

**TESTIMONY ON BEHALF OF
THE ASSOCIATION OF COMMUTER RAIL EMPLOYEES

THE SENATE STANDING COMMITTEE ON TRANSPORTATION;
THE SENATE STANDING COMMITTEE ON
CORPORATIONS, AUTHORITIES AND COMMISSIONS;
AND TO THE ASSEMBLY STANDING COMMITTEE
ON CORPORATIONS, AUTHORITIES AND COMMISSIONS

REGARDING THE IMPACT OF COVID-19 ON THE METROPOLITAN
TRANSPORTATION AUTHORITY AND PUBLIC TRANSPORTATION**

AUGUST 25, 2020

Good afternoon Chairs Kennedy, Comrie, and Paulin, and distinguished members of the New York State Senate Standing Committee on Transportation, the Senate Standing Committee on Corporations, Authorities and Commissions, and the Assembly Standing Committee on Corporations, Authorities and Commissions. I am Edward Valente, and as General Chairman, I am here today on behalf of the approximately 1,600 members of the Association of Commuter Rail Employees (“ACRE”).

Created in January 2000, ACRE represents essential operating craft employees at the Metropolitan Transportation Authority (“MTA”) Metro-North Railroad, uniting Conductors, Engineers, Power Directors, Rail Traffic Controllers, Signalmen, Yardmasters, and Stationmasters under one labor organization. ACRE works with the MTA and Metro-North management to build and operate what is universally recognized as the premier commuter railroad in America. Our members are essential workers:

throughout even the worst weeks of the pandemic, ACRE members continued to heed the call at great personal risk in order to ensure that first responders and health care professionals had the transportation required to fight back against the pandemic. We thank your committees for the opportunity to testify at this important hearing on the impacts of COVID-19 in our work.

Health Safety during a Pandemic

ACRE is highly concerned for the safety of both our members and passengers who are facing increased exposure to COVID-19 in correlation to an increase in Metro-North ridership as the regional economy moves further and further into reopening. And despite similar claims from Metro-North, the railroad has taken few measures to match their words.

To that end, it is our priority that Metro-North restores full service as already implemented by Long Island Railroad (“LIRR”) and NYC Transit – this is the only way to provide the right balance of services to allow passengers and workers alike to socially distance, and failure to do so inarguably result in greater difficulty for passengers to socially spread. Despite the fact that it is no longer possible to socially distance once train cars start filling up, while Metro-North is increasing peak hour service commencing August 31st, the agency has consistently refused to acknowledge the need to go to a full service schedule for off peak and weekends.

And within individual trains themselves, more steps should be taken to mitigate the risk factors that contribute to the spread of the virus. For example, LIRR has introduced a smartphone app that indicates to passengers which cars have more available space to spread out. Metro-North

has not. And Metro-North has yet to make hand sanitizer widely available on trains. What sanitizer stations are available are rarely filled, that what sanitizer is available in the bathrooms isn't alcohol based, making it a much less effective disinfectant.

While having worked hard and sacrificed to overcome the spread of COVID-19, our region can ultimately only control the virus so much. By not providing an adequate environment for passengers to socially distance, risk will remain exacerbated and potential passengers will opt not to ride on MNR. Thus it is critical that Metro-North cease with the distractions and accepts its responsibility to create the best safety scenario possible to protect workers and passengers alike.

Assaults in the Workplace

On August 1st, a female Conductor was brutally assaulted by a male passenger while working her train. She was punched approximately thirty times and suffered a concussion, bruised jaw, lacerations inside of her mouth, bruises on her head-arms-shoulders, swollen eye that may include further damage and emotional trauma. Such violence against ACRE members is both alarming and, now, unsurprising. There is almost no police on Metro-North trains.

In addition to exposure to COVID-19, many of our members remain persistently at risk of assault by members of the public while on the job. On this front, ACRE has engaged with Metro-North for months in pursuit of securing a proper police presence on the trains and adequate benefits for the victims of on-duty assaults. Now, to make matters worse, our members are at heightened risk of assault for simply trying to enforce social distancing and mask-wearing requirements on the trains during a pandemic.

Metro-North needs maintain a regular police presence on our trains. It will deter violent crime, as well as verbal abuse, fare evasion, terrorist activity, and theft. A police officer is better situated, unlike our Conductors, to enforce compliance with the mask requirement. With such a force, we are confident that passengers and crew members will feel greater security in their commute as criminals will think twice before engaging in violence or theft.

In addition, Metro-North must adequately compensate workers who are the victims of these on-duty assaults. As it stands, the railroad requires workers to use their own accrued sick leave to recover from an on-duty assault. Rather than penalizing the worker for the railroad's lack of security, Metro-North should be liable for the medical costs and leave attributable to the on-duty assault. ACRE strongly supports legislation introduced by Chairman Comrie (S.7882) which would codify such an obligation into statute.

Accommodations during Pregnancy

Finally, it is important to mention the lack of accommodations for pregnancy at the MTA and Metro-North. In addition to the immediate viral threats of the COVID-19 pandemic, the duties of ACRE members are strenuous – carrying heavy equipment, climbing up and down equipment, throwing hand switches, locking down pantographs, and all while these workers are constantly on their feet. New York has long recognized disability “caused by or in connection with a pregnancy” for purposes of receiving Workers’ Compensation (*See Workers’ Compensation Law § 201[9][B]*). Though we do not participate in Workers’ Compensation, as a matter of principle, pregnant workers need to be treated fairly on the railroad too. Anything short is discrimination.

The MTA and Metro-North must implement a functional system wherein an expecting Metro-North worker is not forced to risk life or injury to themselves or their baby as a condition of employment. This includes providing adequate PPE and enforcing social distancing and mask requirements to the best of the railroad's abilities, as well as accommodations, light duty or time off, if determined medically necessary by that worker's doctor.

The MTA announced a task force in July to review poor accommodations for pregnant NYC Transit workers after a tragic – and entirely avoidable – miscarriage. There have been no updates since. ACRE requests that the Committees here today use your oversight authority to ensure that the MTA does not let this important obligation to its workers fall by the wayside.

Closing Remarks

ACRE is committed to protecting the rights of all of its members working in their respective crafts; each craft maintains its own identity while working together for the common good. Together, we continue to strive and fight to improve both working conditions and the quality of service our members provide to a growing number of riders. We believe that, in this time of need, the future of public commuter rail transportation requires an alliance between elected officials, employees, and the public we serve. With your assistance and oversight, we are committed to working with all railway stakeholders to continue to improve the safe, efficient service the taxpayers and riding public expect and deserve.

I thank you for your time and consideration, and I look forward to answering any questions the panel may have.