



November 23, 2021

**Testimony of Reinvent Albany for Assembly Corporations,  
Authorities and Commissions Committee**

***Re: MTA 2020-2024 Capital Plan Off to Slow Start Due to Delays to  
Congestion Pricing and COVID-19 Impacts***

Good afternoon, Chair Paulin and other members of the Assembly. I am Rachael Fauss, Senior Research Analyst for Reinvent Albany. We advocate for more transparent and accountable state government – including for state authorities like the Metropolitan Transportation Authority (MTA).

Thank you for holding this hearing today, and for your continued oversight of the MTA concerning its finances and capital programs. Knowing that I have limited time today, here is a summary of the findings and recommendations from my full written testimony:

Overall, we are deeply concerned about the extremely high debt load the MTA is carrying. Paying back this borrowing is costing the MTA 20% of its operating revenues<sup>1</sup> and directly takes money away from subway, bus and commuter rail service.

- 1. Congestion pricing revenues remain essential for the MTA to make meaningful progress on its 2020-24 capital plan, particularly given the financial hit from COVID-19.** Our [August 2021 report](#) found that funds for the 2020-2024 plan have come in at the slowest pace of the last three capital plans. And this trend has continued. Dedicated revenues like congestion pricing are essential to the survival of the MTA given its high debt loads. (See chart on page 4 of our testimony.)
- 2. As fewer dollars came in, capital spending slowed in 2020 and 2021. After a high of \$7.3B total spent on capital projects in 2019, the MTA spent only \$6.2B in 2020, and \$2.7B in the first half of 2021 on all of its capital plans.** Congestion pricing revenues were originally budgeted to arrive in 2021, but are now delayed to 2023. It should be noted that “pauses” on capital contracts being let and workforce impacts due to COVID-19 also slowed spending. (See chart on page 6 of our testimony.)

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<sup>1</sup> Office of the State Comptroller. Financial Outlook for the Metropolitan Transportation Authority. September 2021. <https://www.osc.state.ny.us/files/reports/osdc/pdf/report-10-2022.pdf>

3. **With the MTA considering possible amendments to the 2020-24 capital plan, the Legislature should ask the MTA to provide clear reporting of changes to individual projects.** Chair Lieber stated at the November 2021 Board meeting that there may be two sets of amendments: one related to resilience/Hurricane Ida, and another due to the bipartisan infrastructure bill being signed. Additionally, the Penn Station improvements announced by the Governor on November 3, 2021 will also require a capital plan amendment.
4. **The Legislature should also ensure the MTA publishes an updated 20-year needs assessment** with all proposed amendments to the 2020-2024 capital plan.
5. **The MTA should publish the international benchmarking report mandated by the legislature.** This report [has not been published](#), despite a law mandating the report be produced in 2020. This analysis is important because it informs the 20-year needs assessment and could help spotlight opportunities for more efficient capital spending.
6. **MTA debt remains at dangerous levels, and the impact of federal infrastructure dollars is still unknown.** The MTA's high debt loads were a major liability when COVID-19 hit and devastated the MTA's fare revenues, and caused steep drops in its dedicated tax revenues. The MTA would have been bankrupted by COVID-19 but was saved by federal emergency aid. (See the table and chart on pages 9-10 of our testimony.)
7. **The Legislature should probe more deeply into what we believe is roughly a \$200 million a year deficit that will be incurred by East Side Access.** The latest financial plan from the MTA shows that the operating budget impact of East Side Access will be \$167 million in 2022 rising to \$255 million in 2025. The Legislature should ask the MTA for detailed numbers on ESA expenses and revenues to confirm the level of operating deficit, and to which MTA subsidiary these costs and revenues are assigned. The creation of the new ESA subsidiary further may make it very hard to attribute the costs in the future. (See the MTA's charts on pages 11 and 12 of our testimony).
8. **The Legislature should pass legislation requiring independent approval and more detailed rationales for proposed public authority subsidiaries.**
9. **The Legislature should publish its list of 2020-2024 "Set-Aside" Capital Projects**, and consider redirecting Outer Borough Transit Fund allocations to transit service improvements.

