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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK STATE
THRUWAY AUTHORITY**

**UNCOLLECTED E-ZPASS
TOLLS AND FEES**

Report 2006-S-101

AUDIT OBJECTIVE

Our audit objective was to determine whether the New York State Thruway Authority (NYSTA) made effective use of all available collection methods in recovering unpaid E-ZPass tolls and fees.

AUDIT RESULTS - SUMMARY

E-ZPass is an electronic toll collection system. It was first used on the New York State Thruway in 1993. According to an analysis prepared by NYSTA, between January 1, 2000, and December 31, 2005, motorists failed to pay NYSTA about \$4.5 million in E-ZPass tolls. These motorists also failed to pay about \$22.9 million in administrative fees that were billed in connection with these unpaid tolls. While most of the delinquent motorists owed NYSTA \$20 or less in unpaid tolls, some repeat violators owed thousands of dollars in unpaid tolls.

We examined the actions taken by NYSTA in collecting unpaid E-ZPass tolls and related fees (the fees may be waived or reduced at NYSTA's discretion). We found NYSTA uses a standard collection process that is effective in many instances. According to NYSTA's records, during the 21 months ended November 30, 2006, about 55 to 60 percent of NYSTA's unpaid E-ZPass tolls from the 2005 calendar year were collected after the standard (up to three) billing notices were sent.

However, we also conclude that special collection efforts beyond the standard collection process would also be effective. NYSTA has no special collection practices for violators who fail to respond to the standard billing notices, even if these violators owe thousands of dollars in unpaid tolls. In fact, unlike two other public

authorities that are part of an interagency group, NYSTA does not currently use a collection agency to pursue unpaid E-ZPass tolls and fees. However, since October 2006, NYSTA has been pursuing hiring a collection agency. We recommend NYSTA develop and implement a number of special collection practices for persistent E-ZPass toll violators.

For example, we recommend NYSTA make use of a certain judicial collection process in which the vehicle registrations of persistent violators can be suspended if they do not pay. We also recommend NYSTA consider the merits of establishing an administrative adjudication process for toll violators, make certain improvements in its billing practices for unpaid tolls, determine whether collections from persistent violators can be facilitated when the violators do business with NYSTA, develop special collection strategies for unpaid tolls owed by car and truck rental companies, and develop other special targeted collection practices for high-volume persistent violators. We also recommend NYSTA use data analysis techniques to enhance its management of the collection process and focus on the new collection strategies developed.

Our report contains 12 recommendations for improving NYSTA's ability to collect unpaid tolls and fees. NYSTA officials generally agreed with most of our recommendations and have taken steps to implement changes.

This report, dated January 27, 2008, is available on our website at: <http://www.osc.state.ny.us>.

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BACKGROUND

The New York State Thruway Authority (NYSTA) is a public corporation created by Article 2, Title 9, of the New York State Public Authorities Law for the purpose of financing, constructing, reconstructing, improving, developing, maintaining, and operating a highway system known as the Thruway. NYSTA is managed by a seven-member Board of Directors appointed by the Governor with the advice and consent of the State Senate.

The Thruway is a 641-mile superhighway system crossing New York State. It is the longest toll superhighway system in the United States, comprising 3,240 lane miles of roadway, 1,040 bridges, and 355 toll booths. Most of the Thruway is “ticketed,” meaning that a ticket is provided to drivers when they enter the highway at controlled entry points, and must be surrendered by drivers when they leave the highway, or the ticketed portion of the highway, at controlled exit points. The tickets are surrendered at toll booths, where a toll must be paid. The toll amount is based on the type of vehicle (e.g., commercial or passenger) and the distance driven (as indicated by the ticket). For portions of the Thruway that are not ticketed, fixed tolls are collected at special toll barriers.

E-ZPass is an electronic toll collection system that is used in more than a dozen states. A motorist may use E-ZPass if a special transponder (tag) is affixed to the front of his or her vehicle. The tag sends out a signal that identifies the vehicle electronically. The signal is read by special equipment at the toll collection booth, and the toll is automatically charged against the motorist’s account. For a highway such as the Thruway, where toll amounts may be based on a vehicle’s entrance point onto and exit point off the highway, the signal from a vehicle’s tag is read at both the

entrance and exit points, and the toll is calculated accordingly.

NYSTA first began using E-ZPass in 1993, at certain points along the Thruway, and completed installation throughout the entire Thruway system in February 1997. All NYSTA E-ZPass customers have pre-paid accounts, most of which are automatically replenished with the customers’ credit cards when the accounts go below a set balance. NYSTA also offers post-paid accounts to certain commercial customers.

