

These costs are in addition to the substantial costs already being incurred by the TTC in purchasing accessible buses, accessible streetcars, and accessible subway cars, and the costs associated with making TTC stations and other facilities accessible. These costs have been incorporated into the TTC capital program, and all of these initiatives are described in the TTC's current Accessible Transit Services Plan. Other standards to be implemented by the Province, notably related to the built environment, will affect the cost of constructing accessible stations, terminals, and other facilities. These, too, cannot be determined at this time, but could be significant.

Neither the Integrated Accessibility Standards, nor the AODA itself, address the need for the Province to provide funding to municipal transit service providers, such as the TTC, to allow them to meet the requirements of the accessibility standards with which they are now being required to comply.

BACKGROUND

The Accessibility for Ontarians with Disabilities Act (2005) (AODA) requires the Minister of Community and Social Services to develop accessibility standards that specify the measures, policies, practices, and other steps which will lead to the achievement of the Provincial goal of a fully-accessible Ontario by 2025.

The development of these standards has been underway for a number of years. TTC staff and the Commission's Advisory Committee on Accessible Transportation (ACAT) have participated extensively in a series of review processes for the standards. Staff have provided written and verbal comments to Provincial staff on a frequent basis since 2005 and through TTC representation on the Transportation Standards Development Committee. TTC staff have also regularly consulted with others within the municipal transit industry, and hosted a full-day workshop for the transit industry to assess the standards and identify areas of concern. These activities have resulted in a number of joint submissions to the Province addressing the industry's concerns about the standards.

The standards have also been the subject of two previous Commission reports in July 2006 and September 2007. In those reports, staff highlighted various concerns including the process for the development of standards and that the standards could result in substantial unexpected costs and/or a net deterioration in the provision of accessible transit services. The potential for the Province to affect the TTC's various accessibility initiatives has been noted in each of the TTC's annual accessibility plans. Notwithstanding, a number of these issues, previously raised by staff, have not been addressed or resolved.

The Customer Service standard was approved in July, 2007 through Ontario Regulation 429/07.

Standards related to the Built Environment are currently under development and were the subject of a report presented to the Commission on February 2, 2011.

On February 1, 2011, the Province of Ontario published draft regulations under AODA, entitled *Integrated Accessibility Standards*, which encompass standards for Information and Communication, Employment, and Transportation. There is a statutory 45-day review period for the draft regulations to allow public comment. It is expected that these integrated regulations will be finalised and approved in the next few months.

DISCUSSION

The TTC's goal is to make all its facilities and services accessible to people with disabilities. The TTC's investment schedule to satisfy the AODA goal of an accessible Ontario by 2025 is contained in the TTC's Capital Program. However, there are specific elements of the just-released proposed Integrated Accessibility Standards which will be problematic for the TTC. Many of these issues have been raised previously by TTC staff, and by others in the transit industry, but they have not been addressed in the proposed regulations.

Standards That Are Not Practical For TTC Rail Vehicles

A number of the proposed requirements which speak to providing assistance “upon request” have been developed based on bus transit systems where there is regular operator-customer interaction and the ready-availability of an operator to provide assistance or take action. However, in the case of TTC subway and RT operations, this operator-customer interaction is not possible. These services operate in multi-car trains, where the operator is, by design, working in a closed-cab environment to ensure there are no distractions which would interfere with the operator’s focus on signals, train operation and status, and communications from the control centre. This will also be the case with the TTC’s forthcoming new much-larger, multi-articulated low-floor streetcars/light-rail vehicles. Regulations which require assistance or information to be “provided on request” is not feasible with this type of operation.

Similarly, one aspect of the proposed regulation requires that, during a service disruption, service providers “will make available alternate accessible arrangements”. The TTC is committed to providing effective transportation for all passengers during service disruptions. Currently, when a disruption occurs, the TTC will, when requested, provide an alternative accessible service. The TTC has firm plans to complete the conversion of the streetcar system to be accessible by 2018 and the subway by 2025. When all elements of the TTC system are accessible, all alternate services provided will be accessible as well. However, during the transition period, when some, but not all of the streetcar and subway systems are accessible, it will not always be possible to provide alternate accessible services for every situation and, therefore, may only be possible on an “on-request” basis. The regulations should be clarified to reflect this reality which will be unavoidable for a number of years.

Provincial Participation is Required for Effective Implementation

There are elements of the regulations which require standardized province-wide definitions and processes, for consistency throughout the province, and which, therefore, require participation by the Province. In particular, the Province should establish and operate a standardized, province-wide system to identify and register disabled persons who require a support person for travel on public transportation services. The regulations, as currently drafted, indicate that a person with a disability who requires a support person is “to ensure that the appropriate designation is in place” but does not indicate what that designation might be, who should set it, or who will bear the responsibility for determining eligibility. Further, the definition for a support person included in the Transportation Standards section is broadly defined to include a range of non-transportation activities and needs. This could be (mis-)interpreted to include many valid needs, but these needs may have no clear rationale for a transit provider to transport the support person. Such a definition needs to be focused specifically on mobility-related needs. It is not practical or fair for transportation providers to bear the responsibility of resolving the complex social planning and policy issues inherent in the broad definition as currently proposed.

