



PUTNAM COUNTY EXECUTIVE
KEVIN M. BYRNE

January 21, 2025

Hon. Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Trump,

Congratulations on your successful Inauguration as our 47th president and our country's peaceful transfer of power. I was delighted to share the occasion with you, First Lady Melania Trump, Vice President Vance, the First Family, your cabinet, and millions of Americans watching your swearing-in ceremony from Washington, DC, and across our great nation. I have no doubt that your Administration will reverse America's decline and usher in a new "golden age," as your Inaugural Address so memorably described it.

To that end, the Trump Administration has an opportunity like no other to eliminate a disastrous policy imposed on the residents of Putnam County and thousands of other hardworking commuters across the tri-state area by immediately moving to end New York Governor Kathy Hochul's Central Business District Tolling Program, also known as "congestion pricing." This misguided, costly, unpopular, and above all unfair tax which, as you know, was implemented earlier this month for drivers, including taxis and ride-share automobiles, traveling into Manhattan below 60th Street, has been the subject of litigation before and after Governor Hochul's "pause" in June 2024.

I include for your reference the brief of amicus curiae I submitted as Putnam County Executive in support of plaintiffs' motion for a preliminary injunction filed on December 16, 2024, and brought by Rockland County against the Triborough Bridge and Tunnel Authority and Metropolitan Transportation Authority (MTA). Unfortunately, two federal judges in the Southern District of New York denied requests to delay the policy on December 23 and the congestion tax went into effect thanks to the courts on January 5. The tax could cost our drivers an extra \$3,000 to \$4,000 every year, adding a burdensome new fee to the highest-taxed population in the US.

Therefore, I respectfully request that your Administration prioritize ending this congestion-tax program as soon as practicable. In my view necessary action can be taken in several ways. First, the Environmental Protection Agency (EPA) can revisit the policy's original environmental review and declare it invalid. Recall that it was not the EPA but the Federal Highway Administration (FHWA) that issued its Finding of No Significant Impact in 2023 – hardly a comprehensive environmental review for a policy whose central aims include cutting emissions from cars and reducing total carbon emissions in New York City and statewide. The FHWA doubled down on this nonfeasance in a November 2024 letter to the Hochul administration when it found that "no additional environmental analysis is warranted."

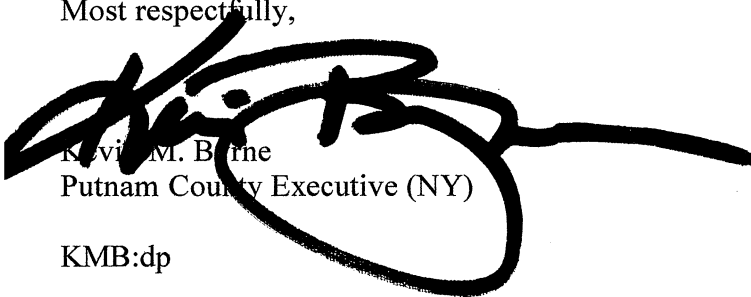
Next, the US Department of Transportation (DOT) under soon-to-be Secretary Duffy could withhold new federal grants from the MTA unless it ends its administration and collection of the congestion tax, effectively zeroing out the fee on all working commuters. This can, and should, be coupled with a forensic audit of the MTA conducted by DOT's Office of Inspector General in order to identify billions of dollars in federal assistance to the transit agency and how this funding could be more effectively spent on needed infrastructure upgrades and capital investments instead of tolling drivers. The MTA's own blue-ribbon commission has already identified \$700 million in revenues lost to fare evasion in a little-noticed 2023 report. In short, the money is there without imposing a costly new tax.

Third, the Administration can simply revoke the federal approvals the FHWA gave to this ill-conceived tax. Governor Hochul's "unpause" in June was rushed through explicitly to sideline any attempt by New York State legislators to examine the detrimental economic effects of congestion pricing and considerably scale back or reverse the policy. The Trump Administration could repeal the federal approvals and declare others unenforceable, as it has already done to much fanfare with the now-defunct "Green New Deal."

Thank you for your attention to this issue and the negative effects congestion pricing is already having on working commuters and businesses in Putnam County and elsewhere. I look forward to working in conjunction with your new Administration to reverse this damaging tax and return more money to our residents.

Together I am confident that we can make transportation and, most importantly, America Great Again.