**10. Lastly, the Legislature should hold a 2022 hearing on implementation of the MTA Open Data Law.** The new law requires the MTA to appoint a Data Officer, and publish a catalogue of datasets and schedule for posting the information within 180 days (or by April 2022), with all public datasets posted on the open data portal within three years. Release of more open data will allow the legislature, public and journalists to have better access to information related to MTA capital projects, spending, and contracts.

My full testimony is provided on the following pages with more detailed analysis of the items noted above. Thank you for your consideration.

***Congestion Pricing Revenues Are Crucial for MTA Financial Stability, and Timely Delivery of 2020-2024 Capital Program***

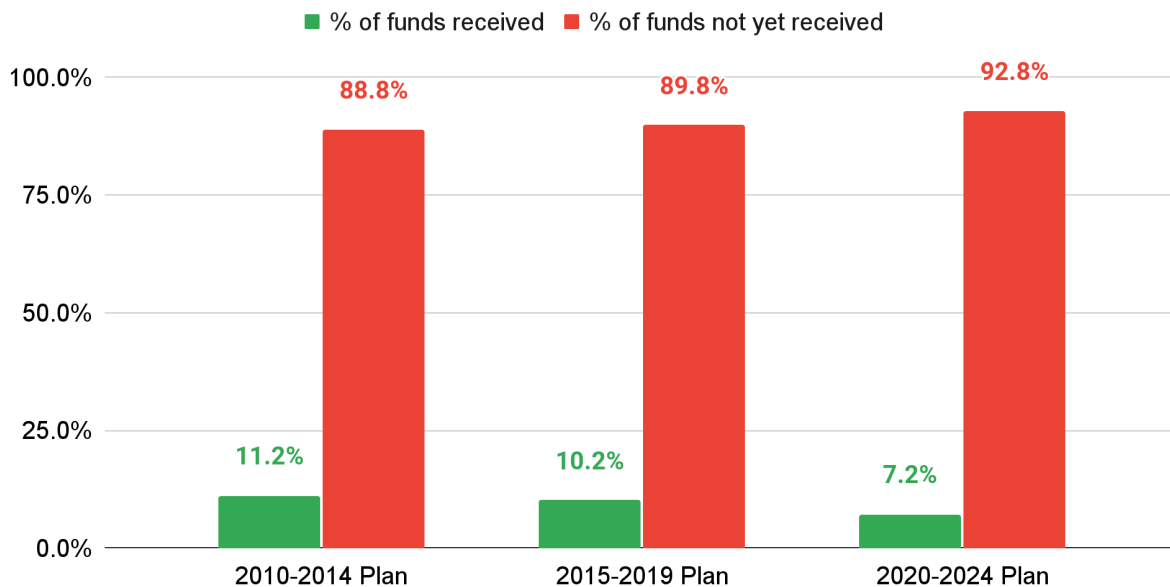
We encourage the Legislature to continue to closely monitor the MTA's implementation of congestion pricing, because it is crucial for the MTA's financial stability and meaningful delivery of its 2020-2024 capital program. Time is money, and every day the MTA fails to get congestion pricing revenue, the MTA loses funds that could go to modern subway signals, new train cars, new buses and more station accessibility.

The single biggest piece of the massive \$55 billion capital plan funding – \$15 billion – is supposed to come from congestion pricing. But the pricing program, which was slated to launch in January 2021, won't bring in revenue until 2023 at the earliest.

In [August 2021, Reinvent Albany released a report](#) that found that the 2020-2024 capital plan funding is coming in at a historically slow pace compared to the last two capital plans, which were also slow starters. Eighteen months in, the 2020 plan was only 4% funded versus 7% and 11% for the previous plans.

Looking at the most recent data, this trend has continued, as shown in the chart on the next page.

