



## WHITE PAPER

### **Fair Congestion Pricing Alliance Analysis of New York City's Congestion Pricing Plan**

#### **Introduction**

On March 30, 2021, New York City's congestion pricing plan, which had remained inactive under USDOT review, returned to the news, as the Federal Highway Administration determined that the plan would be subject to an Environmental Assessment (EA), rather than a more detailed Environmental Impact Assessment under the National Environmental Policy Act.<sup>i</sup> In August 2021, the MTA announced the Federal Government approved its 16-month plan to conduct the EA, putting the implementation of congestion pricing in 2023 if approved.

The FHWA action has renewed the dialogue in the metropolitan area regarding the congestion pricing plan, and should prompt a review of the proposal for the post-COVID world. This paper will examine the background of the plan and the issues and impacts important to New Jersey, and recommend advocacy safeguarding the interests of New Jersey and its residents and businesses.

#### **Congestion Pricing in the NY Metropolitan Area**

In a broad sense, the term congestion pricing can be applied to any system that charges a fee for road use, whether peak-hour tolling, HOV lane reduced prices, or other vehicle surcharges. In the context of this discussion, the term will refer to a plan to charge drivers a toll to enter a defined area of a city, usually the central business district.

Congestion pricing has long been debated in transportation planning and city management circles as a tool to manage traffic gridlock, improve air quality and fund mass transit. Internationally, Singapore was the first major city to institute a system, dating back to 1975 and undergoing several operational changes since, culminating with a planned satellite-based system. London has perhaps the most well-known system, implementing its plan in 2003. This was followed by Stockholm and other cities, including Milan.<sup>ii</sup>

In the United States, congestion pricing has been studied by several cities, including Chicago, San Francisco and Los Angeles. New York would be the first city in the country to implement a congestion zone tolling plan.

#### **Fix NYC Panel Report**

While congestion pricing had been discussed in New York under the Bloomberg administration, the current framework has its roots in a panel convened by Governor Andrew Cuomo in 2017, the Fix NYC Advisory Panel. This 16-member panel was comprised of business leaders, consultants, and former public officials, with a mission to formulate proposals addressing heavy New York City congestion and provide funding for the troubled subway system. The panel issued its report in January 2018. While

Westchester and Long Island were represented in this group, there was no similar individual from New Jersey.

The panel's recommendations formed the basis of the subsequent New York legislation framing the program. A phased approach was proposed, as follows <sup>iii</sup>:

Phase 1: Investment in transit to improve connectivity between the central business district (CBD) and outer boroughs and suburbs, increased enforcement of traffic laws in the CBD, including the NYC placard parking program, assessment of the impact of bus congestion.

Phase 2: Imposition of a surcharge on taxis and for-hire vehicle (FHV) trips, with funds dedicated to the subway system

Phase 3: Implement a congestion zone pricing program, first imposed on trucks and then on all vehicles entering Manhattan's CBD below 60<sup>th</sup> Street.

The Phase 2 recommendations were put into effect in 2019 with a peak hour surcharge of \$2.50 on taxi trips and \$2.75 on FHV rides. Phase 3, the congestion zone tolling plan, was included in 2019 New York state budget legislation. Phase 1 has not been visibly achieved.

The Fix NYC Panel report is the source of a number of key points significant to New Jersey, including the concept of providing credit for tolls paid to directly enter the CBD, including the Holland and Lincoln Tunnels, and the toll estimates of \$11.52 for cars and \$25.34 for trucks.

#### New York 2019 Legislation and Congestion Pricing Plan

New York's congestion pricing plan was adopted as an amendment to the state vehicle and traffic law, entitled Article 44-C, "Central Business District Tolling Program". The legislation adopted key components of the Fix NYC report, including defining the congestion pricing zone as Manhattan below 60<sup>th</sup> Street, excluding the FDR Drive and West Side Highway. Features of the legislation include: <sup>iv</sup>