NYSTA, together with the other Authorities that implement E-ZPass in New York State – the Metropolitan Transportation Authority Bridges and Tunnels and the Port Authority of New York and New Jersey, operates the E-Z Pass New York Customer Service Center. Each of the three Authorities has a separate but similar contract with ACS State and Local Solutions, Inc. (ACS), to operate the New York Customer Service Center and provide customer services on its behalf. ACS enrolls E-ZPass customers, issues E-ZPass tags, sets up E-ZPass accounts, processes account payments, identifies toll violations, and provides other customer services. ACS also operates a computer system known as VECTOR to track all E-ZPass activity. ACS is responsible for billing for any unpaid E-ZPass tolls, but NYSTA is responsible for the ultimate collection of such payments.

Some toll lanes on the Thruway are designated as “E-ZPass Only.” Since these lanes have no toll collectors, they should only be used by vehicles with E-ZPass tags and accounts. An E-ZPass toll violation occurs when these lanes are used by vehicles lacking these tags. A “violation” also occurs when a valid tag is not detected by the E-ZPass equipment at a toll booth. (This can happen if the tag is mounted improperly, if the equipment at the toll booth is not working, or

for other reasons.) The license plates of the vehicles are photographed by cameras installed at the toll booths, enabling the violators to be identified. ACS then sends a violation notice to the violators for the unpaid tolls and fees.

E-ZPass accounts may be suspended or revoked if their owners fail to keep the accounts in good standing or repeatedly speed through toll lanes. If an E-ZPass customer continues to use a tag for an account that has been suspended or revoked, a toll violation occurs; and ACS bills the violator for the unpaid tolls and fees.

E-ZPass toll violators are charged the toll plus an administrative fee of \$25 for each separate violation. If the violator exited from the ticketed portion of the Thruway, the toll due is computed from the point of exit to the farthest entry point. However, the amount may be reduced if the violator claims a closer entry point was used. If the violation occurred at a fixed toll barrier, the violator is charged the amount due for that barrier. The administrative fee may be waived or reduced at the discretion of NYSTA.

If a violator is an E-ZPass account-holder, ACS charges the violation toll and administrative fee for the violation to a special violation account that is created for the customer. The customer's normal E-ZPass account is not affected. If the violator does not have an E-ZPass account, ACS uses the photograph of the license plate to identify the vehicle's owner. (ACS contacts the Department of Motor Vehicles in the state indicated by the license plate.) ACS then charges the toll and administrative fee to a violation account that is created for the vehicle's owner. This account is used to track payments as well as any future charges for violations.

However, NYSTA is owed millions of dollars in unpaid E-ZPass tolls and administrative fees. For example, according to an analysis prepared by NYSTA in August 2006, between January 1, 2000, and December 31, 2005 (a period of six years), motorists failed to pay NYSTA about \$4.5 million in E-ZPass tolls.¹ These motorists also failed to pay about \$22.9 million in administrative fees that were billed in connection with these unpaid tolls.

As is summarized in Table 1, these unpaid amounts related to 327,735 E-ZPass violation accounts, of which 55,489 accounts belonged to E-ZPass customers and 272,246 accounts belonged to individuals or businesses that were not E-ZPass customers.

Account Type	Accounts	Percent	Toll Owed	Percent	Fees Owed
Customers	55,489	16.9	\$1,123,886	25.1	\$9,641,352
Non-Customers					
Passenger	241,790	73.8	2,158,789	48.3	9,086,041
Commercial	30,456	9.3	1,189,732	26.6	4,142,721
Totals	327,735	100.0	\$4,472,407	100.0	\$22,870,114

Most of the individual accounts are small and many represented one-time violations. However, some repeat violators owed thousands of dollars in unpaid tolls. For example, one motorist (a non-customer who drove a passenger vehicle) had been cited for 322 violations and owed \$3,149 in unpaid tolls. Another non-customer (an out-of-state trucking company) had been cited for 2,226 violations and owed \$59,159 in unpaid tolls.

¹ This six-year period was the most recent period for which NYSTA had prepared summary information for unpaid E-ZPass tolls. In response to our inquiry about the possibility of obtaining more recent summary information, NYSTA officials indicated it would have taken several weeks to compile such information.

In total, there were 82 violators (mostly businesses) that owed \$2,500 or more in unpaid tolls.

During the six years ended December 31, 2005, NYSTA collected a total of about \$2.6 billion in toll revenue.