## Reinvent Albany Analysis: MTA Capital Dollars Received 22 Months After Start of Plan



As of 22 months into the start of each of the last three capital plans (October 2021 for the 2020-2024 capital plan), the 2020-2024 plan is the furthest behind in terms of the percentage of funding received, with only 7% of funds in versus 10 or 11% for the 2015-2019 and 2010-2014 plans, respectively.<sup>2</sup>

### ***As Fewer Dollars Came in, Capital Spending Slowed in 2020 and 2021***

After a high of \$7.3 billion spent in 2019, the MTA spent only \$6.2 billion in 2020, and \$2.7 billion in the first half of 2021 on all capital plans. This is likely due to two factors:

1. Congestion pricing revenues were originally budgeted to come in in 2021, but are now delayed to 2023, as noted above.
2. The MTA has also had considerable difficulties faced by its workforce due to illness and new work patterns from COVID-19, and in 2020 it “paused” the letting of any new capital contracts.

While the MTA has said it has taken advantage of lower ridership to make progress on capital construction projects, the MTA’s spending on capital projects slowed during COVID-19. The spending levels in 2020 and in 2021 to date are less than in prior years – in particular 2019 when the MTA hit a record capital spend of \$7.3 billion – showing that COVID-19 has still had a significant impact on the MTA’s ability to speed up its work on capital projects.

<sup>2</sup> Data obtained from MTA Capital Program Oversight Committee materials, “Capital Funding Detail” <https://new.mta.info/transparency/board-and-committee-meetings>

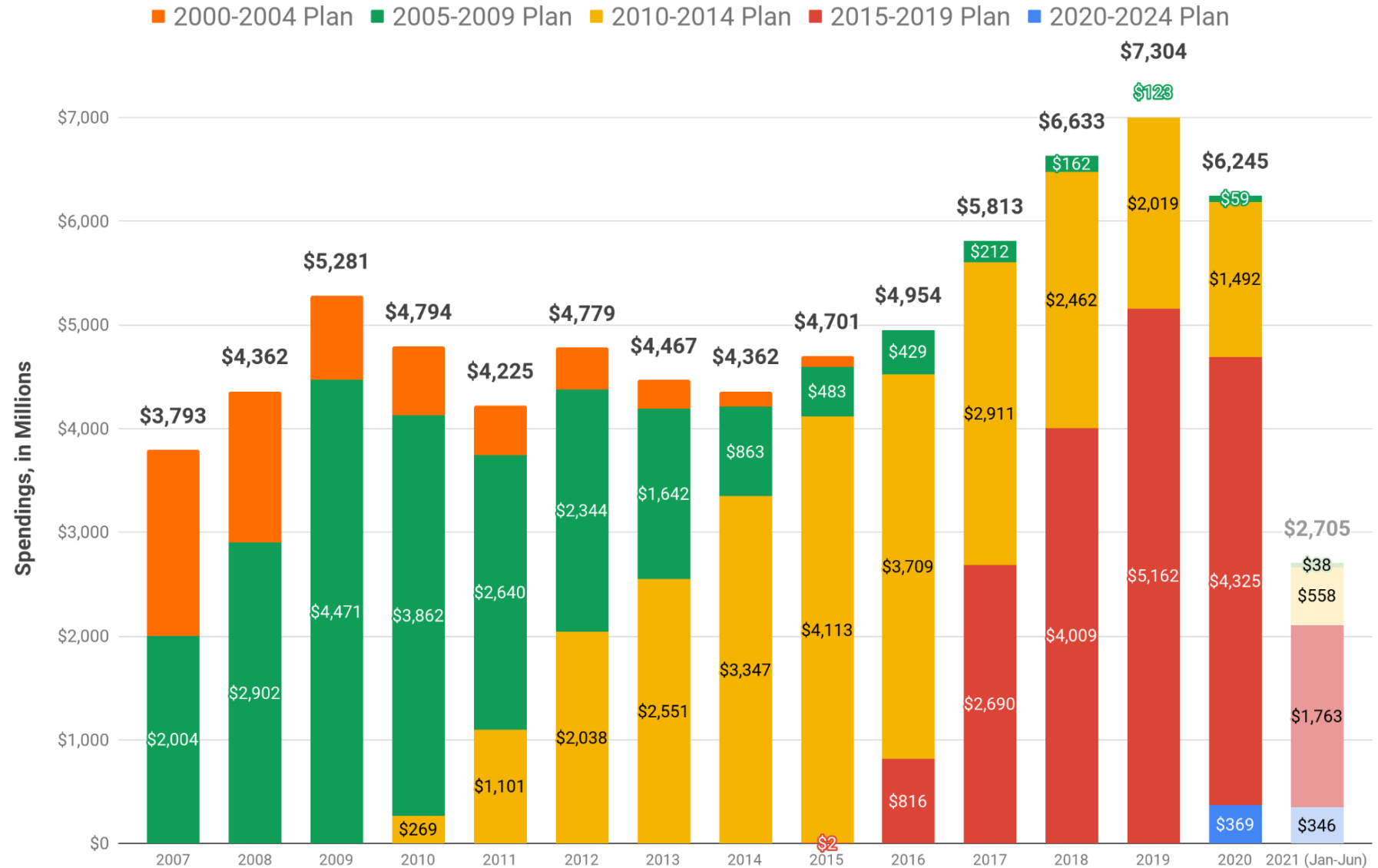
As of this hearing, the MTA has spent about half the funding for its 2015-2019 plan. Given this huge amount of remaining work needed on the 2015 plan, the enormous \$55B budgeted for 2020-2024 capital plan, and historic spending trends, we believe it will take the MTA more than ten years to complete the 2020-2024 capital plan.

