



Neighborhood Economic Development Advocacy Project

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Testimony Before New York City Council Regarding ATM Surcharge Ban

Good morning. Thank you for the opportunity to speak today in support of the city council's proposed law to prohibit surcharge fees on automated teller machine (ATM) transactions levied by financial institutions in New York City. My name is Kat Aaron and I represent the Neighborhood Economic Development Advocacy Project, also known as NEDAP. NEDAP is a city-wide resource and advocacy center that provides legal, policy, and technical support to community groups that are organizing for economic justice in New York City's low income neighborhoods and communities of color. We work especially closely with community groups to press for fair access to financial services in historically redlined neighborhoods. NEDAP works with groups to promote access to financial services as a key component of neighborhood economic development; as a matter of economic justice; and in furtherance of fair and affordable access to banking for all New Yorkers.

As NEDAP's particular area of concern is low income communities and communities of color, I will address the proposed local law in that context, though we fully support the ATM surcharge prohibition for all consumers, irrespective of income.

First, we laud the City Council Speaker and many other City Council members who support the proposed ATM surcharge ban for boldly standing up to the banking industry, especially in New York City, the banking center of the world. In recent years, culminating in last year's congressional repeal of the Glass-Steagall Act through passage of the Financial Services Modernization Act, banks have won sweeping legislative changes that benefit the financial services industry, but do not in many regards benefit consumers and low income communities in particular. Throughout the mid to late 1990s, banks posted record profits, with an ever-growing portion of those record profits attributable to bank fees. As you recall, when ATMs were first introduced, banks billed them as a great advance that offered convenience and significantly cut teller costs, at no cost to consumers. Today, as you know, there are precious few banking institutions that allow so-called foreign ATM users access to their machines without imposing a surcharge. It was not long before ATM fees that started out, just a few years ago, at 25 and 50 cents, quickly reached the \$1.50 surcharge we see today at most ATMs.

This financial injustice, in which banks effectively "double dip" by receiving both interchange fees and ATM surcharges, hits poor people in New York especially hard. For this reason, we urge the City Council to make its local law even stronger.

Specifically, we urge the City Council to extend the surcharge ban to non-bank ATMs by adopting a broader definition of institutions covered. As NEDAP and others have documented, there is a glaring absence of mainstream financial institutions in New York's lower income communities, with no banks in some communities, and an inadequate number at best in too many others. The local law should apply, for example, to ATMs at check cashers as not surprisingly there is a strong correlation between the concentration of check cashers and the absence of mainstream banking institutions in low income neighborhoods, particularly in nonwhite neighborhoods. If you impose the ban on bank ATMs only, poor people will continue to be hit by ATM surcharges because they do not have the option of using a bank ATM in their community.

In addition, ATM surcharges undermine New York State's so-called Basic Banking Law, which requires all banks in New York to provide affordable checking accounts, with a maximum monthly fee of \$3.00 and low minimum balance requirements. Passed before the boom in ATM fees, New York's Basic Banking Law has been greatly undermined by ATM surcharges, which are increasingly difficult to avoid and jack up the cost of banking, making mainstream banking unaffordable to the very populations--seniors, students and low income New Yorkers-- the law was intended to benefit.

We also urge the City Council to extend the definition of ATM consumer to include EBT recipients-- who use ATMs to receive access to their public assistance benefits through electronic benefits transfer or EBT. As drafted, the City Council's local law appears not to apply to people who have no depository account. Yet hundreds of thousands of New Yorkers who have no bank account but use ATMs to obtain their cash benefits are also unduly harmed financially by ATM surcharges. According to recent state figures, more than half of all EBT cash transactions are surcharged-- because, in our view, access to non-surcharging ATMs is extremely limited in the very neighborhoods in which EBT users live. This translates into a loss of people's already limited public benefits: money needed to pay for food and basic necessities for families is going instead to pay for ATM surcharges.

There are many other aspects of ATM surcharges that disadvantage low income consumers and communities, including anti-competitiveness. That is, large financial institutions reap additional benefits of ATM surcharges by attracting depositors by seeking the largest possible branch ATM outlets to avoid surcharges. This allows banks to keep minimum balances up and weakens community banks. ATM surcharges also weaken locally based financial institutions such as community development credit unions which are chartered to serve low income communities but certainly cannot compete with the ATM networks of large financial institutions.

The ATM surcharge issue is hugely symbolic, in these times of mega bank merges, rapid changes in banking technology and financial modernization. Banks will argue all the way to the Supreme Court if necessary that a municipality such as New York City has no business limiting their market activities. But let's be real, we the public grant banks their charter to do business. We the taxpayers foot the bill for federal deposit insurance. We, working citizens, are depositors. The fact is that banks are heavily regulated institutions-- since they play a core function in our economy, not the least of which is holding and dispensing capital. They have no license or justified basis for gouging consumers as they see fit. A prohibition against surcharges will not result in loss for banks-- just less profits at the expense for us all. We agree with you that it is time to stop ATM surcharging, which is not only unfair to all consumers, but which has especially harmful financial consequences for poor people and their communities.

Thank you very much.



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- B. Schultze
- who be there
from city
Council

November 20, 2000

Ms. Sarah Ludwig
NEDAP
299 Broadway Suite 706
New York, NY 10007

Dear Ms. Ludwig:

RE: Int. 680 – In relation to prohibiting surcharge fees on automated teller machine transactions.

Please be advised that the Committee on Finance jointly with the Committee on Consumer Affairs will hold a hearing on **Wednesday, December 6, 2000 at 10:00 a.m. in the Council Chambers, City Hall, 2nd Floor, New York, N.Y.** regarding the above referred topic as well as the issue of whether any such prohibition should include independent service operators.

You are hereby invited to attend this hearing and testify therein. Please feel free to bring with you such members of your staff you deem appropriate to the subject matter.

If you plan to participate, it would be greatly appreciated if you could bring **(30)** copies of your written testimony to the hearing.

I would appreciate receiving a response from you as to whether or not you will be able to attend. Thank you for your cooperation.

Sincerely,

Gary Altman
Legislative Counsel