

26-1213

**United States Court of Appeals
for the Second Circuit**



METROPOLITAN TRANSPORTATION AUTHORITY,
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY,
Plaintiffs-Appellees,

RIDERS ALLIANCE, SIERRA CLUB, NEW YORK STATE DEPARTMENT
OF TRANSPORTATION, NEW YORK CITY DEPARTMENT OF
TRANSPORTATION,
Intervenors-Plaintiffs-Appellees,

v.

SEAN DUFFY, in his official capacity as Secretary of United States Department
of Transportation, GLORIA M. SHEPHERD, in her official capacity as
Executive Director of the Federal Highway Administration,
UNITED STATES DEPARTMENT TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Defendants-Appellants.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**BRIEF OF AMICI CURIAE 504 DEMOCRATIC CLUB, CENTER FOR
INDEPENDENCE OF THE DISABLED, NEW YORK, ELEVATOR ACTION
GROUP, HARLEM INDEPENDENT LIVING CENTER, MOBILIZATION
FOR JUSTICE, INC., NEW YORK LAWYERS FOR THE
PUBLIC INTEREST, AND TRI-STATE TRANSPORTATION CAMPAIGN
IN SUPPORT OF PLAINTIFFS-APPELLEES AND URGING AFFIRMANCE**

Sebastian Riccardi*
MOBILIZATION FOR JUSTICE, INC.
100 William Street, 6th Floor
New York, New York 10038

Daniel Mullkoff
WANG HECKER LLP
111 Broadway, Suite 1406
New York, New York 10006
(212) 620-2606

Christopher Schuyler*
NEW YORK LAWYERS
FOR THE PUBLIC INTEREST
151 West 30th Street, 11th Floor
New York, New York 10001

Counsel for Amici Curiae

*Application for Second Circuit admission pending

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), amici curiae 504 Democratic Club, Center for Independence of the Disabled, New York, Elevator Action Group, Harlem Independent Living Center, Mobilization for Justice, Inc., New York Lawyers for the Public Interest, and Tri-State Transportation Campaign state that none of them is a publicly held corporation, none has a parent corporation, and no publicly held corporation owns 10% or more of the stock of any amicus, as none of the amici curiae issues stock.

TABLE OF CONTENTS

	Page
CORPORATE DISCLOSURE STATEMENT	i
TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES	iii
STATEMENT OF IDENTITY, INTEREST, AND SOURCE OF AUTHORITY TO FILE	1
SUMMARY OF ARGUMENT	7
ARGUMENT	8
I. CONGESTION PRICING IS PROVIDING CRITICAL BENEFITS TO NEW YORKERS WITH DISABILITIES, AND REVERSAL WOULD REMOVE THOSE BENEFITS ENTIRELY	8
A. Improved Access to Mass Transit is Essential for New Yorkers with Disabilities	9
B. Congestion Pricing is Already Significantly Benefiting New Yorkers with Disabilities	14
1. Congestion Pricing is Facilitating Critical Accessibility Improvements	15
2. A Full Year of Data Confirms that People with Disabilities Have Benefited from Reduced Traffic Gridlock	18
3. Congestion Pricing Has Not Harmed – and Is Funding Real Improvements For – the Environmental Justice Communities Where People with Disabilities Are Concentrated	19
II. DEFENDANTS-APPELLANTS’ EFFORT TO TERMINATE CONGESTION PRICING WOULD REVIVE THE THREAT TO WITHHOLD UNRELATED FEDERAL FUNDS UPON WHICH ADA PROJECTS DEPEND.....	21
CONCLUSION	23
CERTIFICATE OF COMPLIANCE.....	25
CERTIFICATE OF SERVICE	26

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Ctr. for Indep. of the Disabled, N.Y. v. Metro. Transp. Auth.</i> , No. 153765/2017 (N.Y. Sup. Ct.) (settlement agreement)	11
<i>Goldenberg v. Metro. Transp. Auth.</i> , No. 159096/2022, 2026 WL 267083 (N.Y. Sup. Ct. Jan. 27, 2026)	12
<i>Metro. Transp. Auth. v. Duffy</i> , No. 25 Civ. 1413 (LJL), 2026 WL 588117 (S.D.N.Y. Mar. 3, 2026)	22
 Statutes and Rules	
23 U.S.C. § 149	22
42 U.S.C. § 12101	10
N.Y. Env't Conserv. Law § 75-0111(1)(a)	8
N.Y. Veh. & Traf. Law § 1701	12
Fed. R. App. P. 26.1	i
Fed. R. App. P. 29	i, 1, 7, 25
Fed. R. App. P. 32	25
2d Cir. R. 29.1	1, 25
 Other Authorities	
Am. Lung Ass'n, <i>Who Is Most Affected by Outdoor Air Pollution?</i> (June 17, 2024)	21
Angely Mercado, <i>City Buses Are Slow, Unreliable and What Many Disabled & Aging NYers Rely On</i> , City Limits (Mar. 7, 2018)	13
Ash Reynolds, <i>The New York City Subway Remains Largely Inaccessible to the Disabled Community</i> , New Sch. Free Press (Apr. 15, 2024)	11
Barbara Russo-Lennon, <i>Sign of Progress: How This New MTA Program Will Keep New Yorkers with Hearing Impairments Connected to Public Transit</i> , amNewYork (Feb. 12, 2025)	12
<i>Ctr. for Indep. of the Disabled, N.Y., Transportation Policy</i>	11
Cody Cook et al., <i>Network-Wide Effects of Congestion Pricing: Evidence from New York City</i> , NBER Working Paper No. 33584, at 2 (Aug. 2026)	18

