



Review of Customer Service - Highway 407 ETR

Submitted by Mike Colle, MPP

March 2006

The Honourable Harinder Takhar
Minister of Transportation
Ferguson Block, 3rd Floor,
Queen's Park
Toronto, Ontario
M7A 1Z8

Dear Minister,

I am pleased to submit the final report of the Review of Customer Service - Highway 407 ETR.

During the course of my work, I had the opportunity to hear from over 700 Ontarians in the Greater Toronto Area. Some presented their views in person, some by mail, some by phone and some electronically. Regardless of the medium, the message was largely the same – a sense of disappointing levels of customer service. Most people said that they knew of others who had the same frustrations.

Highway 407 ETR remains an excellent transportation corridor and a definite asset in helping Ontarians move quickly across the northern GTA. But clearly there is dissatisfaction with the way it was being administered – the faulty billings, the failure to respond adequately to consumer complaints, the perception of a reliance on an overly aggressive collection agency.

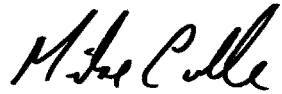
Throughout my report you will see direct quotes from Ontarians. In many ways their voices speak more eloquently than my own to the problem of poor consumer service. On occasion, those voices are intemperate, reflecting the frustration that underlies them. But I have left them intact, as it is essential to bring home to the Ministry of Transportation — and even the operator of Highway 407 ETR— the strength and depth of the feelings of the many dissatisfied customers who provided evidence to my inquiry.

As in all investigations based on public testimony, I cannot confirm the factual accuracy of the concerns that were voiced. Quite possibly some were exaggerated or unjustified. It may well be that there were reasonable explanations for the conduct that gave rise to many of the concerns. Nevertheless, to have received so many critical comments from consumers of a publicly offered service was troubling. It is simply not acceptable in this Province that so many consumers were dissatisfied with the manner in which the operator of a vital toll highway dealt with them.

I believe that the problems can and must be rectified. I am pleased to present for your consideration a series of recommendations. Together, they reflect the views

of Ontarians and my own on how consumers can receive the responsible and responsive service they deserve while using a highway for which they have, and continue, to pay.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Colle". The signature is written in a cursive, slightly slanted style.

Mike Colle, MPP

Gratitude and Thanks

I would like to express my gratitude to a number of people without whose help the Investigative Review would not have been successful.

My thanks go out to David Zimmer, MPP for Willowdale, Vic Dhillon, MPP for Brampton West-Mississauga, Mario G. Racco, MPP for Thornhill, and Tony C. Wong, MPP for Markham, for sharing their time with me on the Review Panel. I would also like to thank Anne Hart from the Better Business Bureau for sharing her dossiers. They gave us a window into the kinds of problems that 407 ETR consumers have been dealing with for a very long time.

Last, but certainly the most important, I would like to thank the members of the Ontario public who showed up to the consultations or otherwise made their views known. They were helpful and grateful that we were going ahead with this initiative. They were also hopeful that we would come up with workable solutions. People are often uncomfortable disclosing confidential personal information about their finances. The fact that so many chose to do so is testimony both to the level of frustration felt by so many 407 ETR consumers – and their eagerness to be part of the solution.

Introduction

On November 12, 2004, I was asked by Transportation Minister Harinder Takhar to lead an investigative review into consumer complaints against the operator of the toll Highway 407 ETR¹. The concerns were varied in nature but all focused around the theme of a company apparently not using best business practices. The Ministry of Transportation (MTO) was not the first port of call for these consumers. Numerous concerns came forward only after they tried to resolve their concerns directly with the 407 ETR, many over a period of months and years. Consumers had previously expressed their concerns to the Better Business Bureau, and the Canadian Automobile Association.

I was specifically asked by Minister Takhar to collect information on the types of experiences people were having when using the 407 ETR. The mission was to collect as many stories about peoples' experiences with the 407 ETR, both good and bad, to get a better sense of customer service – what was working, and what wasn't. It was, in part, a fact-finding exercise. But it was also a solutions-oriented process because I was asked to gather public input on how service can be improved.