Most respectfully,



Kevin M. Byrne
Putnam County Executive (NY)

KMB:dp

Cc: US Senator Charles Schumer
US Senator Kirsten Gillibrand
Representative Mike Lawler
Governor Kathy Hochul
State Senator Peter Harekham
State Senator Rob Rolison
Assembly Member Matt Slater
Assembly Member Dana Levenberg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
COUNTY OF ROCKLAND, EDWIN J. DAY, in his official
capacity as County Executive, and the LEGISLATURE OF THE
COUNTY OF ROCKLAND,

Plaintiffs,

Docket No. 24-cv-2285

-against-

TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY and
METROPOLITAN TRANSPORTATION AUTHORITY,

Defendants.

-----X
**BRIEF OF *AMICUS CURIAE* HON. KEVIN BYRNE
IN HIS OFFICIAL CAPACITY AS COUNTY EXECUTIVE
IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY
INJUNCTION**

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PRELIMINARY STATEMENT

Kevin Byrne, in his capacity as County Executive of Putnam County, respectfully submits this *amicus curiae* brief in support of Plaintiffs' motion for a preliminary injunction.

The congestion pricing scheme enacted by defendants the Triborough Bridge and Tunnel Authority ("TBTA") and the Metropolitan Transportation Authority ("MTA") (together, "Defendants") will have a disproportionate impact on the health and well-being of Putnam's residents and businesses that must enter New York City's Central Business District ("CBD").

With limited public transportation options and a high percentage of residents commuting to New York City, most people in Putnam have no choice but to drive into the city. The proposed congestion pricing plan will impose significant financial burdens on these commuters, exacerbating the already high costs of transportation.

Moreover, the charges that Congestion Pricing imposes, which are intended to reduce traffic and pollution, are not linked to the time spent, distance traveled, or type of vehicle used within the Congestion Pricing zone, and have not been preceded by much needed infrastructure improvements, meaning that the program cannot even clear the low bar of rational basis review.

In short, given the disproportionate impact of the congestion pricing plan on Putnam County, and the lack of any rational basis for its imposition, the County respectfully urges this Court to grant the Plaintiffs' motion for a preliminary injunction.

INTEREST OF AMICUS CURIAE

Putnam County is a municipality of the State of New York, located approximately 50 miles north of New York City and home to around 98,000 residents.¹ A significant portion of Putnam's population, approximately 50,000 residents, is employed in various capacities, with 57% of the working population commuting outside the County for employment, including several thousand commuters to New York City.² Putnam County has a vital interest in opposing the proposed congestion pricing plan due to the disproportionate and detrimental impact it would have on its residents and businesses.

Putnam County is considered a "transit desert," as its limited public transportation options to New York City are inadequate for most of its resident commuters. While six full-time Metro-North train stations are in Putnam, these stations are situated on the county's outer edges, with no train service accessible from the central or middle regions. As a result, most commuters from Putnam have no reliable alternative but to drive into New York City, and the proposed congestion pricing plan would impose significant financial burdens on these commuters.

Beyond the personal costs to residents, Putnam County's businesses would also face substantial financial harm under the congestion pricing plan. For instance, we are informed that Ace Endico, the largest private sector employer in Putnam, estimates that it will incur an additional \$250,000 in unavoidable costs due to congestion pricing, which could potentially lead to job losses to Putnam residents working within the company. Putnam County is also part of the Metropolitan Commuter Mobility Tax ("MCMT") region, where employers and self-employed individuals already face high taxes to support mass transit.³ Under County Executive's Byrne's administration,

¹ <https://data.census.gov/table/ACSST1Y2023.S0801?q=putnam%20county,%20ny>

² According to 2016-2020 ACS, 7,678 residents commuted to New York City, of which approximately 5,000 commuted to New York County.

³ <https://www.tax.ny.gov/bus/mcmt/selfemp.htm>.

the County also took decisive action to lessen the regressive effect of inflation by eliminating sales tax on clothing and footwear under \$110; by doing so, however, the County remains obligated to offset, to the MTA, the loss in sales tax revenue that would have otherwise been collected as a part of the Metropolitan Commuter Transportation District (“MCTD”) sales tax surcharge. The proposed congestion pricing plan would exacerbate this financial strain, with little to no direct benefit to Putnam County resident commuters. For all of these reasons, in 2019, then N.Y. State Assemblyman (and now County Executive) Byrne vociferously opposed congestion pricing as a part of the N.Y. State Budget.