Decl. of Kevin Willens ¶¶ 28–30, <i>Metro. Transp. Auth. v. Duffy</i> , No. 25 Civ. 1413 (LJL), ECF No. 84 (S.D.N.Y. May 5, 2025)	22
DiNapoli: <i>Shift in MTA’s Paratransit Program Generates Cost Savings</i> (Nov. 20, 2023)	14
Evan Hines, Acting Comm’r, N.Y.C. Taxi & Limousine Comm’n, <i>Testimony Before the New York City Council Committee on Transportation and Infrastructure on the Preliminary Budget for Fiscal Year 2027</i> (Mar. 17, 2026)	13
Georgetown Univ. Med. Ctr., <i>Majority of Car-Pedestrian Deaths Happen to Those in Wheelchairs, Often at Intersections</i> (Nov. 19, 2015)	19
Governor Kathy Hochul, <i>Governor Hochul Announces MTA Has Completed 10 Station Accessibility Projects in 2025</i> (Dec. 31, 2025)	16
Governor Kathy Hochul, <i>Governor Hochul Announces Significant Congestion Pricing Funded Air Quality Improvement Milestone in the Bronx</i> (2026)	21
Governor Kathy Hochul, <i>Less Traffic, Better Transit: On Its First Anniversary, Governor Hochul Celebrates Transformational Success of Congestion Pricing</i> (Jan. 5, 2026)	16
H.R. Rep. No. 101-485, pt. 2, at 37 (1990), as reprinted in 1990 U.S.C.C.A.N. 303, 319	10
Letter from Sean P. Duffy, Sec’y, U.S. Dep’t of Transp., to Kathy Hochul, Governor, State of N.Y. (Feb. 19, 2025), filed as Exhibit 5 to Declaration of Kevin Willens, <i>Metro. Transp. Auth. v. Duffy</i> , No. 25 Civ. 1413 (LJL), ECF No. 87-5 (S.D.N.Y. May 5, 2025)	21
Letter from Sean P. Duffy, Sec’y, U.S. Dep’t of Transp., to Kathy Hochul, Governor, State of N.Y. (Apr. 21, 2025), filed as Exhibit 10 to Declaration of Kevin Willens, <i>Metro. Transp. Auth. v. Duffy</i> , No. 25 Civ. 1413 (LJL), ECF No. 87-10 (S.D.N.Y. May 5, 2025)	21
Metro. Transp. Auth., <i>2025–2029 Capital Plan 32</i>	15
Metro. Transp. Auth., <i>2026 in Accessibility at the MTA: A Year of Progress, Innovation, and Belonging</i> (July 2026)	15
Metro. Transp. Auth., Constr. & Dev., <i>Impact of Congestion Pricing on the Capital Program: Presentation to the MTA Board</i> (June 26, 2024)	17

Metro. Transp. Auth., <i>Congestion Pricing Provides \$330M in Mitigation Funding</i> (June 30, 2026).....	20
Metro. Transp. Auth., <i>ICYMI: Governor Hochul Announces MTA and Accessibility Advocates Agree on Historic Plan for Expanding Accessibility in the New York City Subway System</i> (2022).....	16
Metro. Transp. Auth., <i>Record 7-Day Subway Ridership and Access-A-Ride Ridership Milestones</i> (Sept. 16, 2025).....	19
Metro. Transp. Auth., <i>Subway and Bus Ridership for 2025</i>	9
Metro. Transp. Auth., N.Y.C. Transit, <i>2024 Guide to Access-A-Ride Service</i>	13
N.Y.C. Council Res. No. 81 (2026).....	13
N.Y.C. Dep’t of Health & Mental Hygiene, <i>Air Quality Impacts of Congestion Relief Zone Tolling</i> (Aug. 14, 2026).....	20
N.Y.C. Dep’t of Transp., <i>2022 Citywide Mobility Survey Results</i>	10
N.Y.C. Mayor’s Off. for People with Disabilities, <i>AccessibleNYC 2025 Report: Transportation</i> (2025)	18
N.Y. State Off. of the State Comptroller, <i>Annual Update: Metropolitan Transportation Authority’s Debt Profile</i> , Report 3-2027, at 15 (May 2026).....	17
N.Y.U. Rudin Ctr. for Transp., <i>Accelerating Progress: Making Transit Accessible for All New Yorkers</i> (2024).....	10, 12, 15
Samantha Liebman, <i>MTA Touts AAR Service Gains, but Riders with Disabilities Remain Skeptical</i> , amNewYork (Feb. 9, 2023)	13
U.S. Bureau of Lab. Stat., <i>Persons with a Disability: Labor Force Characteristics—2023</i> (Feb. 22, 2024)	10
U.S. Env’t Prot. Agency, <i>EPA’s 2023 Equity Action Plan</i> (2023).....	8

**STATEMENT OF IDENTITY, INTEREST, AND SOURCE OF
AUTHORITY TO FILE¹**

Amici curiae 504 Democratic Club, Center for Independence of the Disabled, New York, Elevator Action Group, Harlem Independent Living Center, Mobilization for Justice, New York Lawyers for the Public Interest, and Tri-State Transportation Campaign (hereinafter, “Amici”) are nonprofit legal and other advocacy organizations in New York City that serve New Yorkers with disabilities. Amici submitted a brief at the preliminary injunction stage below and respectfully submit this brief in support of Plaintiffs-Appellees Metropolitan Transportation Authority, Triborough Bridge and Tunnel Authority, New York State Department of Transportation, New York City Department of Transportation, Riders Alliance, and Sierra Club (hereinafter, “Plaintiffs-Appellees”) to inform the Court, in their suit against Defendants-Appellants Sean Duffy, Gloria M. Shepherd, United States Department of Transportation, and Federal Highway Administration (hereinafter, “Defendants-Appellants”), that the benefits to people with disabilities that Amici previously described as prospective are now being realized over more than nineteen months of the Central Business District Tolling Program’s (hereinafter, “Congestion

¹ Pursuant to Fed. R. App. P. 29(a)(4)(E) and 2d Cir. Local Rule 29.1(b), amici curiae 504 Democratic Club, Center for Independence of the Disabled, New York, Elevator Action Group, Harlem Independent Living Center, Mobilization for Justice, New York Lawyers for the Public Interest, and Tri-State Transportation Campaign state that no counsel for a party authored this brief in whole or in part; no party or party’s counsel contributed money intended to fund preparing or submitting this brief; and no person other than amici curiae, their members, or their counsel contributed money intended to fund preparing or submitting this brief.