1. Revenues shall fund a lock box to underwrite \$15 Billion in MTA capital improvements for its five-year plan 2020-2024 (estimated \$1 Billion/year revenue)
2. System design, implementation and operation by the Triborough Bridge and Tunnel Authority (TBTA)
3. Recommendations on pricing, credits and exemptions to be generated by a Traffic Mobility Review Board (TMRB) appointed by the TBTA. Recommendations to be approved by TBTA
4. Passenger vehicles can only be charged once per day to enter or remain in the tolling zone

5. Exempts emergency vehicles and transportation for the disabled
6. Residents of the zone with annual income under \$60,000 receive a tax credit for tolls paid
7. Revenues to be allocated 80% to MTA, with priority to bus and subway systems, 10% each to LIRR and Metro-North
8. Reporting every two years on the program's impact on traffic volumes, transit use, congestion and air quality

### Status and Next Steps

The intent of the New York legislation was to initiate the toll program by December 31, 2020, however, delays at the federal level stalled determination of the appropriate level of environmental review. The March 30, 2021 FHWA determination that an Environmental Assessment can be performed paved the way for the next steps in the process. In August 2021, the MTA announced it gained approval from the Federal Government to conduct its 16-month EA putting implementation of congestion pricing to 2023.

The TMRB has not yet been appointed by the TBTA/MTA. According to the statute, this body must include representatives from the Long Island Railroad and Metro-North commuting areas. Thus Westchester, Long Island and even Connecticut can have voices in determining the critical issues of the system. Mayor DeBlasio has appointed the City of New York's representative, city Finance Commissioner Sherif Soliman, but the other seats remain vacant.<sup>v</sup> Although the statute refers to "regional representation", New Jersey has no such requirement to be represented on the TMRB although New York has announced a public hearing schedule that will include New Jersey virtual meetings.

TMRB recommendations are to be informed by a traffic impact study, to be prepared by the TBTA, which should include New Jersey. The federal approval noted above should prompt the MTA to initiate a broad outreach program to New Jersey agencies and citizens. While public hearings have been announced in New Jersey for residents to express their concerns, to exclude New Jersey from a permanent position on the TMRB is far from equitable.

### **Issues and Impacts**

The goals of congestion zone pricing programs have been embraced by many groups as a source of transit funding and a means for improving air quality and traffic delays in the city center. It is tempting to impose costs on "outsiders". However, as has often been noted, in the Tri-State area we are all part of an interconnected regional economy, linked by the metropolitan transportation systems. We must assess the impacts that New York's tolling plan will have on travel and the economy of all parts of the region, including New Jersey.

## Impacts on Recovery

Perhaps most notably, the studies underlying the congestion pricing plan, as well as the legislation, were done in the pre-pandemic era. No one could have predicted the pandemic and its effects on transit use, traffic, e-commerce and work-from-home patterns, not to mention the broad economic impacts and recession caused by COVID-19. It is only responsible to both encourage recovery and fully assess post-pandemic realities moving forward.

New York is, of course, the hub of the metropolitan area. New York recently announced a \$30 million tourism marketing program designed to lure visitors and tourists back to the city.<sup>vi</sup> A new congestion toll would hobble recovery of New York's hard-hit restaurant, hospitality and cultural institutions, discouraging visitors who are now, more than ever, used to at-home entertainment. Any implementation of the toll should wait until the city is back on its feet.

There is widespread uncertainty as to how New York's office market will rebound, and whether a significant share of workers will continue remote work for at least a portion of the week. A recent New York Times article noted an increase in vacancy rates across Manhattan to 18.7%, from over 15% at the end of last year.<sup>vii</sup> The Delta variant has further complicated predictions of recovery. Daily commuters fuel business for the city beyond their employers, including restaurants, retail and entertainment. An additional toll will further encourage remote work.

## Increased Costs

For New Jersey, as well as other parts of the region, the congestion toll would increase costs for individuals and businesses at a time economic uncertainty, particularly in areas where mass transit is impractical or unavailable or workers have late or irregular shifts. Higher costs for deliveries within the city by New Jersey businesses will be passed along to their customers and thus to their consumers. The exodus to the suburbs noted during the pandemic will only be exacerbated with these higher costs. A new war of incentives is possible, with New Jersey driven to offer incentives to New York companies who will be looking for savings for employees and operations. With respect to delivery costs, it should also be noted that while the statute requires that passenger vehicles only be charged once per day, there is no similar requirement for commercial vehicles.