A Widespread Consultation

One of the first challenges that I faced was how to ensure that I was able to hear from the many Ontarians who wanted to express a view on this issue. I tried to make use of all available tools:

- Four public consultation meetings were held across the GTA in communities that were felt to be directly affected by the 407 ETR: Toronto, Brampton, Markham and Thornhill. The hearings were set up so that people were able to come to a microphone and formally present their issue with the highway or they were invited to leave a written submission. Some did both. The sessions, which took place over a two-month period, were recorded in audio and video.
- A dedicated website was set-up for the sole purpose of allowing consumers to share their views on-line. The website allowed those who were unable to attend the hearings to still have their say.
- Consumers were also publicly notified of ways in which they could share their views with me by: phone, letters, e-mails and faxes.

I sought to obtain the broadest public input, and invited consumers to tell their own particular stories of their dealings with the 407 ETR – good or bad. All told, I

¹ See Appendix A for Terms of Reference

listened to or reviewed the concerns of 734 Ontarians, including 208 that were referred by the Better Business Bureau².

Customer Concerns

The various people that I heard from voiced 1,137³ concerns about the 407 ETR. My fellow MPPs, who joined me on the local panels, were as disappointed as I was by the range of concerns about customer service and billing practices of 407 ETR.

We heard from people who were billed and were continuing to be billed even though they had never been on the 407 ETR. There were stories of people getting calls from a collection agency up to five times a day, every day. One person told us that they received a bill showing that they had left the highway from two consecutive exits within two minutes.

The following complaint, is representative of most of the complaints I heard:

“I have asked for a supervisor to speak to but was told that it is being looked after. I don't think over 5 years is being looked after. ”

The specific concerns that were voiced can generally be grouped into a number of categories:

- Administration (33%)
- Billing Problems (30%)
- Other (16.3%)
- Collection Agency (15%)
- Technology (5.7%)

² See Appendix B for a breakdown of methods of contact

³ See Appendix C for a summary of concerns

Administration

Administration concerns were the most frequent concerns (383) voiced by consumers. They included:

- Unsympathetic, ineffective customer service representatives.
- Failing to process customer requests (e.g. change of address) and difficulties cancelling accounts.
- Pre-authorized payments made too early, withdrawals made without invoice or permission.
- Disputed payment returned as credit, not cash.

“When I called 407 ETR Customer Service on July 23, 2004, at 5:00 pm, I requested to speak with a supervisor when I was not satisfied with the answer I received from the front line staff, I was told that the 407ETR policy was not to have supervisors speak with a customer.”

Billing Problems

We heard a relatively equal number of concerns about billing problems (337) as we did about administration:

- Failure or too long to correct billing errors.
- Although disputed charges were dropped, accumulated interest charges continued to be billed.
- Company refused to provide proof of trip.
- Double billing – trailer/truck both billed, car rental agency/consumer both billed.
- No billing details – just lump sum.
- Falsely billed – never used highway, or didn't use highway on day billed.
- Disproportionately high administrative fees.

Comments included:

“In the spring of 2001 I received a statement from 407 ETR with a zero balance and a comment that my account was past due. Several months later, I received another statement that said balance due was \$0.00 and a \$30 late payment fee. Several phone calls to 407 ETR and several more \$30 late fees later, and I still have an outstanding balance of now over \$100 dollars because I didn't send in a cheque for \$0.00. Now the 407ETR is no longer telling me they will correct it, they say I owe money. I am fed up and not paying what I don't owe.”

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Collection Agency

Many of the consumers that we heard from (177), certainly some of the most dissatisfied, expressed concerns about the speed with which the 407 ETR turned outstanding disputes over to its collection agency, the Canadian Bonded Credits Ltd. (CBCL) and what they saw as the overly aggressive collection efforts used by the agency. The problems included:

- Frequent calls, from very early in the morning until very late at night.
- Failure to deal seriously with consumers who are disputing charges.
- Calls by lawyers who threatened to sue.
- Consumers told to “make a goodwill payment first and then resolve their dispute”.

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“It was easier for me to pay a toll of \$16.00 (including interest etc.) for a bill that was not mine than to dispute it with them yet again.”

