April 18, 2007

Mr. Thomas Savage, President
MTA Bus Company
128-15 28th Avenue
Flushing, NY 11354

RE: PTSB CASE #8847

Dear Mr. Savage:

The Public Transportation Safety Board received notice of a fatal bus accident involving the MTA Bus Company, which occurred on East 86th Street at the intersection with Third Avenue, New York, NY, on February 20, 2006.

Based on a review of the enclosed Abbreviated Report, no further action is necessary.

Sincerely,

Brian O. Rowback
Executive Director
Public Transportation Safety Board.

Enclosure
At approximately 11:00 a.m., MTA Bus Company (MTABC) bus #3259 was traveling west in the left travel lane on East 86th Street and approaching the intersection with Third Avenue when the bus driver heard a “thump”, stopped and exited the bus to find a female pedestrian under the left rear wheels. The bus driver re-entered the bus and called for assistance. Police and Emergency Medical Service (EMS) personnel arrived at the scene where EMS personnel determined that the pedestrian had expired. There were no other injuries.

In the vicinity of the accident site East 86th Street is a 60 foot wide two-way east/west roadway divided by a solid yellow full barrier pavement marking into two travel lanes in each direction. Third Avenue is a one-way northbound roadway divided by dashed white pavement markings into six travel lanes. Parking is permitted, during designated hours, at the curbs of both roadways. The intersection is controlled by standard traffic signals for both pedestrian and vehicular traffic which, at the time of the accident investigation, were all functioning as designed. At the time of the accident it was daylight, the weather was clear and the pavement was dry. The area speed limit is 30 mph.

Bus #3259 is a 2005 MCI DL-3 over-the-road motor coach type bus housed and maintained at the Eastchester Depot with a seating capacity of 55 passengers. A review of the bus records showed that the bus was initially serviced on February 14, 2006, placed in customer service and had traveled 3,308 miles since then [the MTABC Preventive Maintenance Inspection interval for this type of bus is 6,000 miles (+/- 500 miles) or 90 days, whichever occurs first]. There were no safety or recurring defects noted in the 45 days prior to the accident. A post accident inspection of the bus was performed on February 21, 2006 and no defects were found which could be considered a causative factor to the accident. The inspection also showed evidence of scrapes and scuffs in the road film (dirt, etc) on the undercarriage of the bus in a line from the area of the left front wheel to the left rear wheels which would be considered consistent with the passage of the body of the pedestrian thru this area. Decelerometer tests were performed on the bus’ braking systems and showed stopping distances that met the MTA NYCT adopted standards for passenger vehicles of NYS DOT Regulations (Title 17 of NYCRR, Article 3, Part 720).

The bus driver was hired by New York Bus Service on September 19, 1991. A review of the driver's Department of Motor Vehicles records for the past three years showed no violations, convictions or suspensions. NYS Vehicle & Traffic Law, Article 19-A records were reviewed and found to be complete, in-order and up-to-date.
A review of the driver's New York Bus Service/MTA Bus Company accident record for the past three years showed one non-preventable collision accident (12/10/04). A New York City Police Department (NYPD) Accident Investigation Squad (AIS) Investigator at the accident scene performed an Alco-Sensor test on the bus driver, which was negative. MTA Bus Company post accident drug and alcohol tests performed on the bus driver upon his release from the accident scene, 2 hours and 25 minutes from the time of the accident, were also negative.

In an interview the bus driver indicated that he was traveling west in the left travel lane on E. 86th Street after having turned right onto 86th from Second Avenue. The driver indicated that he had turned onto the left travel lane due to double parked vehicles at the corner and had remained in the left lane due to other double parked vehicles he observed further up the street. The bus driver said that as he approached the intersection with Third Avenue, on a green light, he heard a "thump", stopped, checked his mirrors (seeing nothing unusual) and exited the bus. The driver further stated that he walked down the right side of the bus continuing around the rear to the left side where he found the body of a female pedestrian under the left rear wheels. The bus driver said that he quickly returned to the interior of the bus where he used his personal cell phone to call for assistance. The bus driver indicated that he had no idea how the pedestrian got under the rear wheels as he at no time had observed the pedestrian in the street.