Today we are updating our [September 2019 report](#), which was published before COVID-19. On the next page is a chart of actual MTA capital spending from 2007 to 2021. For 2021, data is only available for January to June.<sup>3</sup>

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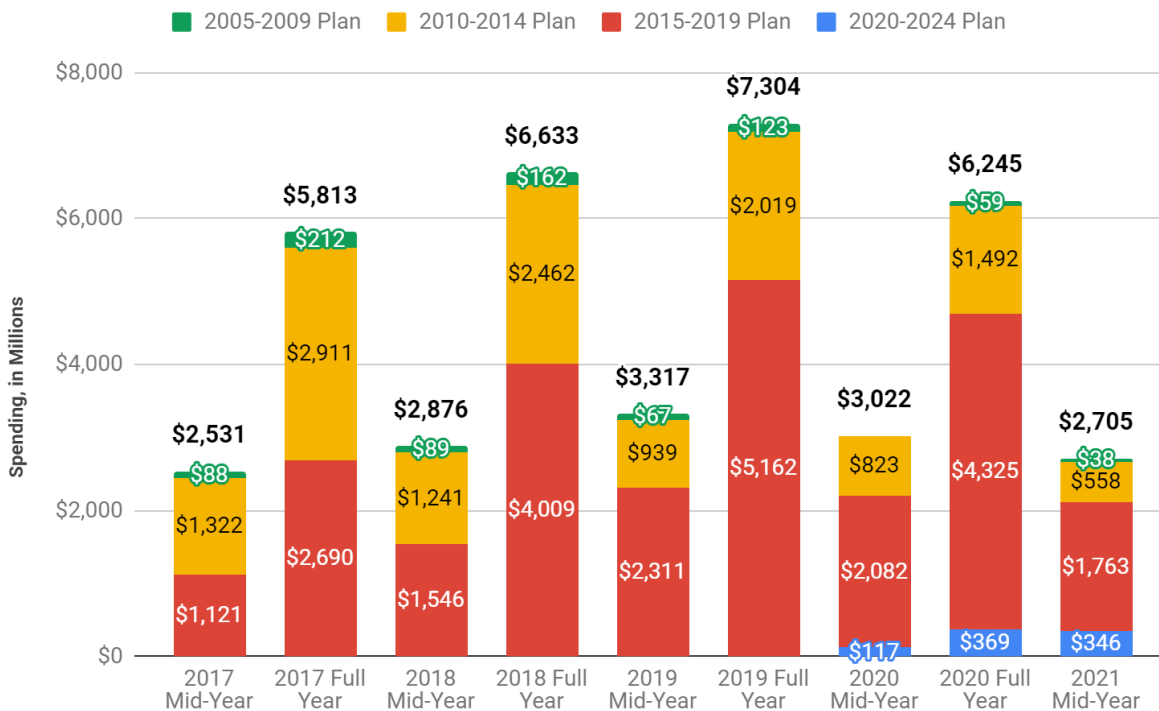
<sup>3</sup> Data obtained from Audited Consolidated Financial Statements of Metropolitan Transportation Authority, available at <https://new.mta.info/transparency/financial-information/financial-and-budget-statements>. 2021 Q1 and Q2 information from draft Audited Financials from October 2021 MTA Audit Committee materials, <https://new.mta.info/document/58621>