Technology

While only just under five percent (54) commented directly on the technology used by 407 ETR, many of the concerns voiced above were directly related to technological problems. Those who commented directly on the technology:

- Expressed general concerns about the imperfection of transponder technology.
- Cast doubt on the camera’s ability to recognize vehicles consistently and accurately.

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“It is my belief ... that the technology of the 407 ETR does not work. The only question in my mind is: Do the people who run this company know that their technology does not work the way they claim it works?”

The Bottom Line

After reviewing the many and varied comments about the 407 ETR, there appeared to be a number of practices that were problematic. These issues, if left unresolved, would leave motorists feeling frustrated, and vulnerable.

Based on the nature and number of concerns expressed, the company appeared to have problems with some of its equipment. This seemed to be the cause of at least some of the incorrect billings. Some people who use transponders were still billed as if not using them. Some people were billed for “ghost-usage” of the highway -- trips that haven’t been made, exits that hadn’t been taken. In some cases tractor/trailer vehicles resulted in drivers being double billed. Even the 407 ETR conceded that it has technical problems because of metallic windshields.

This is particularly disconcerting given the company has regularly resorted to the right to have the Registrar of Motor Vehicles deny plate renewals to those who have not paid their bills. In my opinion, there were enough questions about the faulty technology and technical glitches that the situation warrants further inspection.

The problems and difficulties that customers say begin with the 407 ETR’s technology, continues and accelerates when consumers choose to question the company’s billings, do not pay their bills on time, or simply refuse to pay for incorrect billings.

Although there is a first level of customer service response to complaints – however imperfect – the company doesn’t seem to offer a second tier to deal with billing problems. There does not appear to be an effective mechanism to deal with disputes or an escalation process in place to ensure a satisfactory resolution.

There was evidence that overdue bills were automatically sent to a collection agency, CBCL - this occurred sometimes unbeknownst to the driver. All too often I heard from someone who used the 407 ETR, not received a bill, then a collection agency was on the phone demanding monies the person wasn’t aware were past their due date.

For this investigative review, as for every set of public hearings, there is always the question of how representative of the total users are those who come forward to express a concern. The 407 ETR has already publicly stated, and no doubt will continue to state, that the number of complaints is relatively small given the number of people who are served by the highway. Indeed when compared with the over-all number of users of the highway that may be true.

However, the critical point to be noted is that it is not acceptable in this Province for so many customers to be left so dissatisfied with the manner in which the operator of a vital toll highway dealt with them. The types of problems that I heard described to me appear to be capable of systemic resolution and I believe that efforts should be made to effectively deal with them.

Recommendations

One of the most gratifying aspects of my investigative review was seeing the hope and faith that Ontarians have placed in their elected officials to do everything they can so consumers will be given the responsible, responsive and respectful service they deserve, for using a highway for which they have and continue to pay.

Based on the very helpful advice that I received from the Ontario public, as well as my own research and reflections, I am pleased to bring forward a series of recommendations. Some of the recommendations focus specifically on the 407 ETR, while others deal with broader issues such as harassment by collection agencies using recorded messages and automatic dial-up. Some are within the purview of the Province to act on its own, while others require the cooperation of the 407 ETR.

Recommendation 1: Appoint an 407 ETR Highway Ombudsman

An Ombudsman should be appointed to resolve customer service issues, which cannot be settled directly with the 407 ETR. Members of the public should have their disputes over 407 ETR billing practices heard in a fair and timely manner by an Ombudsman.

As a first and critical starting point, it is essential that consumers who use the 407 ETR receive an effective opportunity to be heard and dispute their charges. This includes a timely response to complaints, the right to have disputes resolved by an independent party, and the right to be free from punitive actions until the dispute is resolved.

Recommendation 2: No Collection Efforts While a Bill is in Dispute

The Minister should recommend appropriate changes so that no collection efforts are made while a bill is in dispute. It should also be recommended that a repayment plan exist to assist users with significant arrears who would otherwise suffer hardship through Licence Plate Denial.

Recommendation 3: Outlaw Harassing Automated Collection Agency Phone Calls

Collection agencies should not be permitted to contact customers or report unpaid debt to Consumer Reporting Agencies (e.g. Equifax) while a 407 ETR bill is in dispute.