In short, Putnam County submits that a preliminary injunction is warranted in this case based on the significant and irreparable harm that Congestion Pricing will impose on its residents. As outlined below, the harm is immediate, substantial, and cannot be undone if the court waits until the conclusion of the matters pending. Moreover, there is a compelling likelihood that the Congestion Pricing program fails to meet constitutional requirements, and the balance of equities supports a maintenance of the status quo and the issuance of an injunction to prevent such harm from occurring.

ARGUMENT

I. Putnam County's Residents & Businesses Will Suffer Greatly.

The implementation of Congestion Pricing presents an immediate and tangible threat of irreparable harm to the residents of Putnam County. The “irreparable harm requirement,” as noted, “is the single most important prerequisite for the issuance of a preliminary injunction.” *State Farm Mut. Auto. Ins. Co. v. Tri-Borough NY Med. Prac. P.C.*, 120 F.4th 59, 80 (2d Cir. 2024). It requires a showing that the movant faces “actual and imminent” harm, which “cannot be remedied if a court waits until the end of trial to resolve the harm.” *Id.*

Without injunctive relief, thousands of Putnam resident who commute daily into the CBD, with limited public transportation options, will be forced to pay the Congestion Pricing toll. This toll—projected to rise to \$15—represents a significant financial burden on those who have few or no viable alternatives to driving. Unlike commuters from more transit-accessible areas, Putnam residents overwhelmingly depend on their vehicles to reach their workplaces and other New York City destinations, making public transportation unfeasible. For example, a typical commuter from Putnam who drives into the CBD would take the RFK bridge to the FDR Drive, which currently costs \$6.94 by EZPass.⁴ For a single, five-day work week, crossing the bridge two times per work day, that is already \$69.40/week in tolls that Putnam County residents are currently paying; or \$3,608.80/year. Proposed congestion pricing (at the onset of \$9 per entry) would add an additional \$45 per week. When the toll rises to \$15, that would be an additional \$75 per week. For Putnam residents commuting every week, five days per week, with an additional \$15 toll, the additional weekly cost to simply get to and from work would be \$144.40; or a staggering \$7,508.80/year in additional tolls. Between the RFK and CBD tolls, Putnam resident commuters will be paying

⁴ <https://new.mta.info/tolls/vehicle-types>

approximately \$11,000/year to work in the CBD. For virtually all of these residents, the addition of such a high cost to enter the CBD will impose a serious financial strain. Of course, this additional cost would also have a more significant and disproportionate impact on lower-wage workers.

Additionally, many Putnam residents are public service employees working in the law and fire departments of the City of New York.⁵ Public transportation is just not an option for these public servants because they are carrying tools such as firearms, tactical gear, helmets and personal protective equipment. These employees also often work schedules that are simply not conducive to public transportation. For example, police or firefighters⁶ working overnight or off-hour shifts have virtually zero public transportation options to get to the CBD. Nevertheless, they will not be able to avoid the congestion pricing toll; they will potentially also face increased traffic during off-peak times due to the diversion of traffic out of the CBD because of the toll. There has not been a toll exemption for these employees who are performing services that benefit the City of New York, many of whom are placed in danger daily to protect the City.

Importantly, there are also thousands of Putnam residents that commute into New York City, but not into the CDB, that will suffer increased stress and costs for their commute, even though they will not be subject to the toll. For example, Congestion Pricing will divert traffic to

⁵ New York City Department of Citywide Administrative Services, Fiscal Year 2019 New York City Government Workforce Profile Report, 11, https://www.nyc.gov/assets/dcas/downloads/pdf/reports/workforce_profile_report_fy_2019.pdf.

⁶ For example, the equipment firefighters must take to work can weigh up to 80 pounds and may be contaminated with noxious and harmful chemicals if the gear was used in a fire. This gear cannot be transported via public transportation, making travel by personal vehicles effectively mandatory. See Natlie Duddridge, FDNY members against congestion pricing speak at MTA's 2nd public hearing on new tolls, CBS News (Mar. 2; 2024), <https://www.cbsnews.com/newyork/news/fdny-members-against-congestion-pricing-tolls-mta-second-public-hearing/>

neighboring areas outside the CBD, which will increase traffic and demand for parking (at least some commuters will no doubt seek parking to take public transit into the CBD). Because the supply of parking in these areas is finite and at a premium, Congestion Pricing will drive up the cost to park.