Pricing”) operation, and that reversing the judgment below would take those substantial benefits away.

504 Democratic Club is the nation’s first and largest political club advocating for the civil rights of people with disabilities. The 504 Democratic Club has long sought transportation equity for all in the disability community. The 504 Democratic Club has been successful as a prime motivator for the installation of ten elevators in Lower Manhattan alone in recent years, and its members are recognized leaders in the fight for full accessibility in New York’s transportation systems. The Taxis For All Campaign began at a 504 Democratic Club meeting, led by past Presidents Marvin Wasserman and Edith Prentiss. 504 Democratic Club’s driving motivator is its firm stance that truly independent living cannot be achieved without full transportation equity.

Center for the Independence of the Disabled, New York (CIDNY) is a nonprofit organization founded in 1978. CIDNY is a part of the Independent Living Center movement: a national network of grassroots and community-based organizations that enhance opportunities for all people with disabilities to direct their own lives. CIDNY is the largest Independent Living Center in New York, servicing more than 40,000 disabled New Yorkers every year, assisting them with government benefits, housing, employment, and health care problems. A core focus of CIDNY’s advocacy is accessible transportation. The lack of reliable, equitable transit options

remains one of the greatest obstacles to employment, healthcare, and civic engagement for people with disabilities. CIDNY has been deeply involved in efforts to improve accessibility in New York City, including reaching a settlement agreement with the City of New York in 2019 to install and maintain curb cuts, settling a lawsuit with the MTA for elevators in 95% of NYC Transit's subway stations by 2055; advocating for expansion and reforms to New York City's paratransit, Access-A-Ride ("AAR"); and advocating for subway elevator maintenance. CIDNY has also worked alongside Brooklyn Center for Independence of the Disabled, Mobilization for Justice, and New York Lawyers for the Public Interest to track AAR failures and to ensure paratransit users know their rights. CIDNY has strongly supported Congestion Pricing as a means to fund critical accessibility upgrades in the subway system, most importantly the elevators which the MTA plans to build.

The Elevator Action Group (also known as Rise and Resist) is committed to making the New York City subway system 100% accessible. The Elevator Action Group believes accessibility is not a dismissible issue, it is not a luxury or a convenience, but rather it is a necessity and a civil right. The Elevator Action Group's work for nearly a decade has involved actions and demonstrations at subway stations, testifying at MTA meetings, petitioning community boards, writing letters, attending court hearings, and working with other disability rights

organizations and transit advocates to put accessibility at the top of the MTA agenda. In 2022, the MTA committed to making the subway system 95% stair-free accessible by 2055 through a lawsuit settlement. The Elevator Action Group believes that the continuation of Congestion Pricing is essential. The Elevator Action Group will continue to fight for a truly public transit system, because elevators are for everyone.

The Harlem Independent Living Center (HILC) was established in 1990 to provide access to independent living services to individuals with disabilities who were unserved or underserved in New York City. HILC has also aimed to expand the core services of the independent living philosophy to minorities in New York City. One of the main priorities of HILC is accessible transportation and policies that promote funding major accessibility projects. HILC collaborates with other community-based organizations and advocacy groups to ensure that New York City is accessible to everyone, especially people with disabilities. HILC achieves this through advocacy, education, and collaboration. HILC is delighted to join this effort towards achieving 100% accessibility in New York City.

Mobilization for Justice, Inc. (MFJ) is a non-profit legal services organization that has provided free civil legal services to low-income New Yorkers for over 60 years. MFJ's mission is to achieve justice for all by prioritizing the needs of people who are low-income, disenfranchised, or have disabilities as they struggle

to overcome the effects of social injustice and systemic racism. MFJ provides high-quality free, direct civil legal assistance, conducts community education and builds partnerships, engages in policy advocacy, and brings impact litigation. MFJ's disability rights legal and legislative advocacy covers a wide range of issues, including assisting seniors and people with disabilities to access appropriate transportation; assisting children with mental health disabilities and their families through medical-legal partnerships with City hospitals; assisting seniors and nursing home residents by preventing evictions and involuntary discharges; and serving people with mental health disabilities living in the community. MFJ's disability rights litigation successes include the representation of a class of people with disabilities who obtained due process protections in the AAR application and appeal process.

New York Lawyers for the Public Interest (NYLPI), founded in 1976, is a public interest law firm that, through its Disability Justice Program, advocates for the rights of persons with disabilities in New York City. NYLPI has litigated extensively on behalf of persons with disabilities. NYLPI's key priorities include the right to nondiscriminatory transportation for all persons with disabilities, and NYLPI is actively working to achieve reforms of AAR and for improved access to all of New York City's transportation services, including the medallion and ride-share industries. Recent court successes include a landmark suit that resulted in improved

access for AAR users who have limited English proficiency. Most recently, NYLPI filed two lawsuits seeking to compel the MTA to include AAR users in all discount programs available to other mass transit users, and to address the inaccessible gaps between the trains and platforms in subway stations.