## Reinvent Albany Analysis of Capital Plan Expenditures by Year (in millions)



See below the rates of spending for the full year, as well as the mid-year mark for the last several years. While plan spending does accelerate in the latter half of the year, the MTA is still off to a slow start in 2021.

### MTA Capital Spending, Mid-Year and Full Year, 2017-2020



### ***Legislature Should Have Details Regarding Any Proposed Amendments, and 20-Year Needs Assessment Should be Published Before Any Capital Plan Amendments Are Approved***

At the November 2021 MTA Board meeting, Acting MTA CEO and Chairman Janno Lieber stated that the MTA was potentially looking at multiple amendments to the 2020-2024 capital plan, regarding both new resiliency projects and the new bipartisan infrastructure funds. Additionally, Governor Hochul's plans for Penn Station will require a capital plan amendment.

Capital plan amendments are common at the MTA, with the 2010-2014 plan amended six times. Amendments may be in response to changing fiscal conditions, natural disasters like Hurricane Sandy, as well as proposals from the Governor. Unfortunately, the way in which amendments are proposed has obfuscated the changes that have occurred. The Legislature should ensure that any proposed amendments clearly indicate exactly which projects have been amended, merged, or deferred. A summary list of changes should be provided, and the full itemized list of amended plan capital projects

should specifically indicate which have been amended, changed or added from the original capital plan. Right now, this information is only provided in narrative or aggregate form.

Additionally, the Legislature through its members on the Capital Program Review Board should not approve any amendments without the MTA publicly releasing an updated 20-year needs assessment. It is next due in 2023, thanks to the Legislature passing a law in 2019 requiring it be produced for the 2025-2029 capital plan, but should be released sooner if the MTA is planning to amend its existing capital plans.

The 20-year needs assessment should have been the basis by which the public and Legislature evaluated the 2020-2024 capital program. Unfortunately, it was never publicly released, as the MTA has said it was updating the assessment to be a better, more accurate and useful document. Janno Lieber also said at the September 2021 Board Meeting that the MTA intends to incorporate the recommendations from the [December 2019 forensic audit](#) of its capital planning processes.

### ***International Benchmarking Report Should be Published***

The Legislature should also request that the MTA produce and release the international benchmarking report required by the Legislature in 2019, but [not yet released by the MTA](#). It is more important than ever for the MTA to identify cost savings and best practices from its peer agencies given the financial impact of COVID-19 and the urgent need for capital improvements to fix our subways, buses, and commuter rails.