Payment violations at electronic toll booths are a growing problem in many states. In response to concerns about the problem, the International Bridge, Tunnel and Turnpike Association (which is composed of highway, bridge, and tunnel authorities) held a special summit in July 2007 to discuss strategies for combating these payment violations.

AUDIT FINDINGS AND RECOMMENDATIONS

Standard Collection Practices

NYSTA has standard collection procedures for unpaid E-ZPass violation tolls and related fees. According to these procedures, ACS is to send a violation notice to the violators for the violation tolls and fees. Even if the violators have pre-paid accounts, they are to be billed separately for their violations and thus have an opportunity to question the validity of the charges.

If a violator does not pay or otherwise resolve the matter within 30 days of the first billing notice, ACS is to send a second notice, known as a Notice of Delinquency. If the violator does not resolve the matter within 30 days of this second notice, ACS is to send a third notice, known as a Final Notice. In addition, several times beginning in January 2006, NYSTA instructed ACS to send a fourth notice, known as a Last Chance Letter, to violators that met NYSTA's internal criteria. They were provided another opportunity to resolve their violations before the matter is turned over to a collection agency.

ACS will also send a warning letter to an account-holder who fails to keep his or her pre-paid account in good standing. The letter is sent if the account has a negative balance of \$15 or more for 30 consecutive days. If the account remains in bad standing for 60 consecutive days, ACS is to revoke the account and charge additional administrative fees. If the violator does not pay the outstanding amounts and continues to use his or her E-ZPass tag, the standard collection procedures are to be followed. ACS is to bill the violator for all unpaid tolls and fees, sending up to three billing notices.

To determine whether these standard collection procedures were being followed, we randomly selected 50 of the private (i.e., non-commercial) accounts with violations from NYSTA's database of E-ZPass violation accounts. Our sample included both customer and non-customer accounts. There were a total of 121 violations in these 50 accounts. We reviewed all 83 violations for 49 accounts and randomly selected 5 of the 38 violations for the remaining account.

We then reviewed these 88 violations to determine whether the 3 notices (i.e., the Initial Notice, the Notice of Delinquency, and the Final Notice) were sent out within the expected time frames and the Last Chance Letter was sent out in accordance with NYSTA's internal policy. We found that the notices and Last Chance Letters were properly sent. It thus appears that the standard collection procedures are being followed.

To determine whether these procedures were effective, we reviewed the payments made in response to the notices and Last Chance Letters. According to NYSTA's records, during the period March 1, 2005, through November 30, 2006, about 55 to 60 percent of NYSTA's unpaid E-ZPass tolls from the 2005

calendar year were collected after the notices were sent.

NYSTA's records also showed that, between January 2006 and February 2007, about 244,000 Last Chance Letters were sent out to three groups consisting of private customers, non-customers, and business and commercial customers that had not paid or made partial payment. This action resulted in the collection of more than \$632,000 in unpaid tolls and fees.

Enhanced Collection Practices

If the three violation notice letters are not successful in resolving an account's unpaid tolls and fees and the accounts are not selected to receive the Last Chance Letter, no further effort is made to collect the unpaid amounts. At the time of our fieldwork, NYSTA was seeking the services of a collection agency; but, as of August 2007, no contract had been awarded for such services.

While the standard collection procedures are effective in many instances, we concluded that special collection efforts beyond the standard collection process would be beneficial. As was previously noted, the uncollected amounts are significant, as the unpaid tolls alone totaled \$4.5 million in a recent six-year period. Nonetheless, NYSTA has no special collection practices for violators who fail to respond to the standard billing notices, even if these violators owe thousands of dollars in unpaid tolls. Rather, NYSTA's collection practices are the same for each account, regardless of the amount owed or the number of violations by the violator.

NYSTA's E-ZPass system has been fully operational for more than ten years. However, NYSTA's collection practices have changed little since the system was installed.

We recommend NYSTA develop special collection practices for persistent violators. We note that the development of such practices would be facilitated if NYSTA made better use of the information in its violation database.

Collection efforts would also be enhanced if improvements were made in the billing practices for post-payment accounts. Commercial customers may have such accounts if they (1) have a pre-paid E-ZPass account with NYSTA for use on other highway/bridge authorities with E-ZPass systems, and (2) provide a cash or bond surety to cover at least three months of expected toll charges on the Thruway.

These customers have signed a credit agreement that allows them to be billed monthly for their Thruway tolls. If any toll violations are incurred by the customers (e.g., if a tag is mounted incorrectly), the violations and related fees are not included on the monthly bill. Instead, they are charged to the customer's violation account and pursued through the three standard violation notice letters. As a result, when a customer pays the monthly bills for post-paid use on time, but does not resolve unpaid violations, the surety cannot be applied against the unpaid violation charges.