Recommendation 4: Affordable Tolls for Truckers

That tolls be reduced for trucks and other heavy vehicles such as buses.

As professional trucking companies, truck drivers and ordinary drivers have told us, part of the original intent in building the 407 ETR toll highway was to divert truck traffic and other large vehicles away from Highway 401. This has not happened due to the high cost of tolls and their negative impact on the very competitive trucking industry.

Recommendation 5: Lower Late Fees and Service Charges

That administration fees be lowered, to be fair, reasonable and reflect actual costs of the purpose of that fee.

Administration fees are too high and represent both a hidden charge and a disproportionately large part of the bill for using the highway. In the case of short trips, the administrative fee can actually be higher than the toll.

Recommendation 6: Appoint an Independent Auditor to Verify 407 ETR Systems

The province should appoint and direct an independent auditor to make sure the 407 ETR's systems are working properly. This would help address customer complaints about incorrect billing statements.

At the heart of the 407 ETR billing system lies the technology that monitors and tracks vehicle usage of the highway as well as owner identification. There is evidence that in too many cases this technology is apparently not working accurately.

(Appendix A)

TERMS OF REFERENCE 407 ETR TASK FORCE

Mike Colle, the MPP for Eglinton-Lawrence, is the Parliamentary Assistant to the Minister of Finance. He was appointed by Transportation Minister Harinder Takhar on November 12, 2004 to lead a task force on the 407 ETR.

Purpose: To consult with the public regarding the 407 ETR prior to the renegotiation of the tolling agreement, which is referred to as respecification. The Ministry of Transportation wants to develop a clear understanding of how widespread problems with the 407 ETR are before it invokes its right to renegotiate this tolling agreement, something it is legally entitled to do and is compelled to do to protect consumer rights.

Primary audience: People in the regions surrounding the 407 ETR, particularly in Peel, York and Durham regions, and in Toronto.

What the task force will do: Will speak to residents and representatives from various regions to gather positive and negative feedback, as well as suggested improvements for the 407 ETR.

- Meetings will be held throughout the 407 ETR corridor
- Transportation industry stakeholders and frequent users of the 407 ETR will be consulted for their input
- Public meetings will be advertised in local newspapers
- Individuals who have previously contacted the MTO regarding the 407 ETR will be asked for their views
- All input received from stakeholders and the public will be compiled in a final report, which will be issued in the new year

Timeline:

- Announcement of Task Force – November 12, 2004
- Public meetings – November 22 to December 15, 2005
- Final report submitted to Minister Takhar – March 2006

(Appendix B)

Consumer Concerns Presented to Investigative review

Method of Contact	Replies
Written/Telephone	459
Presented to Mike Colle at Reviews	67
Provided by Better Business Bureau	208
Total Submissions	734

(Appendix C)
Summary of Concerns

Specific Concerns Used in 407 Database	Explanation	Generalized Concern
Administration	Failure to process customer requests and changes of address. Customer requests overturned without explanation.	ADMINISTRATION CONCERNS (33%)
Cancellation Problems	Difficulties cancelling accounts.	
Customer Service	Rude, unsympathetic, ineffective customer service representatives. Refusal to allow customers to reach higher tiers of company management.	
Customer Fees	Complaints about the \$2.00 account fee / account fee & rental fee charged by 407 ETR	
Pre-Authorized Payments	Inability to question / control withdrawals in event of dispute; withdrawals made too early, without receiving invoice first; withdrawals made without permission. A customer's disputed payment returned as 407 ETR credit, not cash.	
Billing Problems	Billing concern mentioned but not described. Includes people complaining that although disputed charges dropped, accumulated taxes, interest on reversed charge remained billable.	BILLING CONCERNS (30%)
Falsely Billed	Did not / has never used highway but bill received.	
No Billing Details	Received bill stating <u>only</u> a lump sum.	
Incorrectly Billed	Used highway but charges are not accurate Includes those concerned with so-called "half-trip" charges.	
Proof	Proof of trip (details and / or photo) which 407 ETR either refuses to provide to customer or video evidence remains questionable.	
Double Billed	Trailer/Truck both billed. Car rental agency / customer both billed.	
Mailing Problems	Bills not received by customer in timely manner.	
Other	Any concern not easily categorized (ie: highway too loud; respondents critical of Review)	OTHER CONCERNS (16.3%)
Signage	Belief that highway is poorly marked; people entering highway by accident	
Tolls	General concern for high tolls.	
Trucks	Complaints that 407 ETR has not alleviated the truck traffic on 401.	
Licence Plate Denial	Concern with possibility of 407 ETR regaining ability to deny licence plate renewals.	
Privatization	Any reply that refers specifically to the sale of the 407 ETR.	
Collection Agency	Includes concerns with CBCL's administration, failure to abide by standard collection procedures and deal seriously with customers who dispute charges.	
CBCL Calls	Comments regarding the frequency and harassing nature of CBCL's automated and voice calls.	
Court	People who have requested CBCL to take case to small claims court.	
Technology	Concern with 407 ETR's technology, especially with the proper recognition of vehicles, and cameras.	TECHNOLOGY CONCERNS (5.7%)
Transponder	General concern expressed regarding imperfections of transponder technology.	