Finally, not only will Congestion Pricing impact individual Putnam residents, it will impact businesses located within Putnam that transact business within the CBD. For example, Ace Endico, the County's largest private sector employer, is a leading wholesale food distributor serving the New York tri-state area. It often has shipments and deliveries within the CBD. Two axle trucks pay \$12.55 to cross the RFK Bridge while three and four axel trucks pay \$20.56 and \$26.29 respectively.⁷ In order to continue to transact business within the CBD, Ace Endico anticipates an additional \$250,000 in expenditures. The potential ramifications of this are far-reaching. It is simple economics—a reduction in its workforce (many of whom are Putnam residents) is entirely possible to cover the unavoidable costs from the implementation of this plan.

II. Congestion Pricing Is Irrationally Structured & Destined To Fail.

The Congestion Pricing program's design lacks a rational relationship to its stated goals. For example, the toll applies uniformly across all vehicles entering the CBD, without considering factors such as the distance traveled, or the time spent in the area. A toll system that does not adjust for time spent in the congestion zone or the pollution generated by a vehicle undermines the purported benefits of reducing congestion and pollution in the CBD. To take a simple example, if a Putnam resident with an electric car enters the CBD for thirty seconds, it will be charged, whereas a NYC resident with a pollution-emitting vehicle can drive around all day in the CBD without being charged. That makes no sense, and betrays the lack of rational nexus between the stated

⁷ <https://new.mta.info/tolls/vehicle-types/trucks>

goals of the program and the means of reaching them. In contrast to the original tolls on bridges and tunnels, Congestion Pricing is not simply a user fee but instead functions more like a punitive tax on drivers who have limited alternatives. As such, the program may violate constitutional protections against excessive fines and taxes. “[W]hile rational basis review is indulgent and respectful, it is not meant to be ‘toothless.’” *Windsor v. United States*, 699 F.3d 169, 180 (2d Cir. 2012) (citations omitted), *aff’d*, 570 U.S. 744 (2013). Similarly, while rational basis review is “highly deferential,” it does “require some scrutiny of state and local government activity.” *Winston v. City of Syracuse*, 887 F.3d 553, 560 (2d Cir. 2018).

The defendants argue that congestion pricing would alleviate traffic congestion and improve air quality, but empirical evidence supporting the effectiveness of such pricing in achieving these objectives does not support their position. Defendants’ failure to improve public transit infrastructure *before* implementing Congestion Pricing ignores precedents implemented in London and Stockholm.⁸ Those models prioritized improving public transit services to incentivize commuters to shift to them, whereas Defendants have neglected necessary improvements to the City’s transportation infrastructure. This short-sighted failure to enhance public transportation options ahead of imposing an overly broad toll in the CBD burdens public employees (and all workers) who lack adequate access to public transit; many of whom are Putnam residents.

In addition to the current public transit system in New York City being notoriously unreliable and inefficient, it is also very unsafe, with increasing reports of crime and incidents that undermine the sense of security for commuters. In addition to violent crime occurring daily on the subway, this week, 3,500 commuters on two F trains were trapped and stranded underground for

⁸ <https://ops.fhwa.dot.gov/publications/fhwahop08039/fhwahop08039.pdf>

hours because of a disruption in service. Governor Hochul herself said “No one deserves to be trapped underground for two hours, or face such significant delays when trying to commute home from work.”⁹ We agree with Governor Hochul that this is unacceptable, and this only highlights one of the many reasons why many commuters opt to drive to work instead of taking gambles on being stuck inside a subway car, underground, for four hours. Ultimately, the data on congestion pricing programs seems clear, these infrastructure issues need to be addressed before congestion pricing programs can be effective. The defendants’ failure to make the necessary infrastructure improvements, prior to initiating the Congestion Pricing scheme, makes it incapable of meeting its goals.

It is also worth noting that the Defendants’ plan cannot be considered a rational vehicle to ensure a long-term and sustainable solution to their financial woes. Defendants have a proven inability to guard against fare evasion, to the tune of *\$800 million per year*; almost double the amount that they expect in revenue from the first phase of Congestion Pricing. Incredibly, Defendants just announced their intention to spend \$1 million in taxpayer dollars to develop an understanding of why people evade fares on the subway.¹⁰ With this type of wasteful spending, at a time when Defendants are crying about lack of sufficient funds, it is hard to imagine that their Congestion Pricing plan should be entitled to any deference whatsoever.

⁹ <https://www.nbcnewyork.com/news/local/subway-delays-power-outage-f-train-stuck-brooklyn-mta/6063927/>

¹⁰ <https://www.aol.com/mta-wasting-1m-study-psychology-222111285.html>

CONCLUSION

For the foregoing reasons and the reasons set forth in Plaintiffs' motion for preliminary injunction, the Court should grant Plaintiffs' motion.

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