### ***MTA Debt Remains at Dangerous Levels, and the Impact of Federal Infrastructure Dollars is Still Unknown***

The MTA's high debt loads were a major liability for the MTA when COVID-19 hit and devastated its fare and toll revenues, and caused steep drops in its dedicated tax revenues. It is only due to federal emergency aid that the MTA was able to continue to provide service and make debt service payments through the pandemic. This should be a cautionary tale for future MTA capital spending decisions, and hopefully the recent additional federal infrastructure funds will help alleviate the MTA's future debt service payments.

The table on the next page shows the amount of federal emergency funds received by the MTA by year and funding type for its operating budget, and also shows the total debt service payments made by the MTA from 2020 to 2025.



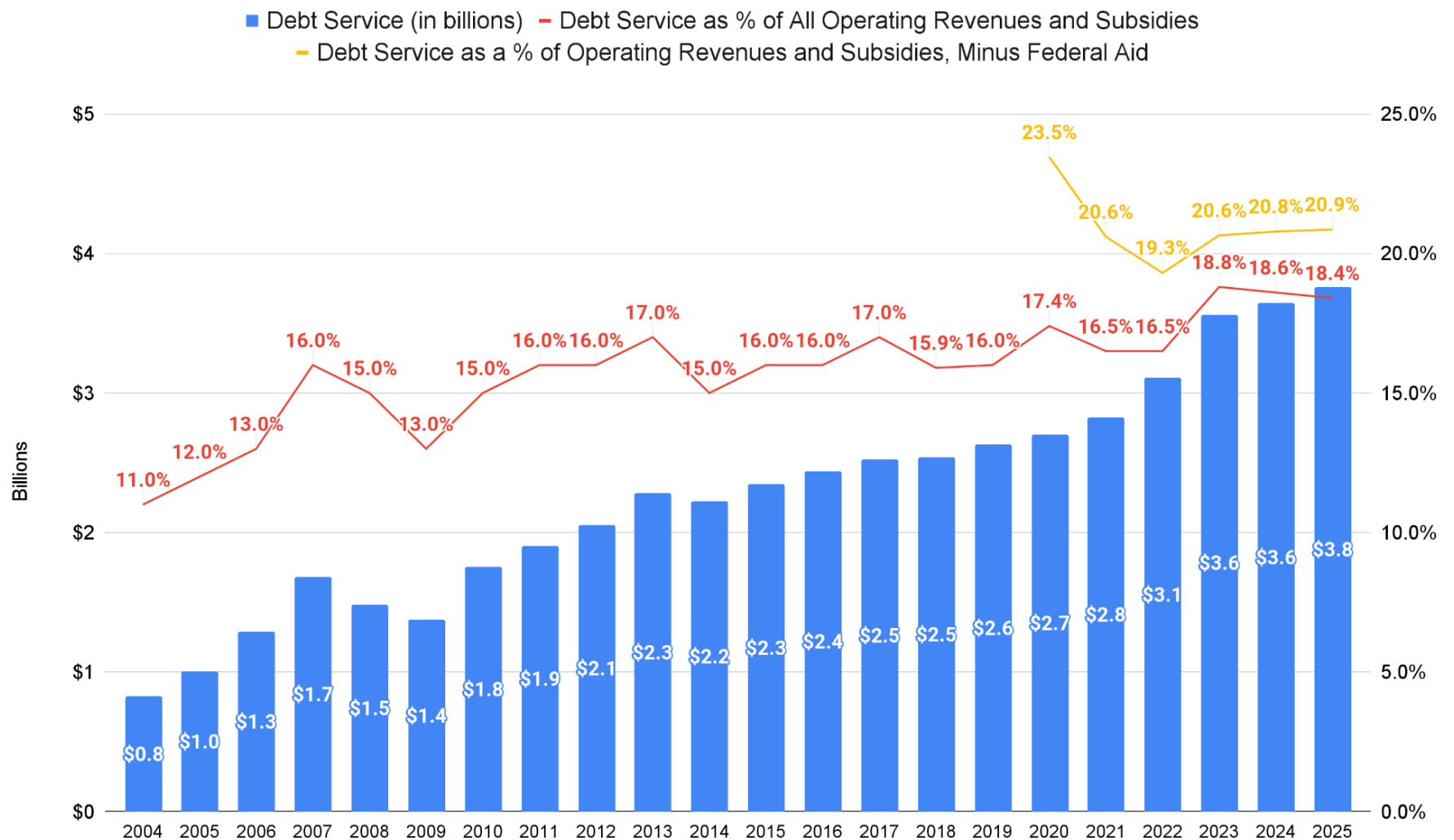
<b>Reinvent Albany Summary of MTA Federal Emergency Fund Spending and Debt Service Payments, as of November 2021 Financial Plan<sup>4</sup></b>							
Year	CARES Act	CRRSA	ARPA	FEMA	MLF	Total Federal Aid	MTA Debt Service Payments
2020	\$4,000					\$4,000	\$2,703
2021		\$3,439				\$3,439	\$2,822
2022		\$561	\$1,849	\$330		\$2,740	\$3,111
2023			\$1,554	\$165		\$1,719	\$3,563
2024			\$2,018			\$2,018	\$3,643
2025			\$1,080		\$1,367	\$2,447	\$3,756
<b>Total</b>	<b>\$4,000</b>	<b>\$4,000</b>	<b>\$6,501</b>	<b>\$495</b>	<b>\$1,367</b>	<b>\$16,363</b>	<b>\$19,598</b>