(AppendixD)

Collection Agencies Act

The following provisions are contained in Regulations made under the Collection Agencies Act, 1990.

No collection agency or collector shall,

(a) attempt to collect payment of a debt from a debtor unless the collection agency or the collector has notified or has attempted to notify the debtor in writing by letter addressed to the debtor's last known address that the collection agency or collector has been engaged by the creditor to act in respect of the collection of the debt;

(b) commence a legal proceeding with respect to the collection of a debt, or recommend to a creditor that a legal proceeding be commenced with respect to the collection of a debt, unless the collection agency or collector first gives notice to the debtor that the collection agency or the collector intends to commence the proceeding or recommend that a proceeding be commenced, as the case may be;

(c) directly or indirectly threaten or state an intention to proceed with any action for which the collection agency or the collector does not have lawful authority;

(d) make telephone calls or personal calls of such nature or with such frequency as to constitute harassment of the debtor, his or her spouse or same-sex partner or any member of the debtor's family or household;

(e) make a telephone call or personal call for the purpose of demanding payment of a debt,

(i) on a Sunday, or

(ii) on a statutory holiday,

or on any other day except between the hours of 7 o'clock in the forenoon and 9 o'clock in the afternoon;

(f) give any person, directly or indirectly, by implication or otherwise, any false or misleading information that may be detrimental to a debtor, his or her spouse or same-sex partner or any member of the debtor's family;

(g) make a demand by telephone, by personal call or by writing for payment of a debt without indicating the name of the creditor, the balance of the moneys owing and the identity and authority of the person making the demand;

(h) where a person has informed the collection agency or the collector that the person is not in fact the debtor, continue to communicate with that person in respect of the collection of the debt unless the collection agency or the collector first takes all reasonable precautions to ensure that the person is in fact the debtor;

(i) commence or continue a court action in the name of the collection agency or collector for the recovery of the debt of a client unless the debt has been assigned to the collection agency or collector, as the case may be, in good faith by instrument in writing for valuable consideration and notice of such assignment has been given to the debtor; or

(j) commence a court action for the collection of the debt of a client in the name of the client unless the collection agency or collector has received express written authority from the client to commence such action. R.R.O. 1990, Reg. 74, s. 20; O. Reg. 42/00, s. 2.

21. Except for the purpose of obtaining the debtor's address or telephone number, no collection agency or collector shall contact a debtor's employer, spouse, same-sex partner, relatives, neighbours or friends unless,

(a) the person contacted has guaranteed to pay the debt and is being contacted in respect of such guarantee;

(b) the person contacted is the employer of the debtor and the collection agency or collector is contacting the employer in respect of payments pursuant to a wage assignment or an order or judgment made by a court in favour of the collection agency or of a creditor who is a client of the collection agency; or

(c) the person contacted is the employer of the debtor and the collection agency or collector is contacting the employer for the purpose of verifying the employment of the debtor. R.R.O. 1990, Reg. 74, s. 21; O. Reg. 42/00, s. 3