Tri-State Transportation Campaign (“TSTC”) is a nonprofit transportation policy and advocacy organization dedicated to advancing sustainable and equitable transportation in the tri-state region by reducing climate emissions, increasing investments in public transit, and ensuring accessibility and robust mobility options for all. TSTC has long advocated for sustainable transportation policies, public transit investment, and transportation equity throughout New York and the broader Tri-State region. TSTC is a leading advocate for congestion pricing in New York City and has worked extensively to advance policies that reduce traffic and emissions while generating critical resources for public transit. TSTC has also advocated for affordable and equitable access to public transportation, including through its work supporting Fair Fares, and for ensuring that the voices of transit riders and underserved communities are reflected in transportation policy.

Together, Amici have decades of experience protecting the civil rights of people with disabilities in transit, housing, and access to public benefits, as well as current knowledge of how Congestion Pricing revenue is being deployed for

accessibility, and what New Yorkers with disabilities stand to lose if the decision below were reversed.

Pursuant to Fed. R. App. P. 29(a)(2), Plaintiffs-Appellees and Defendants-Appellants have consented to the filing of this brief.

SUMMARY OF ARGUMENT

The District Court correctly held that Secretary Duffy’s attempt to unilaterally terminate Congestion Pricing was arbitrary, capricious, and unlawful. Amici write to emphasize the importance of Congestion Pricing to people with disabilities.

Access to public transportation is of critical importance to New Yorkers with disabilities, yet New York City’s transportation system is largely inaccessible. More than eighteen months of operation confirm that Congestion Pricing has been a tremendous success in delivering concrete accessibility and mobility benefits to people with disabilities. Congestion Pricing generated more than \$550 million in net revenue in its first year, and enabled more than \$6 billion in transit-improvement projects now under construction, including new elevators and other system upgrades in accordance with the Americans with Disabilities Act (“ADA”) and state and local anti-discrimination laws. It also removed 27 million vehicles from the area in Manhattan south of 60th Street (hereinafter, “Congestion Relief Zone”), directly benefiting the tens of thousands of New Yorkers with disabilities who depend on AAR and buses for surface travel, as well as improving safety for people with

disabilities – a group who are disproportionately injured in traffic-related incidents. Finally, it is funding a suite of mitigation measures to reduce pre-existing air quality threats to vulnerable communities, including communities of color, low-income communities, and communities bearing disproportionate pollution and climate-change burdens (hereinafter, “Environmental Justice Communities”).² Such Environmental Justice Communities include a high proportion of people with disabilities.³

The disability community now relies on those important benefits. Reversing the judgment below would jeopardize these significant improvements, and would also revive Defendants-Appellants’ threat to withhold unrelated federal transportation funds that other ADA projects depend on. The judgment below should be affirmed.

ARGUMENT

I. CONGESTION PRICING IS PROVIDING CRITICAL BENEFITS TO NEW YORKERS WITH DISABILITIES, AND REVERSAL WOULD REMOVE THOSE BENEFITS ENTIRELY

People with disabilities are among the groups who are benefiting most substantially from Congestion Pricing. Access to public transportation is essential to the daily lives of New Yorkers with disabilities, yet significant portions of New York

² N.Y. Envtl. Conserv. Law § 75-0111(1)(a).

³ U.S. Env’t Prot. Agency, *EPA’s 2023 Equity Action Plan* (2023), <https://public-archiving.s3.us-east-1.amazonaws.com/epa-2023-equity-action-plan.pdf>

City's transportation system remain, in substantial part, inaccessible. Congestion Pricing is now providing a critical funding stream to make many improvements to the system's accessibility, including installation of elevators and other much-needed accessibility features.

People with disabilities also disproportionately benefit from the reduced traffic congestion and increased air quality that Congestion Pricing is yielding, and would be disproportionately harmed if Congestion Pricing were ended and they were deprived of those benefits. Finally, Congestion Pricing is funding various mitigation measures to address pre-existing threats to air quality in neighborhoods already facing environmental justice concerns where a high proportion of people with disabilities reside. Reversing the judgment would substantially harm people with disabilities by taking away critical benefits that they rely on.

A. Improved Access to Mass Transit is Essential for New Yorkers with Disabilities

New York City's mass transit system is critically important to its residents, as well as its countless visitors. The subway in particular serves approximately four million riders a day with hundreds of stations, frequent trains, and 24-hour availability.⁴ Accordingly, commuters in the New York City metropolitan area

⁴ MTA, Subway and Bus Ridership for 2025, <https://www.mta.info/agency/new-york-city-transit/ridership/2025> (average weekday subway ridership of 4.002 million in 2025, 73% of 2019 levels).

have the highest rate of public transportation usage of any metropolitan area in the United States.⁵

Access to public transportation is especially vital for people with disabilities. Roughly 13% of New York City residents, or over one million people, have disabilities which impact their ability to use mass transit.⁶ When Congress passed the Americans with Disabilities Act in 1990, it found that “historically, society has tended to isolate and segregate individuals with disabilities” and that discrimination “persists in such critical areas as . . . transportation.” 42 U.S.C. §§ 12101(a)(2), (3); *see also* H.R. Rep. No. 485(II), at 37 (1990), reprinted in 1990 U.S.C.C.A.N. 303, 319.

People with disabilities remain disproportionately unemployed relative to people without disabilities, and inaccessible transportation is a significant contributing barrier to employment, medical care, and civic life.⁷ Accessible

⁵ According to the New York City Department of Transportation’s 2022 mobility survey, the most common transit mode used by New Yorkers in 2022 is the subway, used for 71% of weekday transit trips. About one-quarter (24%) of weekday transit trips are made using buses. New York City Department of Transportation, 2022 Citywide Mobility Survey Results, <https://www.nyc.gov/html/dot/downloads/pdf/2022-cms-report.pdf>.