We identified six customers with post-payment accounts that owed NYSTA a combined total of \$97,855 in unpaid violation tolls and fees. These amounts were charged to the customers' violation accounts and were not included in the monthly bills for post-paid usage. If these unpaid charges were included in the customers' monthly bills for their post-payment accounts, and the customer still failed to pay them, NYSTA could collect any amounts that continued to be unpaid from the customers' sureties. However, there is no billing mechanism for including violation

charges on the monthly bills for post-payment accounts. We recommend such a mechanism be developed.

Unpaid tolls by rental vehicles are also an area of concern. Currently, the standard collection procedures are followed for such violations. If the rental company provides ACS with the lessee's name and contact information after receiving a violation notice, the liability is transferred to the lessee. If not, the rental company is responsible for the unpaid tolls and related fees.

To determine whether the standard collection practices were effective for rental vehicles, we reviewed the E-ZPass accounts belonging to three rental companies. We judgmentally selected three different types of rental companies (one car rental company, one truck rental company, and one leasing company); and, for each type, we selected the company with the highest balance in its violation account. We then selected for review five violations from each account for the six-year period ended December 31, 2005. In selecting the violations, we judgmentally selected violations that were relatively recent.

We determined that, in 6 of these 15 violations, liability was properly transferred to the lessee. We further determined that four of the remaining nine violations were paid in full by the rental company. However, the remaining five violations were not paid and, since the rental companies did not provide ACS with information about the lessees, the unpaid tolls and related fees were owed by the companies. All five delinquent payments were at least one year overdue.

For the six-year period reviewed, the three rental companies owed NYSTA a total of \$137,542 in unpaid tolls and related fees. It thus appears that the standard collection practices often are not effective for rental

vehicles. We recommend NYSTA develop a special collection strategy for unpaid tolls owed by rental companies.

NYSTA allows customers with many unpaid violation charges to continue to replenish their pre-paid accounts and use E-ZPass toll lanes indefinitely. We recommend NYSTA consider suspending a customer's prepaid account when unpaid violation charges are above a certain amount and have not been able to be resolved through the standard collection process (we note that the Maryland Turnpike is considering this option).

NYSTA officials told us they would like to adopt this practice. However, before such a change could be implemented, both the Metropolitan Transportation Authority (MTA) and the Port Authority of New York and New Jersey (PANYNJ) would have to approve the change, as the three public authorities have agreed to administer their E-ZPass systems in a consistent manner. We recommend NYSTA officials work with MTA and Port Authority officials to address this issue.

NYSTA's collection efforts could be further enhanced if the following practices were adopted:

- NYSTA may be able to bring civil actions against E-ZPass customers with violations. Cases in which unpaid tolls and fees are more than \$6,000 could be referred to the Office of the State Attorney General for recovery. We recommend NYSTA consider this option, when appropriate.
- Steps could be taken to develop special, targeted collection practices for high-volume violators. For example, NYSTA could analyze violation accounts to identify such

violators, analyze the violators' travel patterns, and coordinate with the Division of State Police to explore the feasibility of targeted enforcement action.

- NYSTA has information about E-ZPass violations in its violation database (created from ACS's VECTOR system). For example, the database shows the date, time, and location of each violation; the name and address of the vehicle's owner; the name of the company if the vehicle is commercial; the dates violation notices were sent; and the total amounts of tolls and fees owed by the violator. However, NYSTA does not routinely analyze the data to identify opportunities to enhance collection efforts (e.g., to determine whether any violation accounts belong to vendors that do business with NYSTA or other State agencies). In fact, NYSTA does not prepare summary E-ZPass accounts receivable information on a regular basis. We recommend NYSTA make better use of the information in its violation database.

Notice of Liability Process

Prior to 2000, NYSTA made use of a collection process that is authorized by the Public Authorities Law. Under this process, NYSTA can send a Notice of Liability (NOL) to the violator. The NOL informs the violator who does not pay the amount owed by a certain date that he or she will be summoned before the court having jurisdiction in the area where the violation occurred. If the violator

fails to comply, he may be fined by the court. In addition, 5 or more violations in the same court jurisdiction within an 18-month period can lead to the suspension of the violator's vehicle registration by the Commissioner of the Department of Motor Vehicles upon notice from a court or an administrative tribunal.

However, NYSTA officials stopped using the NOL process in 1999, because it was time-consuming and any fines paid as a result of the process went to the local jurisdictions and not to NYSTA. Thus, they felt the process was not cost-beneficial for NYSTA.