Mass transit systems have been hit hard by the pandemic, with a sharp drop in ridership from closed workplaces and reluctance to congregate. The world has changed since the 2018 estimate of \$11.52 for cars and \$25.34 for trucks. The statute requires revenues sufficient to fund the MTA's five-year plan \$15 Billion target, and that is a bottom line which must be met by the toll pricing scheme. Work-from-home trends may reduce the volume of revenue that was expected in 2019. We cannot now predict the toll prices and associated impacts on residents of

the region, but the scale of the numbers and their impacts need to be carefully calculated and evaluated.

It is worth noting that after a period of suspension in 2020, tolls in London's congestion zone have increased, due to the need to fund a transport system devastated by lockdowns and plunging ridership during the pandemic. Tolls are now £15 or about \$20.85, up from £11.50.<sup>viii</sup> This prompts concern for repeated increases for the NYC congestion tolls.

### Transit Capacity

The examples most often cited by congestion pricing advocates include London, Singapore and Stockholm. Importantly, these cities made significant investments in transit improvements well prior to instituting congestion pricing, purposefully providing new capacity for commuters diverted from their cars by the new toll. This was cited in the Fix NYC report:

“London and Stockholm invested in public transportation improvements in advance of implementing a zone pricing system, including substantial capacity expansion to accommodate diverted commuters. We must commit to doing the same in NYC, recognizing that such projects cannot happen overnight.”

This has not been the case in the metropolitan area, for the outer boroughs or New Jersey. In our region, we have an aging, over-capacity intercity bus terminal and century-old rail tunnels. Both the Gateway project and the new Port Authority bus terminal have been delayed. The recent announcement approving the Final Environmental Impact Statement and Record of Decision for the new Hudson River Tunnels represents an important step forward, but completion is at least ten years away. Similarly, the Environmental Impact Statement for the new Port Authority Bus Terminal has been initiated, but the date for the facility's completion is 2032.

New Jersey Transit systems were over capacity before the pandemic. If we are assuming pre-pandemic conditions as justifying congestion pricing, it is hard to see where these diverted commuters will go before these rail and bus projects are in operation. If there are few alternatives, the goals of reduced congestion and air pollution will not be met.

### Consistent and Equitable Tolling

The Fix NYC report recommended crediting tolls charged at the Lincoln and Holland Tunnels toward the congestion zone fee. The basis appears to be that these tunnels exit directly into the CBD. The George Washington Bridge is notable by its absence from any such discussion. The GWB toll is already expensive, ranging from \$11.75 for non-peak EZ Pass users to \$16.00 for cash tolls. Adding a substantial congestion zone fee to this payment would result in traffic

diversion to the tunnels, increasing vehicle miles traveled and congestion as motorists avoid the bridge.

The Regional Plan Association, in its 2019 report, “Congestion Pricing in New York City: Getting it Right”, recognized the inequities of the existing tolling system as well as exempting the tunnels and not the GWB, and warned that “toll disparities create perverse incentives that cause “toll shopping” where drivers travel extra miles to save money and clog local roadways”.<sup>ix</sup> Incidentally, the RPA also noted the need to implement transit and bicycle improvements before implementing congestion pricing charges.

### Representation

The congestion pricing scheme is a regional solution to a CBD problem. While public hearings regarding Congestion Pricing will be held in New Jersey, New Jersey has not been directly involved in the discussions and has been viewed as a source of funds rather than a partner. Crafting an equitable plan should involve all parts of the metropolitan area. Mandating representation on the TMRB by the Metro-North and LIRR commuting areas and not New Jersey is not acceptable. Metro-North and LIRR, not to mention the MTA, will receive revenues under the plan, but not New Jersey. Our state is not alone in this concern; notably, Connecticut’s Transportation Commissioner has expressed interest in having some revenues come back to that state.<sup>x</sup> New Jersey’s economic and traffic impacts should be fully considered and addressed in developing the details of the plan.