⁶ NYU Rudin Center for Transportation, Accelerating Progress: Making Transit Accessible for All New Yorkers (2024), <https://wagner.nyu.edu/files/faculty/publications/Making%20Transit%20Accessible%20for%20All%20New%20Yorkers%20%284%29.pdf>.

⁷ The unemployment rate for people with a disability is 7.2 percent, more than double the rate of people without disabilities at 3.5 percent. *See* U.S. Bureau of Labor Statistics, Persons with a Disability: Labor Force Characteristics – 2023, (February 22, 2024), <https://www.bls.gov/news.release/pdf/disabl.pdf>. Additionally, lack of accessible transportation is the second most significant barrier to employment for people with disabilities. *See* Center for

transportation is essential to ensuring that people with disabilities can travel to work and school, can attend medical appointments, engage in community and civic activities, visit friends and family – in short, to participate in all that New York City has to offer.

Yet lack of accessibility has been widespread in all modes of New York City’s public transportation. Before Congestion Pricing began, only 29% of the City’s subway stations had elevators, making the vast majority of stations inaccessible to people with mobility disabilities or other disabilities affecting a person’s ability to use stairs.⁸ For seniors and other riders with mobility impairments and such other impairments including arthritis, vertigo, heart or lung disease, the widespread absence of elevators, let alone functioning elevators, in the subway system often forced them into a Hobson’s choice of having to risk injury or over-exertion by using multiple sets of stairs or traveling out of their way to locate a station with an elevator.

Further, though the MTA defines “accessibility” as stations with stair-free access,⁹ such access to the subway platforms is only part of the equation. Gaps

Independence of the Disabled, New York, Transportation Policy, <https://www.cidny.org/transportation-policy-23/>.

⁸ Reynolds, Ash, The New York City Subway Remains Largely Inaccessible to the Disabled Community, New School Free Press (15 April 2024), <https://www.newschoolfreepress.com/2024/04/15/the-new-york-city-subway-remains-largely-inaccessible-to-the-disabled-community/#:~:text=Despite%20the%20fact%20that%201,from%20platform%20to%20street%20level.>

⁹ Settlement Agreement, *Center for Independence of the Disabled, New York, et al. v. Metropolitan Transportation Authority, et al.* No. 153765/2017 (N.Y. Sup. Ct. N.Y. Co.), <https://dralegal.org/wp-content/uploads/2022/03/Settlement-Agreement-and-Exhibits-ACC.pdf>.

between platforms and trains present a further barrier that remains the subject of ongoing litigation. See *Goldenberg v. Metropolitan Transp Authority*, No. 159096/2022, 2026 WL 267083, at *1 (Supreme Court, New York Cnty. Jan. 27, 2026) (denying motion for summary judgment on claims that platform gaps render the subway system inaccessible to people with disabilities). In addition, there remain communication barriers for individuals with hearing impairments, among other issues.¹⁰

The legislators who passed the Congestion Pricing law well understood these concerns. The legislative history of Congestion Pricing highlights how the breakdowns and disrepair of New York City's subway infrastructure:

continue to have a significant deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the metropolitan commuter transportation district, which is the recognized economic engine of the state of New York, and thereby have adversely affected the economy of the state of New York.¹¹

New Yorkers with disabilities are particularly reliant on improved subway accessibility because New York City's other modes of mass transportation remain inferior substitutes for an accessible subway. Buses are ostensibly accessible but can

¹⁰ Barbara Russo-Lennon, Sign of progress: How this new MTA program will keep New Yorkers with hearing impairments connected to public transit, amNY (February 12, 2025), <https://www.amny.com/news/hearing-impairments-asl-program-nyc-transit/>. See also Accelerating Progress: Making Transit Accessible for All New Yorkers, *supra* note 6.

¹¹ N.Y. Vehicle & Traffic L. § 1701.

be unreliable: riders using wheelchairs endure long waits when a crowded bus has no room for them, and snow piled on sidewalks routinely prevents ramps and lifts from lowering.¹² Taxis and for-hire vehicles (“FHV”) offer only limited accessibility — fewer than half of authorized yellow cabs are wheelchair-accessible,¹³ and worse still, as of 2022, approximately only 5% of FHV’s, including Uber and Lyft, were accessible.¹⁴ Finally, AAR is inferior to the subway for a litany of reasons: reservations must be made one to two days in advance and riders must be prepared to wait up to thirty minutes past the scheduled pickup time,¹⁵ with passengers frequently waiting much longer to be picked up.¹⁶ Further, an estimated 30,000 AAR users – roughly 15% – could use the subway instead if it were accessible to them —

¹² Angely Mercado, City Buses Are Slow, Unreliable and What Many Disabled & Aging NYers Rely On, CITY LIMITS (Mar. 7, 2018), <https://citylimits.org/2018/03/07/citys-buses-are-slow-unreliable-and-what-many-disabled-aging-nyers-depend-on/>.

¹³ Evan Hines, Acting Commissioner, New York City Taxi and Limousine Commission, Testimony Before the New York City Council Committee on Transportation and Infrastructure on the Preliminary Budget for Fiscal Year 2027 (Mar. 17, 2026), https://www.nyc.gov/assets/tlc/downloads/pdf/testimony_preliminary_budget_3_17_26.pdf (only 6,300 taxis are accessible out of the overall authorized fleet of 13,587 taxis).