NYSTA officials have repeatedly proposed amendments to the Public Authorities Law and the Vehicle and Traffic Law that would modify the NOL process, but they have not been successful in these efforts. For example, in the 2005-06 legislative session, NYSTA proposed that payment of the lost toll revenue to NYSTA be a mandatory part of the penalty imposed by the court. NYSTA also proposed that vehicle registrations be suspended by the Commissioner of the Department of Motor Vehicles upon the receipt of notification from NYSTA that an owner of a motor vehicle failed to appear on the return date or failed to pay any penalty imposed by a court in response to 5 or more NOLs issued within an 18-month period from any jurisdiction.

We recommend NYSTA make full use of the existing NOL process for persistent violators. While the process may not always be cost-beneficial from the perspective of NYSTA, it may be cost-beneficial in the long run, if it deters future toll evasions by persistent violators. It is also the strongest enforcement mechanism currently available to NYSTA.

Use of a Collection Agency

Both the Metropolitan Transportation Authority and the Port Authority of New York and New Jersey use collection agencies for delinquent E-ZPass accounts. However, NYSTA does not currently use a collection agency. The Metropolitan Transportation Authority reports an average recovery rate of 23 percent on the amounts referred to its collection agency.

At the time of our fieldwork, NYSTA was seeking the services of a collection agency. We believe NYSTA would benefit from such services, but note that their procurement has been delayed due to a variety of difficulties encountered during the procurement process. If these difficulties cannot be resolved in an expeditious manner, we recommend NYSTA identify other options for collection services.

Collaboration with State Agencies

NYSTA works with the Division of State Police to coordinate potential enforcement efforts against toll violators. We acknowledge this collaboration, but note that there are also opportunities for collaboration with other State agencies, particularly those interacting with businesses making frequent use of the Thruway, such as the Department of Transportation (which regulates commercial carriers) and the Office of the State Comptroller (which approves State contracts).

For example, as of December 31, 2005, there were 82 violation accounts of \$2,500 or more. For five of these accounts (belonging to businesses), we compared the account-holders' names and addresses with payment records maintained by the Office of the State Comptroller (OSC). We judgmentally selected the five businesses because it

appeared likely they would perform services for State agencies. We found that, during the 7-year period ended December 31, 2006, the 5 companies received 39 payments totaling \$45,670 from 7 different State agencies. In fact, one of the companies received \$2,157 in payments from NYSTA. Another company received \$16,455 in tax refunds.

NYSTA can withhold payments to violators with unresolved E-ZPass violations that have contracts with NYSTA, and we recommend that NYSTA do so. The State may not withhold payments on contracts with other agencies because of the contractors' E-ZPass violations, but such violations could be reported to the OSC Vendor Responsibility Unit. This Unit evaluates vendors' responsibility for the purposes of contract awards, and while E-ZPass violations would not, by themselves, disqualify a vendor for a contract award, the violations would be taken into account when the vendor's responsibility was evaluated. We recommend NYSTA work with the Vendor Responsibility Unit to develop a process for reporting information about violators.

We also determined that 27 of the 82 violation accounts belonged to companies in the trucking industry (together, these 27 accounts owed \$662,092). We met with Department of Transportation (DOT) officials who are responsible for inspecting trucking operations to determine whether they would be willing to share information with NYSTA or provide other assistance for the collection of unpaid tolls and fees. DOT officials told us they would be interested in sharing information. Specifically, they said they were interested in knowing about trucking firms that fail to pay tolls, because it may indicate the company is in financial difficulty and may be more apt to reduce vehicle maintenance and safety. This was a concern because DOT performs safety inspections of commercial trucks. DOT

officials stated they would be willing to provide assistance to NYSTA, but would need to determine what was legally permissible.

NYSTA officials stated that it would be time-consuming to identify E-ZPass violators who receive State payments. They also questioned whether it would be legally permissible or cost-beneficial to work with other State agencies to collect unpaid E-ZPass tolls from such violators. However, our review shows that other agencies are willing to help NYSTA to the extent they can. We believe it would be prudent for NYSTA to determine where collaboration would be legal and appropriate.

Other Possible Enhancements

DOT officials noted that it has an administrative process for collecting outstanding fines and fees where violators are brought before an administrative law judge and are subject to an administrative adjudication process. If the violators are ordered to pay, but do not comply, DOT is able to file a lien for the outstanding amounts. The officials noted that it might be worthwhile for NYSTA to establish an administrative adjudication process, instead of relying on the courts to handle violators.