Clarify the Wording and Intent of Specific Regulations

The development of the standards has been a complex process with potentially far-reaching implications and unintended consequences. There is a risk that the application of some of the specific standards or regulations, as currently worded, could result in confusion, conflict, or inconsistency with the Province's overall accessibility objective. For this reason, clarification and refinement to a number of the regulations should be undertaken prior to any approvals and, even with such changes, it would also be prudent to provide authority to the Minister of Community and Social Services to grant exemptions to specific elements of the regulations where unique circumstances warrant.

Dimensions to be used in designs to accommodate "mobility aids": The regulation includes specific dimensions for the amount of space to be allocated within vehicles for mobility aids. The regulation does not, however, indicate what dimensions are to be used in designing for accommodating the movement of such devices to and from the allocated spaces. The movement of devices to and from the allocated spaces is a critical element of system design that needs to be clarified in the regulations.

Communicating information during service disruptions in multiple formats: The TTC's primary system for communicating with customers during service disruptions is audible, with visual and other forms of communication provided when practical, such as in the subway where electronic display screens are available. However, on a bus or a streetcar, there is no practical way of visually communicating service disruption information. Wording of the regulation should be changed to state that information will be communicated in formats other than audible on an "on-request" basis – not in every instance – and to the greatest extent possible, recognizing the circumstances of the situation.

Reporting stops that are temporarily inaccessible: The regulations call for operators to report to "an appropriate authority" where a transit stop is "temporarily inaccessible". There is no indication of what the intent of the regulation is, what constitutes a temporarily inaccessible stop, who would be an appropriate authority, and what that authority is then expected to do. Without clarification, this regulation will be confusing, problematic, and of little practical value to passengers.

Operating procedures for Priority Seating: The regulations require that new signage be implemented indicating that other passengers "must" vacate the courtesy seating if its use is required by a person with a disability. There is no indication of how the policy implied by the required signage would be implemented, or what responsibilities there may be on the part of the operator to assess the disabilities of various passengers and enforce the statement included on the signage. Without such guidance, and a Provincially-managed process to identify those who are to be given priority over others, particularly with respect to non-visible disabilities, the application of this standard is impractical and, probably, unworkable.

Costs Associated with the Proposed Standards

The TTC's accessibility plans, including making bus services accessible by 2012, streetcars by 2018 and subway stations accessible by 2025, would meet or exceed the Province's originally-announced target date of 2025 for system accessibility. However, the standards, as now proposed, impose additional requirements beyond what is in the TTC current plans and, in so doing, introduce problematic implementation timelines. The changes will affect the cost of providing public transportation and, in turn, possibly have adverse impacts on fares and services in Toronto.

A Ministry of Community and Social Services-sponsored report in 2007 on transportation operational costs does not provide sufficient information to determine the costs to individual jurisdictions or the cumulative costs of all the accessibility standards. Furthermore, an assessment by the transit industry of the report suggested there were significant errors in the assumptions used and other problems that brought the estimates into question. More-precise cumulative cost and operational impacts cannot be determined until there is clear interpretation of the requirements of integrated standards now being finalized, together with the requirements of the standards related to the built environment.

The transit industry has estimated that the additional operating and capital cost to Ontario transit services will be approximately \$500 million for the period to 2025, and \$16 million per year after that. Unless additional funding is provided by the Province, these costs, in addition to the already-committed high costs associated with acquiring accessible vehicles and improving stations, will result in pressure on municipal transit operators to increase fares and/or reduce the overall amount of service provided, in order to offset the additional costs.

JUSTIFICATION

The TTC should request the Province of Ontario to commit to making changes to the draft regulations, prior to any approval of the regulations, in order to address the concerns identified in this report, as well as those identified by other members of the transit industry.

The TTC is very pro-active in making public transportation accessible and had plans in place, before the Province passed the AODA, to improve the accessibility of its services and facilities. Some aspects of the just-released proposed regulations regarding Integrated Accessibility Standards are unclear. Others, as currently worded, are not workable for the TTC. Further, there is not sufficient information at this time to determine, with confidence, the cumulative costs and operational impacts of the regulations on the TTC.

The proposed integrated standards have been reviewed by TTC staff in consultation with ACAT, other transit service providers, and public transit associations, and there is consensus that improvements to the regulations are needed in a number of areas. In addition, the Province has not made commitments to long-term sustainable funding for

accessible services and facilities or to address questions of policy and implementation of the standards. For these reasons, the Commission should convey its concerns regarding such matters to the Province.

March 1, 2011
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