MTA debt service is also historically high according to several metrics of debt affordability. As seen in the chart on the next page, debt service was at 11% of operating revenues in 2004, and now is at 16.5% when federal aid is included, or at 20.6% when federal aid is excluded.<sup>5</sup> When federal funding dries up in 2026, the MTA's debt loads will be a major contributor to the structural imbalance in its budget, particularly with depressed ridership due to COVID-19 impacts continuing to reduce its fare revenues.

<sup>4</sup> See November 2021 Financial Plan <https://new.mta.info/document/65081>

<sup>5</sup> Data from MTA Financial Plan Debt Affordability Statements. Available at <https://new.mta.info/transparency/financial-information/financial-and-budget-statements>

## Reinvent Albany Analysis: Total MTA Debt Service Payments Levels and Ratios, With and Without Federal Aid, in billions



### ***The Legislature Should Probe More Deeply Into the Operating Impact of East Side Access (ESA)***

The November 2021 financial plan from the MTA shows that operating expenses for East Side Access are increasing, with LIRR ridership still depressed due to COVID-19. The Legislature should ask the MTA for detailed numbers on ESA expenses and revenues to understand the extent of the operating deficit for running ESA service for the MTA or LIRR.

As shown in the table below, the November 2020 Financial Plan<sup>6</sup> included staffing numbers on its table of operating budget impacts for ESA, while the November 2021 Financial Plan did not. A total of 900 positions were projected to cost LIRR \$179.5 million by 2024 (note however, it is unclear if this is the net cost, or solely expenses), with 20 positions at MNR and 90 at MTA HQ bringing the total cost to \$193.4 million as of the November 2020 Financial Plan.

**METROPOLITAN TRANSPORTATION AUTHORITY**  
**November Financial Plan 2021 - 2024**  
**Operating Budget Impacts of Capital "Mega" Projects**  
**(\$ in millions)**

		2020 Final Forecast		2021 Final Proposed Budget		2022		2023		2024	
		Pos	\$	Pos	\$	Pos	\$	Pos	\$	Pos	\$
<b>East Side Access</b>											
<i>Revenue Service - 2022</i>											
LIRR		310	38.843	668	119.141	741	190.001	807	183.905	900	179.513
MNR		0	-	20	0.923	20	2.144	20	2.466	20	2.535
MTA HQ		-	-	-	-	90	9.962	90	11.044	90	11.367
<b>TOTAL</b>		<b>310</b>	<b>\$ 38.843</b>	<b>688</b>	<b>\$ 120.064</b>	<b>851</b>	<b>\$ 202.107</b>	<b>917</b>	<b>\$ 197.414</b>	<b>1,010</b>	<b>\$ 193.416</b>

The November 2021 Financial Plan shows a total operating budget impact of nearly \$234 million for 2024, growing to nearly \$255 million by 2025, as shown in the chart on the next page.<sup>7</sup> However, the number of positions are not spelled out in the 2021 plan, saying that positions are “to be determined based on service levels and maintenance infrastructure plan.” Given that revenue service is supposed to start in 2022, the MTA should be able to provide the public and Legislature more details about the operating budget impact and the staffing numbers for East Side Access.