We note that an administrative adjudication process is used by the Illinois Tollway and, in that process, the driver's licenses and vehicle registrations of toll violators can be suspended. We recommend NYSTA formally analyze the merits of establishing an administrative adjudication process. NYSTA officials noted that legislative authorization would be required for such a process.

Recommendations

1. Develop a billing mechanism for adding unpaid violation charges of post-paid commercial customers to monthly post-

payment bills.

(NYSTA officials agree with the recommendation and are seeking a cost-effective mechanism for charging outstanding violations directly to the monthly invoices.)

2. Develop a special collection strategy for unpaid tolls owed by rental companies.

(NYSTA officials replied to our draft report they have always had a collection strategy to collect tolls and fees from rental companies. They added that enhancing the collection strategy for rental companies is appropriate and this was done after our fieldwork was completed. The results have been positive and all toll and fees [totaling \$69,999] were collected from one rental car company.)

3. Perform a formal analysis of the impact of suspending the pre-paid accounts of customers with unpaid violation charges when the unpaid charges are above a certain amount and have not been resolved through the standard collection process. Work with MTA and Port Authority officials to address this collection practice.

(NYSTA officials replied to our draft report they agree with the concept that a customer's E-ZPass account should be suspended when the customer has outstanding violations. However, MTA Bridges and Tunnels and PANYNJ would need to agree to that approach because they share an E-ZPass customer service center with the Authority and all three have agreed to administer the E-ZPass systems in a consistent manner. Furthermore, they recently started a 14-month transition to a new customer services center that does not allow for a change in the scope of work; but the

NYSTA will work with the other authorities to see if it can be implemented.)

4. Determine, on a case-by-case basis, whether referral should be made to the Office of the Attorney General for recovery against E-ZPass customers who owe more than \$6,000 in unpaid tolls and fees.

(NYSTA officials replied to our draft report they will analyze the cost/benefit of referring certain high-dollar E-ZPass violators to the Attorney General's Office on a case-by-case basis.)

5. Develop special, targeted collection practices for high-volume violators. Analyze violation accounts to identify such violators, analyze the violators' travel patterns, and coordinate with the Division of State Police for enforcement action.

(NYSTA officials replied to our draft report they will analyze the feasibility of developing targeted procedures for high-volume violators, including the provision of coordinating violator travel patterns with the State Police. However, by law, the State Police must witness the violation in order to use a law enforcement approach to deter such behavior. They added that the State Police will have to assess whether they have the resources to perform this task.)

6. Make greater use of the information in the violation database. In particular, use data analysis techniques to develop new collection strategies.

(NYSTA officials replied that they will implement this recommendation.)

7. Make use of the Notice of Liability process for persistent E-ZPass violators, where circumstances warrant.

(Authority officials replied to our draft report that the NOL process requires a large investment of resources and they cannot even recover the toll revenue in return for this investment. As a result, they decided not to implement NOL processing in the current system. They prefer to continue their efforts to seek changes in the Public Authorities Law and Vehicles and Traffic Law to provide the Authority with its lost revenue.)

Auditor's Comment: We agree that NYSTA should continue to seek changes in the law to improve the NOL process. However, this approach has not been successful for several years. In the meantime, Authority officials need to pursue the NOL process at least for some of the most persistent violators.

8. Identify other options for collection agency services if the pending contract cannot be awarded in an expeditious manner.

(NYSTA officials replied to our draft report they are working with OSC to resolve the issues that have prevented the procurement from going forward.)

9. Determine whether any E-ZPass violators are vendors of NYSTA and withhold payments to these vendors until the unpaid tolls and related fees are resolved.

(NYSTA officials replied to our draft report that they will determine if persistent E-ZPass commercial violators are vendors of the Authority and will withhold payment, where feasible.)

10. Work with the Office of the State Comptroller's Vendor Responsibility Unit to develop a process for reporting information about E-ZPass violators.

(NYSTA officials replied to our draft report that they will meet with the OSC Vendor Responsibility Unit to determine the feasibility and benefit of reporting persistent E-ZPass commercial violators to that Unit.)

11. Develop and implement mechanisms, where legal and appropriate, for sharing information about unpaid E-ZPass tolls with other State agencies and public authorities.

(Responding to our draft audit report, NYSTA officials indicated they polled various State agencies, but not identify any method whereby such agencies can assist them in collecting outstanding violations. They will work with the other public authorities in an effort to collect unpaid tolls and fees from individuals and companies that have E-ZPass violations on multiple E-ZPass systems.)

12. Perform a formal analysis of the merits of establishing an administrative adjudication process for E-ZPass violations.

