



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

Written Testimony of
Brian Cristy

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Housing, Transportation, and Community Development

Hearing on Examining the Federal Role in Overseeing the Safety of
Public Transportation Systems

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Chairman Menendez, Ranking Member Vitter, and distinguished members of the Subcommittee, my name is Brian Cristy and I am the director of the Transportation Oversight Division of the Massachusetts Department of Public Utilities (“Department”). I thank you for the opportunity to discuss the role and responsibilities of the Department as a State Safety Oversight (“SSO”) agency and suggestions for improving the SSO program and rail transit safety on a national level.

I. INTRODUCTION

The Department is the designated SSO agency for the Massachusetts Bay Transportation Authority (“MBTA”), the Commonwealth’s fixed rail system. The MBTA, which is over 100 years old, is the fifth largest transit authority in the United States, and it provides service to over 1.3 million passengers per day. The Department’s safety oversight of the MBTA was established

in 1964, pursuant to M.G.L. c. 161A, § 3(i) (See also, Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-40, 49 U.S.C. Section 5330; 49 C.F.R. Part 659). The Department instituted the SSO program in 1995.

II. THE DEPARTMENT'S ROLE AS SSO AGENCY

The Department's safety-related oversight of the MBTA includes the ability to promulgate rules and regulations and issue administrative decisions that require corrective actions by the MBTA. For example, in January 1980, the Department was the first oversight agency to mandate hours-of-service regulations for rail transit operators. Further, following several derailments of the MBTA's Green Line No. 8 low-floor vehicle ("No. 8 Car") in 1999 and 2001, and the investigation that followed, the Department ordered the MBTA to prepare a Corrective Action Plan ("CAP") that would, among other things, address the adequacy of the wheel-rail interface for the No. 8 Car's center truck to prevent future derailments. With the approval of the Department in March 2003, the MBTA began a gradual reintroduction of the No. 8 Car. In addition, in August 2009, the Department became the first rail transit oversight agency to prohibit all MBTA train and bus operators from using a cell phone or having a cell phone in his or her possession while on duty.

The success of the Department's safety-related oversight of the MBTA depends upon maintaining an open dialogue and consistent line of communication with the MBTA on all safety-related issues. This includes around-the-clock access to MBTA property (including computer databases) to conduct or participate in meetings, audits, training, and investigations. Further, the Department has direct access to the MBTA's general manager and other upper management officials, and it receives automatic electronic notification of any safety-related

incident that takes place on the MBTA's property. In addition, the Department communicates directly with the MBTA concerning the SSO program by providing mandatory training to MBTA upper management that is specifically related to the program.

In an effort to further promote an efficient oversight program, the Department coordinates various oversight activities with the MBTA's safety department. Such protocol is designed to ensure that the safety department is an active participant in any corrective measures, and it provides an opportunity for the MBTA to enhance safety internally. For example, the Department and the MBTA jointly conduct mandatory quarterly meetings, co-chaired by the Department's oversight manager and the MBTA's safety director, to discuss and formulate action on a number of safety issues. From these meetings, investigations, and analyses of hazards, evolve the aforementioned CAPs designed to reduce or eliminate the identified hazards. The Department is required by the current federal program to accept or reject all CAPs submitted by the MBTA, and the Department tracks the CAPs to completion. This function is unique to local oversight given that CAPs are tracked in "real time," something that may not be practical at the federal level. It should be noted that CAPs often take weeks, months or even years to fully implement.

III. THE PROPOSED LEGISLATION

The Department supports the Administration's proposal to establish Federal Transit Administration ("FTA") safety regulatory authority over fixed rail transit systems, as this

proposal will strengthen the existing SSO program. The Department, however, respectfully submits that enhancements to the SSO program are necessary and should include the following: (1) a phase-in period for any new FTA requirements to allow states and transit systems sufficient time to meet new requirements and/or standards; (2) a federal venue for SSO agencies to seek fines for issues of non-compliance on the part of a transit system (these fines should be imposed by FTA on behalf of the SSO); (3) additional training opportunities for the SSO community, together with a federal requirement that transit system staff and management participate in training specific to this program and to the extent possible; (4) a requirement that the transit authority director of safety be a direct report to the general manager or transit system CEO; and (5) the continued emphasis on communication and cooperation between the oversight agency and the transit authority.

The Department submits that problems associated with the existing oversight program should be identified and “designed out.” For example, SSO agencies should have access to transit system property and records related to the oversight function, as this is critical to promoting local relationships and partnerships that traditionally may not have been practical at the federal level. Further, the Department suggests that the CAP process can be improved. For instance, a limit should be imposed on the number of extensions requests a transit authority can seek before submitting to the oversight agency a final report regarding the cause of the accident or incident. Ultimately, this would reduce the length of the CAP review process and expedite the approval of corrective action measures to be taken by the transit authority.

In addition, any federal legislation should take into account the uniqueness of each transit system. For example, a new start will not have the same safety issues as a legacy property such

as the MBTA, which is over 100 years old. Finally, most critical to the success of any oversight program is funding, and there must be a source of funds identified and provided based on an agreed-upon formula and criteria that would apply to both the SSO community and rail transit systems. The funding should provide for staffing, training, certifications, and for flexibility in hiring. For instance, an SSO may want to hire a consultant for a short term project rather than hire a staff person.

IV. CONCLUSION

The Department supports a strong rail transit system SSO program with new enhancements to allow the FTA to become a more active participant in the safety regulatory process. The Department submits that in order for any program to succeed, the local transit authority must be an equal partner with full support of the program coming from the top of the rail transit agency down to the operator level. A revised oversight program must also include a dedicated funding source with realistic performance measurements. With the considerations outlined above, the Department submits that a revised oversight program will result in a more balanced program and, therefore, a safer public transit system.

Thank you for the opportunity to provide this testimony on behalf of the Massachusetts Department of Public Utilities.