¹⁴ N.Y.C. Council, Res. No. 81 (2026), [https://legistar.council.nyc.gov/ViewReport.ashx?GID=61&GUID=34F9D445-85E4-466B-B20B-7A11E789A2EB&ID=6679729&M=R&N=Text&Title=Legislation+Text&utm_source=\(\[F\]or+calendar+year+2022,+the+NYC+Taxi+and+Limousine+Commission+\(TLC\)+reported+that+there+were+95,129+total+vehicle+licenses+for+FHVs,+both+affiliated+and+not+affiliated+with+high+volume+for-hire+services,+of+which+only+4,858+were+wheelchair+accessible+vehicles+\(WAVs\)\)](https://legistar.council.nyc.gov/ViewReport.ashx?GID=61&GUID=34F9D445-85E4-466B-B20B-7A11E789A2EB&ID=6679729&M=R&N=Text&Title=Legislation+Text&utm_source=([F]or+calendar+year+2022,+the+NYC+Taxi+and+Limousine+Commission+(TLC)+reported+that+there+were+95,129+total+vehicle+licenses+for+FHVs,+both+affiliated+and+not+affiliated+with+high+volume+for-hire+services,+of+which+only+4,858+were+wheelchair+accessible+vehicles+(WAVs))).

¹⁵ MTA New York City Transit, 2024 Guide to Access-A-Ride Service, <https://new.mta.info/document/115671>.

¹⁶ MTA touts AAR service gains, but riders with disabilities remain skeptical, amNY (February 9, 2023), <https://www.amny.com/nyc-transit/mta-touts-access-a-ride-service-gains-but-riders-remain-skeptical/>.

meaning that subway accessibility investments would also reduce the MTA's paratransit operating costs.¹⁷

B. Congestion Pricing is Already Significantly Benefiting New Yorkers with Disabilities

A full year of data show that people with disabilities are already benefiting from Congestion Pricing in significant ways. Critical accessibility projects are underway as a result of the funding stream from Congestion Pricing. Decreased traffic gridlock has improved transportation reliability and safety for people with disabilities. Additionally, data confirms that Congestion Pricing has not produced the feared air-quality harms in neighboring areas, and meanwhile, the program is funding mitigation measures to improve pre-existing air quality issues in vulnerable communities. Ending Congestion Pricing would deprive the disability community of those critical benefits.

¹⁷ MTA New York City Transit, Guide to Access-A-Ride Service, <https://new.mta.info/document/115671>; DiNapoli: Shift in MTA's Paratransit Program Generates Cost Savings (Nov. 20, 2023), <https://www.osc.ny.gov/press/releases/2023/11/dinapoli-shift-mtas-paratransit-program-generates-cost-savings>.

1. Congestion Pricing is Facilitating Critical Accessibility Improvements

The MTA has already begun to make real and necessary progress in making the subway system more accessible.¹⁸ The end of Congestion Pricing would dramatically impair that progress by deferring the critical accessibility improvements that are already underway.

Funding from Congestion Pricing is making possible critical improvements to the accessibility of public transportation in New York City. Today, 160 of the City's 472 subway stations — 34% — offer stair-free access, up from the 29% accessibility rate in the record below.¹⁹ Further, since 2020, the MTA has substantially accelerated the pace of subway accessibility construction, completing 29 station accessibility projects as of September 2024 and having 37 additional ADA station projects under construction.²⁰ The progress made over the past six years is equivalent to what the MTA accomplished during the preceding three decades combined.²¹ That progress is real but incomplete, and it depends on Congestion Pricing continuing. In 2022 the MTA committed to a stair-free path of travel at 95% of currently inaccessible stations by 2055, with 81 stations targeted for completion by 2025

¹⁸ Accelerating Progress: Making Transit Accessible for All New Yorkers, *supra* note 6.

¹⁹ MTA, 2026 in Accessibility at the MTA: a year of progress, innovation, and belonging (July 2026), <https://www.mta.info/article/accessibility-disability-pride-month-2026>.

²⁰ MTA, 2025–2029 Capital Plan, at 32, <https://www.mta.info/document/151266>.

²¹ *Id.*

alone.²² Congestion Pricing is the financial engine for that commitment: the program generated more than \$550 million in net revenue in its first full year of operation, and is needed to fund \$15 billion of the MTA's capital program.²³ That revenue is no longer merely projected — it is being spent on vital projects. As of January 2026, more than \$6 billion in Congestion-Pricing-enabled projects were already in construction, including Second Avenue Subway Phase 2, new signal systems serving over 600,000 daily A and C line riders in Brooklyn and Queens, and ADA accessibility upgrades at nine subway stations.²⁴ In 2025 alone, the MTA completed accessibility projects at ten stations (seven subway, three Long Island Rail Road) and replaced 39 elevators, both records, bringing the systemwide total to 154 accessible subway stations by the end of 2025 and 160 by mid-2026, with at least 60 more funded under the 2025–2029 Capital Plan's \$7.1 billion accessibility commitment.²⁵

²² MTA, ICYMI: Governor Hochul Announces MTA and Accessibility Advocates Agree on Historic Plan for Expanding Accessibility in the New York City Subway System (2022), <https://new.mta.info/press-release/icymi-governor-hochul-announces-mta-and-accessibility-advocates-agree-historic-plan>.

²³ Governor Kathy Hochul, Less Traffic, Better Transit: On Its First Anniversary, Governor Hochul Celebrates Transformational Success of Congestion Pricing (Jan. 5, 2026), <https://www.governor.ny.gov/news/less-traffic-better-transit-its-first-anniversary-governor-hochul-celebrates-transformational>.

²⁴ *Id.*

²⁵ Governor Kathy Hochul, Governor Hochul Announces MTA Has Completed 10 Station Accessibility Projects in 2025 (Dec. 31, 2025), <https://www.governor.ny.gov/news/governor-hochul-announces-mta-has-completed-10-station-accessibility-projects-2025>; MTA, 2026 in Accessibility at the MTA, *supra* 19.