(In reply to our draft audit report, NYSTA officials replied that establishing an administrative adjudication process requires legislation and significant resources. They indicated that they would like to evaluate the use of a collection agency before they perform a cost/benefit analysis of establishing an adjudication process.)

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited NYSTA's collection practices for unpaid E-ZPass tolls and related fees for the period January 1, 2000, through March 5, 2007. To accomplish our objective, we met with NYSTA officials to confirm and enhance our understanding of their violation process and collection efforts and used auditing software to analyze NYSTA's violation database. In addition, we reviewed relevant laws, rules, and regulations; NYSTA's policies and procedures; and NYSTA's website. We also visited ACS's Customer Service Center, where we met with ACS officials and reviewed certain records.

We selected certain violations from NYSTA's violation database for further review. In particular, we randomly selected 50 of the private (i.e., non-commercial) accounts with payment violations during the 6-year period January 1, 2000, through December 31, 2005, and reviewed a sample of 88 violations from the 50 accounts, including all 83 violations from 49 accounts and a random selection of 5 out of 38 violations for the remaining account. We also reviewed all 82 violation accounts with balances of \$2,500 or more as of December 31, 2005. In addition, we judgmentally selected the violation accounts of three vehicle rental companies, and reviewed five selected violations from each account. Additional details about our sampling methodologies are provided in the body of the report.

We also interviewed OSC Bureau of Contracts staff, New York State Department of Transportation officials, New York State Department of Motor Vehicles officials, New York State Division of State Police officials, Metropolitan Transportation Authority

officials, and Port Authority of New York and New Jersey officials. In addition, we surveyed selected members of the Interagency E-ZPass Group (an organization containing highway, bridge, and tunnel authorities from various states that accept E-ZPass) to obtain information about their collection practices.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed pursuant to the State Comptroller's authority as set forth in Article

X, Section 5, of the State Constitution; and Section 2803 of the Public Authority Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to NYSTA officials for their review and comment. Their comments were considered in preparing this final audit report and are included as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the New York State Thruway Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Carmen Maldonado, Gerald Tysiak, Stephen Goss, Deb Spaulding, Nicholas Angel, Jay Gwak, Michael Sechrist, and Dana Newhouse.

APPENDIX A - AUDITEE RESPONSE



John L. Buono
Chairman

New York State Thruway Authority New York State Canal Corporation

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Michael R. Fleischer
Executive Director
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November 26, 2007

Ms. Carmen Maldonado
Audit Director
New York State Office of the State Comptroller
Division of State Government Accountability
123 William Street — 21st Floor
New York, NY 10038

Dear Ms. Maldonado:

Thruway Authority (Authority) staff has reviewed the Office of the State Comptroller's (OSC) Draft Audit Report 2006-S-101 concerning Uncollected E-ZPass Tolls and Fees. The Authority has invested significant time and resources into collecting outstanding tolls and fees for E-ZPass violations and is always striving to improve its approach. In this regard, Authority staff recently attended the International Bridge, Tunnel and Turnpike Association Violations Summit to gather more information about collection practices employed by tolling agencies and authorities across the country. Based on information presented and discussed at the summit, the Authority has significantly modified its violation notices to improve collection results. Since the inception of the audit, the Authority has reduced by over 15 percent its reported outstanding violation debt.

Recommendations

- Develop a billing mechanism for adding unpaid violation charges of post-paid commercial customers to monthly post-payment bills.

The Authority agrees with this recommendation and is seeking a cost-effective mechanism to charge outstanding violations associated with Commercial Charge Accounts directly to their monthly invoices.

- Develop a special collection strategy for unpaid tolls owed by rental companies.

The Authority has always had a collection strategy to collect unpaid tolls and fees relating to rental companies. The Authority's service center contractor, ACS State and Local Solutions (ACS), developed a streamlined process to allow rental car companies the ability to provide name and address of renters. ACS sends certain rental companies summary data of their unpaid violations in an effort to obtain names and addresses of renters. This process reduced the Authority's cost and reduced the number of violations without renter information.

The Authority agrees that enhancing its collection strategy to resolve unpaid tolls relating to rental companies is appropriate. Subsequent to the audit, the Authority has had some success resolving outstanding debt from rental car companies. The Authority, in coordination with the Port Authority of New York & New Jersey (PANYNJ), is in the process of contacting high volume rental car companies. This effort has already resulted in collecting the entire tolls and fees due from one rental car company (\$41,265 and \$28,734 respectively). Other rental car companies are being contacted to resolve their outstanding debts as well.