<sup>6</sup> See page 23 of the MTA November 2020 Financial Plan, Volume 2: <https://new.mta.info/document/24131>

<sup>7</sup> See page 24 of the MTA November 2021 Financial Plan, Volume 2 <https://new.mta.info/document/44476>

**METROPOLITAN TRANSPORTATION AUTHORITY**  
**November Financial Plan 2022 - 2025**  
**Operating Budget Impacts of Capital "Mega" Projects**  
**(\$ in millions)**

	2021 November Forecast	2022 Final Proposed Budget	2023 Plan	2024 Plan	2025 Plan
<b>East Side Access</b>					
<i>Revenue Service Late 2022</i>					
LIRR	27.958	152.952	212.184	217.946	238.661
MNR	0.123	4.223	4.313	4.419	4.499
MTAHQ	-	9.959	11.027	11.354	11.641
<b>TOTAL</b>	<b>\$ 28.081</b>	<b>\$ 167.134</b>	<b>\$ 227.524</b>	<b>\$ 233.719</b>	<b>\$ 254.800</b>

*NOTE: Positions to be determined based on service levels and maintenance infrastructure plan.*

We also note that the creation of the new ESA subsidiary will further complicate the operating budget impact for the MTA, LIRR, and MNR. For this reason, we ask that the Legislature pass a bill to rein in the creation of public authority subsidiaries to require independent approval of proposed subsidiaries before they are created. This could be accomplished by Legislative or Comptroller approval. Additionally, more detailed rationales for subsidiary creation should be required in the current 60-day notifications that are provided.

***The Legislature Should Publish its List of 2020-2024 “Set-Aside” Capital Projects, and Consider Redirecting Outer Borough Transit Fund Allocations to Transit Service Improvements***

These two pots of funding were created in the 2018 and 2019 state budgets, and to date the public has not seen a full list of final projects for either category as proposed by the Legislature, or approved by the Capital Program Review Board.

Due to COVID-19 impacts and a delay in the start of the for-hire vehicle fee from a lawsuit, we understand that there have not been sufficient funds for the MTA to begin any Outer Borough Transit Fund projects. However, with the economy rebounding, it is likely that there will be enough funding available for these projects to begin soon. Given that the initial list of “potential projects” provided by the Division of the Budget (DOB) was developed before COVID-19 hit, the Legislature should reconsider its allocations.

(Note that Reinvent Albany only received the DOB memo of potential projects in response to a Freedom of Information Law (FOIL) request.) Many of the previously announced projects included bridge toll credits rather than mass transit options like the Freedom Ticket or expanded bus service, which could help reduce congestion and more greatly benefit lower-income riders.

***Lastly, the Legislature Should Hold a Hearing on Implementation of the MTA Open Data Law in 2022***

The new law requires the MTA to appoint a Data Officer, and publish a catalogue of datasets and schedule for posting the information within 180 days (or by April 2022), with all public datasets published on the open data portal within three years. Release of more open data will allow the legislature, public and journalists to have better access to information related to MTA capital projects, spending, and contracts.

We ask that the Assembly, in collaboration with the Senate, hold a hearing on MTA open data implementation in May 2022 to review the catalogue of datasets and proposed schedule for their release. This will provide an important venue for stakeholders to weigh in on their priorities and note where datasets may need to be added.

Thank you for the opportunity to provide testimony to the committee.