### **Advocacy for New Jersey**

The FHWA decision to allow an Environmental Assessment to proceed and the announced timeline of 16 months should be a wake-up call for New Jersey leaders, businesses and citizens to become involved and aware of the New York congestion pricing program. The following positions are recommended:

1. New Jersey elected officials should press for representation on the TMRB, and the Federal Government directly oversee the process to ensure equity.
2. The George Washington Bridge tolls as well as the Lincoln and Holland Tunnel tolls should be credited against any congestion fee.
3. Insist that the scoping and consultation process for the Environmental Assessment involving the New Jersey public and New Jersey transportation agencies, and public hearings, be closely monitored.
4. Traffic impact studies prepared for the Environmental Assessment and any others by the TBTA need to address traffic volumes and patterns in New Jersey that would be affected by congestion pricing. A number of alternative scenarios should be studied and weighted accordingly in consideration to New Jersey’s economic contribution to the region.

5. Studies should be postponed until more progress is made in pandemic recovery and normalization. Traffic volumes, for example, that are measured in 2021 would not be a reasonable baseline. While traffic into the city is undoubtedly increasing from pandemic levels, traffic patterns and peak periods are evolving as remote work continues.
6. Any decision to implement the congestion pricing plan should be delayed until we have a post-pandemic “new normal” with respect to traffic volumes and patterns, transit use, work-from-home as well as a stable economic recovery
7. Pursue an open discussion on reasonable alternative funding for MTA, given federal COVID relief and potential high tolls given the fixed monetary target for the MTA capital plan. It is worth noting that New York is arguing for a greater share of CARES act funds directed to metropolitan area transit than that allocated according to Federal Transit Administration guidelines (note that this push by New York is now being Mediated by USDOT Secretary Pete Buttigieg).<sup>xi</sup> In addition, the MTA’s chief financial officer has said the agency does not need congestion pricing funds at present for its capital program, due to sales tax and mansion tax monies.<sup>xii</sup>
8. Advocate for other measures to mitigate CBD congestion, including stepped-up traffic and parking enforcement, updated technology for signal controls, and studies of bus congestion.

## Conclusion

A rush to implement congestion pricing in New York would endanger recovery and short-change the necessary evaluation of its impacts on the region. Those impacts can only be adequately evaluated if we are at a normalized, post-COVID economy and only mitigated if there is adequate capacity to safely divert drivers to mass transit. Above all, New Jersey’s interests must be fully represented and protected in the studies and ultimate recommendations that will shape the congestion pricing plan.

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<sup>i</sup> FHWA Press release 08-21 “FHWA Greenlights Environmental Assessment for New York City’s Congestion Pricing Plan”, March 30, 2021.

<sup>ii</sup> Fix NYC Panel Advisory Report, January, 2018.

<sup>iii</sup> Ibid.

<sup>iv</sup> New York L. 2019 c. 59 Part ZZZ, MTA Reform and Traffic Mobility Act, Subpart A, Article 44-C, Central Business District Tolling Program, Section 1701 et.seq.

<sup>v</sup> Muoio, Danielle, Politico.com, “De Blasio selects finance commissioner for congestion pricing review board, July 15, 2021

<sup>vi</sup> Fortune.com, Golden, Henry, “NYC To Launch \$30 Million Campaign Effort to Brink Back Tourism to the City”, April 21, 2021.

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<sup>vii</sup> The New York Times, Haag, Matthew, “Office Vacancies Soar in New York, a Dire Sign for the City’s Recovery”, July 1, 2021

<sup>viii</sup> Jalopnik.com, Finkel, Max, “London’s Congestion Charge Is Getting a Price Bump Thanks to the Pandemic, May 17, 2020.

<sup>ix</sup> Regional Plan Association, Congestion Pricing in NYC: Getting it Right, September, 2019.

<sup>x</sup> Ibid.

<sup>xi</sup> NorthJersey.com, Wilson, Colleen, Why NY, NJ and CT are warring over how to split \$14B in transit aid (and it’s been months)

<sup>xii</sup> Duggan, Kevin, amny.com, “MTA finance chief says agency ok without congestion pricing funds for now”, June 23, 2021