- Perform a formal analysis of the impact of suspending the pre-paid accounts of customers with unpaid violation charges when the unpaid charges are above a certain amount and have not been resolved through the standard collection process. Work with the Metropolitan Transportation Authority (MTA) and PANYNJ officials to address this collection practice.

The Authority agrees with the concept that a customer's E-ZPass account should be suspended when the customer has outstanding violations. As indicated in the audit, MTA Bridges and Tunnels and PANYNJ would need to agree to that approach because those authorities share an E-ZPass customer service center with the Authority and all three agencies have agreed to administer their respective E-ZPass systems in a consistent manner. Further, the Authority, PANYNJ and MTA Bridges and Tunnels have just begun a 14-month transition to a new E-ZPass customer service center. While the transition schedule does not allow for any significant changes to the scope of work at this time, the Authority will work with the other agencies to determine if this can be implemented as a system modification after successfully transitioning to the new customer service center.

- Determine on a case-by-case basis, whether referral should be made to the Office of the Attorney General for recovery against E-ZPass customers who owe more than \$6,000 in unpaid tolls and fees.

The Authority does refer certain other types of claims for collection to the Attorney General's Office, which charges the Authority for such work on an hourly basis. The Authority will analyze the cost/benefit of referring certain high-dollar E-ZPass violators to the Attorney General's Office for collection work on a case-by-case basis.

- Develop special, targeted collection practices for high-volume violators. Analyze violation accounts to identify such violators, analyze the violators' travel patterns and coordinate with the Division of State Police for enforcement action.

The Authority will analyze the feasibility of developing a targeted collection procedure for high-volume violators, including the provision of violator travel patterns to State Police. However, by law, State Police must witness such violations in order to utilize a law enforcement approach to deter such behavior. The State Police will need to assess whether it has sufficient resources to perform this function.

- Make greater use of the information in the violation database. In particular, use data analysis techniques to develop new collection strategies.

The Authority will continue to analyze violation debt to improve violation processes and collection strategies.

- Make use of the Notice of Liability (NOL) process for persistent E-ZPass violators, where circumstances warrant.

As noted in the Audit, the NOL process requires that the Authority invest a significant amount of resources and it cannot even recover lost toll revenue in return for this investment. Further, the deterrent value of the NOL process is questionable because a violator's vehicle registration cannot be suspended unless such violator has five or more violations within the same court jurisdiction. For this reason, the Authority decided not to implement NOL processing in the current system. The Authority will continue, as it has in the past, to seek changes in the Public Authorities Law and the Vehicle and Traffic Law so that the NOL process will not only provide the Authority with its lost toll revenue but also serve as a deterrent by allowing for a violator's vehicle registration to be suspended upon five or more violations in any combination of court jurisdictions along the Thruway system.

- Identify other options for collection agency services if the pending contract cannot be awarded in an expeditious manner.

The Authority is currently working with OSC to resolve issues that have prevented this procurement from moving forward. It is expected that a contract for collection agencies services will be in place for 2008.

- Determine whether any E-ZPass violators are vendors of Authority and withhold payments to these vendors until the unpaid tolls and related fees are resolved.

The Authority will determine if persistent E-ZPass commercial violators are vendors of the Authority and withhold payment where feasible.

- Work with OSC Vendor Responsibility Unit to develop a process for reporting information about E-ZPass violators.

The Authority will meet with the OSC Vendor Responsibility Unit to determine the feasibility and benefit of reporting persistent E-ZPass commercial violators to that Unit.

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- Develop and implement mechanisms, where legal and appropriate, for sharing information about unpaid E-ZPass tolls with other State agencies and public authorities.

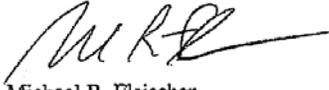
The Authority has polled various State agencies and is not aware of any method whereby such agencies can assist the Authority in collecting outstanding violations. As described in the Authority's response to Recommendation #2, the Authority is, however, coordinating with other public authorities in an effort to collect unpaid tolls and fees from individuals and companies that have E-ZPass violations on multiple E-ZPass systems.

- Perform a formal analysis of the merits of establishing an administrative adjudication process for E-ZPass violations.

The establishment of an administrative adjudication process not only requires legislation but also a significant investment of resources. The Authority would like to first evaluate the effectiveness of using collection agency services for E-ZPass violations to determine if there is sufficient unmet need to justify performance of a cost/benefit analysis of establishing an administrative adjudication process for such violations.

Any questions regarding this response should be directed to Kevin Allen at (518) 436-2871.

Sincerely,



Michael R. Fleischer
Executive Director