If Congestion Pricing revenue disappears, this progress would not merely slow going forward, it might stop completely. The MTA has already made clear that accessibility projects are treated as “lower priority” during funding shortfalls, with \$2 billion in planned improvements deferred and at least two station projects subject to potential cancellation during the program’s earlier, temporary pause in 2024.²⁶ Reversal here would not just derail a plan, it would undercut debt the MTA has already taken on. The State Comptroller’s most recent analysis finds that the MTA plans to use dedicated revenue streams, including Congestion Pricing revenues, to support \$13.1 billion in borrowing for its capital program.²⁷ The MTA took on that debt expecting Congestion Pricing revenue to keep flowing. Reversal would cut off that revenue stream, leaving the MTA with debt it planned to repay using money Defendants-Appellants are asking this Court to eliminate.

A reversal here would jeopardize significant subway projects – including long-promised accessibility improvements – that have been made possible by Congestion Pricing.

²⁶ MTA, Construction & Development, *Impact of Congestion Pricing on the Capital Program: Presentation to the MTA Board* (June 26, 2024), MTA Document No. 144141, <https://www.mta.info/document/144141>.

²⁷ N.Y. State Office of the State Comptroller, Annual Update: Metropolitan Transportation Authority’s Debt Profile, Report 3-2027, at 15 (May 2026), <https://www.osc.ny.gov/files/reports/osdc/pdf/report-3-2027.pdf>.

2. A Full Year of Data Confirms that People with Disabilities Have Benefited from Reduced Traffic Gridlock

People with disabilities who disproportionately depend on AAR and buses for surface travel have directly benefited from reduced congestion. In its first year, Congestion Pricing removed 27 million vehicles from the Congestion Relief Zone — an average 11% daily reduction — and cut travel times at crossings into the zone by as much as 51%.²⁸

With fewer vehicles on the roads, the vehicles that need to be there – AAR, buses, emergency vehicles, delivery drivers, and others – enjoy swifter and safer travel.²⁹ Congestion Pricing has caused traffic speeds to increase by 11% in the Congestion Relief Zone, and even significantly increased traffic speeds outside the zone, leading to quicker trips.³⁰ These traffic improvements are no longer projections, but actual measured results, and they translate into faster, more reliable trips for the approximately 195,000 New Yorkers who rely on AAR and for the many additional riders with disabilities who cannot use the many inaccessible elements of the subway system.³¹ AAR itself is experiencing record demand — 2025 ridership

²⁸ Governor Kathy Hochul, Less Traffic, Better Transit, *supra* note 23.

²⁹ Cody Cook, et al. Network-wide Effects of Congestion Pricing: Evidence from New York City, NBER Working Paper 33584, 2 (August 3, 2026), https://www.nber.org/system/files/working_papers/w33584/w33584.pdf?ref=golden-state.org.

³⁰ *Id.*

³¹ N.Y.C. Mayor's Off. for People with Disabilities, *AccessibleNYC 2025 Report: Transportation* (2025), <https://www.nyc.gov/site/mopd/publications/accessiblenyc-2025-report-transportation.page>.

reached 140% of its pre-pandemic peak, with scheduled weekday trips now regularly exceeding 40,000, and a single-day record of 46,875 trips — demand that the reduction of congestion has helped the program meet.³²

The reduced traffic brought on by Congestion Pricing also provides safety benefits for people with disabilities, and countless others. Increased gridlock, by contrast, disproportionately endangers people with disabilities: people who use wheelchairs are far more likely to die in car-pedestrian crashes, and more than half of those deaths occur at intersections.³³ And Congestion Pricing's first year brought a 7% reduction in crashes and an 8% reduction in traffic injuries citywide.³⁴

The continued threat to Congestion Pricing endangers the progress made in reducing traffic and the benefits to the people with disabilities that flow from these improvements.

3. Congestion Pricing Has Not Harmed – and Is Funding Real Improvements For – the Environmental Justice Communities Where People with Disabilities Are Concentrated

People with disabilities are disproportionately vulnerable to air pollution, making it important that Congestion Pricing not shift pollution burdens onto

³²MTA press release (Sept. 16, 2025), <https://www.mta.info/press-release/icymi-governor-hochul-announces-record-7-day-subway-ridership-268-million-rides-last>.

³³Majority of Car-Pedestrian Deaths Happen to Those in Wheelchairs, Often at Intersections, Georgetown University Medical Center (Nov. 19, 2015), <https://gumc.georgetown.edu/news-release/majority-of-car-pedestrian-deaths-happen-to-those-in-wheelchairs-often-at-intersections/>.

³⁴Governor Kathy Hochul, Less Traffic, Better Transit, *supra* note 23.

neighborhoods already facing environmental justice concerns. To examine that concern, the City Health Department conducted a rigorous study.³⁵ Its findings alleviate that concern: at every environmental-justice site monitored, as well as in the Congestion Relief Zone itself, Congestion Pricing did not increase pollution, and citywide air quality held steady or even improved slightly.³⁶ The study explains why the citywide effect was modest in either direction: vehicle traffic contributes only about 14% of the City's PM_{2.5} particulate matter emissions and 20% of its NO_x gas emissions, so Congestion Pricing's roughly 10% traffic reduction in the Congestion Relief Zone was not large enough to move ambient pollution by a statistically detectable amount.³⁷

Beyond these findings, however, Congestion Pricing is actively funding a suite of mitigation measures to address pre-existing high pollution areas in New York and New Jersey, and ending the program would eliminate these investments.³⁸ As the first major mitigation measure funded by Congestion Pricing, the MTA and NYC Department of Transportation are replacing diesel-powered refrigeration units at the Hunts Point Produce Market in the Bronx, a discrete project expected to cut

³⁵ N.Y.C. Dep't of Health and Mental Hygiene, Air Quality Impacts of Congestion Relief Zone Tolling (published Aug. 14, 2026), <https://a816-dohbesp.nyc.gov/IndicatorPublic/data-features/congestion-pricing-report/>.