The Public Transportation Safety Board (PTSB) staff was unable to contact either of the two witnesses whose names were supplied by the NYPD AIS. However, copies of the witness statements were supplied to the PTSB staff by the NYPD AIS and MTA New York City Transit (NYCT) Office of System Safety (OSS) and are excerpted as follows:

FROM NYPD AIS: The first witness indicated that although she did not actually observe the accident, she did observe the pedestrian attempting to cross the street (no direction of travel given) while talking on a cell phone. The witness further indicated that the pedestrian was so engrossed with the cell phone that it appeared that she was paying little or no attention to traffic.

FROM NYPD AIS: The second witness, seated in the #2 right side window seat of the bus, indicated that she observed the pedestrian leave the north curb and begin to cross the street (right to left to the path of the bus). The witness further indicated that the pedestrian did not appear to be paying attention to where she was going as she stepped into the path of a taxi, traveling in the same direction to the right of and in front of the bus, causing it to stop. The witness also indicated that the pedestrian continued crossing and stopped at the center of the roadway where the witness lost sight of her. The witness stated that she did not observe the accident.

FROM NYCT OSS: The NYCT OSS investigator was able to contact the second witness by telephone and the witness gave a statement differing from the one she gave the NYPD AIS. The witness indicated that she had on unobstructed view of the accident, that the bus was moving in the left travel lane at a slow rate of speed and that the traffic light at Third Avenue was green when she observed a female pedestrian walking northbound across 86th Street (left to right to the path of the bus) with her head down.
The witness further indicated that a taxi, moving in the opposite direction, stopped to allow the pedestrian to cross in front of it and then, although she did see what happened, the bus driver then abruptly stopped the bus. The witness also indicated that the bus driver looked into the left side mirror, exited the bus and when he came back, used a cell phone to call for assistance.

Additional information:
- The pedestrian was crossing East 86th Street out of the designated crosswalk
- A bag containing groceries was found in the street in the vicinity of the bus and some of the groceries that had been in the bag, in particular – frozen peas, were found smashed into the left front tire and splattered onto the left front mud flat. The groceries and bag were attributed to have belonged to and having been carried by the pedestrian at the time of the accident.
- A cell phone was found in the street near the body of the pedestrian. The NYPD AIS confirmed that the phone was the property of the pedestrian. NYPD AIS determined that the cell phone had been active (in use) at the time of the accident.

Due to the bus driver not having observed the pedestrian in the roadway and the conflicting witness statements it is unclear as to which actual direction of travel the pedestrian was heading while crossing East 86th Street. However, the PTSB staff’s investigation of the accident finds that the pedestrian had placed herself into a position within the roadway where she was subsequently knocked to the pavement by the left side of the front bumper of MTA Bus Company bus #3259. The bus then passed over her prone body until the bus driver stopped the bus with the left rear wheels resting on her torso.

The MTA Bus Company trains all bus drivers in defensive driving techniques for safely operating a bus in passenger service. These techniques include, but are not limited to, hazard assessment, getting the big picture by keeping your eyes moving, constantly looking out for the illegal or careless actions of pedestrians or other motorists and to be especially alert when approaching intersections.

Public Transportation Safety Board staff finds that the probable causes of this accident were the actions of both pedestrian and the bus driver; the pedestrian for crossing East 86th Street out of the designated crosswalk while being distracted by talking a cell phone, and the bus driver for failing to observe the pedestrian in the roadway.

The MTA Bus Company held a hearing with the bus driver to discuss the facts surrounding the accident, found the accident to be preventable and terminated the bus driver. The bus driver subsequently appealed the termination. A second hearing was held and the bus driver was offered, and accepted, a 30 day suspension and a permanent demotion to a non safety sensitive position.
Based on the action taken by the MTA Bus Company regarding this accident, the Public Transportation Safety Board staff makes no recommendation in this case.

INVESTIGATOR: Harry W. Gerham

________________________________________  __________________________
CHIEF, ACCIDENT INVESTIGATION SECTION  DATE

________________________________________  __________________________
DIRECTOR, PCSB, NYSDOT  DATE