³⁶ *Id.*

³⁷ *Id.*

³⁸ MTA, "Congestion Pricing provides \$330M in mitigation funding" (June 30, 2026), <https://www.mta.info/agency/bridges-and-tunnels/congestion-relief-zone/program/mitigation#about>.

nitrogen-oxide emissions from those units by 66%, and particulate matter by 99.7%, in a community that has long suffered disproportionately from vehicle pollution and asthma.³⁹

Because people with disabilities disproportionately suffer from asthma, chronic obstructive pulmonary disease, cardiovascular disease, and other conditions that air pollution aggravates,⁴⁰ targeted investments like the Hunts Point project matter even where citywide ambient measurements have not moved — and reversal here would end them.

II. DEFENDANTS-APPELLANTS' EFFORT TO TERMINATE CONGESTION PRICING WOULD REVIVE THE THREAT TO WITHHOLD UNRELATED FEDERAL FUNDS UPON WHICH ADA PROJECTS DEPEND

The District Court found that Defendants-Appellants' February 19, 2025⁴¹ and April 21, 2025⁴² letters purporting to terminate the Value Pricing Pilot Program Agreement were arbitrary, capricious, and unlawful, and vacated them. *See*

³⁹ Governor Kathy Hochul, Governor Hochul Announces Significant Congestion Pricing Funded Air Quality Improvement Milestone in the Bronx (2026), <https://www.governor.ny.gov/news/governor-hochul-announces-significant-congestion-pricing-funded-air-quality-improvement>.

⁴⁰ American Lung Association, Who is Most Affected by Outdoor Air Pollution?, (June 17, 2024), <https://www.lung.org/clean-air/outdoors/who-is-at-risk>.

⁴¹ Letter from Sean P. Duffy, Sec'y, U.S. Dep't of Transp., to Kathy Hochul, Governor, State of N.Y. (Feb. 19, 2025), filed as Ex. 5 to Decl. of Kevin Willens, *Metro. Transp. Auth. v. Duffy*, No. 25 Civ. 1413 (LJL), ECF No. 87-5 (S.D.N.Y. May 5, 2025).

⁴² Letter from Sean P. Duffy, Sec'y, U.S. Dep't of Transp., to Kathy Hochul, Governor, State of N.Y. (Apr. 21, 2025), filed as Ex. 10 to Decl. of Kevin Willens, *Metro. Transp. Auth. v. Duffy*, No. 25 Civ. 1413 (LJL), ECF No. 87-10 (S.D.N.Y. May 5, 2025).

Metropolitan Transportation Authority v. Duffy, No. 25 Civ. 1413 (LJL), 2026 WL 588117, at *68 (S.D.N.Y. Mar. 3, 2026). Those letters threatened to withhold, among other things, further National Environmental Policy Act approvals and further obligations of Federal Highway Administration (“FHWA”) funds for projects within New York City — including Congestion Mitigation and Air Quality funds, 23 U.S.C. § 149, that the MTA uses for ADA-compliant elevators and equipment at several stations.⁴³ FHWA funds also maintain the City streets that AAR vehicles and buses depend on for reliable service.⁴⁴ Withholding that funding would compound the harms described above: stalled station accessibility projects, less reliable surface transportation, and reduced capacity to continue targeted air-quality mitigation in communities that remain vulnerable to pollution.

If this Court were to reverse the decision below, the threat of those significant harms to the disability community would return.

⁴³ Declaration of Kevin Willens ¶¶ 28-29, *Metro. Transp. Auth. v. Duffy*, No. 25 Civ. 1413 (LJL), ECF No. 84 (S.D.N.Y. May 5, 2025).

⁴⁴ *Id.* at ¶ 30.

CONCLUSION

More than eighteen months of operation have confirmed what Amici predicted at the preliminary-injunction stage: Congestion Pricing is essential to accessible, reliable transportation for New Yorkers with disabilities. The program has produced concrete accessibility improvements, substantial reductions in traffic, and funding for pollution mitigation measures addressing air-quality threats to vulnerable communities, each of which are substantial benefits to people with disabilities. For the foregoing reasons, Amici respectfully request that this Court affirm the judgment of the District Court.

Dated: September 23, 2026
New York, New York

Respectfully submitted,

/s/ Daniel Mullkoff
Daniel Mullkoff
WANG HECKER LLP
111 Broadway, Suite 1406
New York, New York 10006
(212) 620-2606
dmullkoff@wanghecker.com

Sebastian Riccardi*
MOBILIZATION FOR JUSTICE, INC.
100 William Street, 6th Floor
New York, New York 10038
(212) 417-3700
sriccardi@mfjlegal.org

Christopher Schuyler*
NEW YORK LAWYERS FOR THE
PUBLIC INTEREST
151 West 30th Street, 11th Floor
New York, New York 10001
(212) 244-4664
cschuyler@nylpi.org

* Application for Second Circuit
admission pending

Counsel for Amici Curiae

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) and 2d Cir. Local Rule 29.1(c) because, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), this brief contains 4,936 words, which does not exceed 6,500 words (one-half of the 13,000-word limit for a principal brief under Fed. R. App. P. 32(a)(7)(A)).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman.

/s/ Daniel Mullkoff
Daniel Mullkoff

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2026, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Second Circuit using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Daniel Mullkoff
Daniel Mullkoff

Counsel for Amici Curiae