

NEW YORK CITY
TAXI AND LIMOUSINE COMMISSION
FEBRUARY 21, 2013

TAXICAB PASSENGER ENHANCEMENT PROGRAM (TPEP)
PUBLIC HEARING
AND
OPPORTUNITY TO COMMENT ON PROPOSED RULES

Held on February 21, 2013

33 Beaver Street

New York, New York

Time: 9:15 a.m.

Reported By:

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APPEARANCES:

FOR THE COMMISSION:

MEERA JOSHI, General Counsel

DAVID YASSKY, Commissioner

ELIAS AROUT, Commissioner

FRANK CARONE, Commissioner

EDWARD GONZALES, Commissioner

NORA CONSTANCE MARINO, Commissioner

IRIS WEINSHALL, Commissioner

SPEAKERS:

ANGELIQUE MEOLA

RICHARD THALER, Omni Media Network, OMN
Gateway

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CHAIRMAN YASSKY: Good morning. We are convening at 9:15 this morning on February 21st. Present are myself, Commissioners Carone, Arout, Weinshall and Gonzales.

I move that we go into Executive Session to consider first of all an appeal of a discretionary license revocation in the case, TLC versus Sidikiba Diallo.

In addition, we need to consider matters that are pending litigation including the Black Car Association versus New York. The case has been filed and challenging the E-Hail Pilot Program. Matters following the settlement of MTBOT versus New York, or TLC, which was a leased cab investigation brought by the Metropolitan Taxicab Board of Trade and other pending litigation matters.

All in favor, say, aye.

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(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed,
no.

(No response.)

CHAIRMAN YASSKY: All right.
We will move into Executive
Session. I expect that we will
reconvene here between 10:00 and
10:15.

(Whereupon, the Board
retires to Executive Session and
returns.)

SPEAKER: Ladies and
gentlemen, if there's anyone who
would like to sign up to speak,
please raise your hand.

(No response.)

SPEAKER: No? Okay, thank
you.

CHAIRMAN YASSKY: Good
morning. We are reconvening at
10:25. Present are myself,
Commissioners Carone, Arout,
Weinshall, Gonzales and Marino.

1
2 A few very quick items. I
3 know we will conclude that, if
4 Commissioners have time (inaudible)
5 this morning and get to our
6 business very quickly, I just want
7 to make sure that I did commend Ray
8 Scanlon and his folks at USB and
9 the Enforcement Division just for
10 the wonderful work they've been
11 doing over the last, well, many
12 months. But in January 2013, we
13 set a new all-time record, TLC
14 record, for seizures of unlicensed
15 taxis, 849 in the month of January.
16 The previous month, the record was
17 719, and that was set back in 1998.

18 So with seizures of
19 contraband of all sorts, when a
20 huge amount is seized, it's not
21 good news or bad news, but
22 certainly part of the news is that
23 there are a lot out there. But I
24 think it's good news because we
25 have now beefed up our enforcement

1
2 and are continuing to do it. We
3 added a new class in January, we
4 have another new class that we're
5 in the process of hiring --
6 Commissioners, we've discussed this
7 many times -- but we're doing it in
8 a slow and steady way. One squad
9 or two squads at a time so that Ray
10 can integrate them into our
11 existing operation. I think that
12 the fact that he has more than
13 doubled the size of the enforcement
14 staff since he's been in that
15 position, and the productivity has
16 increased. In other words, more
17 employees and more productive,
18 meaning, he's been able to add
19 folks, I think, in just the way you
20 would want. So I just want to
21 commend him for that.

22 I will skip the rest of the
23 updates with except to note that,
24 really, commend the industry for
25 its assistance in the recent school

1
2 bus strike. During the period that
3 school busses were on strike,
4 school bus drivers and matrons were
5 on strike, taxis and liveries and
6 black cars, I suppose and
7 paratransits filled in the gap, not
8 completely, but to a great extent.
9 And many of the bases didn't wait
10 to be called. They called to ask,
11 how can we help?

12 Gene Freidman and his fleet,
13 as you know, has the bulk of the
14 accessible vehicles. They
15 immediately reached out to us and
16 said, how can we help kids with
17 disabilities get to school? It's
18 my understanding that not only did
19 they participate in the dispatch
20 program, as, of course, they must,
21 but that they footed the bill for
22 the deadhead part of trips
23 including, I believe, some trips
24 even outside of Manhattan, which
25 are not required. So it was really

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an exemplary act of corporate citizenship, and I commend Mr. Freidman for that and the industry as a whole.

And I also, I just want to note that we are joined by Chris Hayashi, who is my parent partner in San Francisco. She runs an excellent taxi service there and taxi regulatory agency, and I just want to welcome her in our midst this morning. So, welcome, Chris.

Let me move to business. First, before you are the minutes of the December 13, 2012 Commission meeting. I move that they are adopted.

All in favor, say, aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: Opposed, no.

(No response.)

CHAIRMAN YASSKY: Minutes of December 13 are adopted.

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We had an Executive Session,
as you know, in which the
Commission considered an appeal for
the discretionary revocation of a
licensed driver, the driver's
license.

Meera, do you want to report
on that?

MS. JOSHI: The Commission
considered an appeal from the
Chair's decision to revoke a taxi
driver's driver's license, and
based on the evidence presented to
the Commission during the Executive
Session, the decision of the
Chair's to revoke the driver's
license is upheld. Three
Commissioners voted to uphold the
revocation and two voted to
reverse.

So the taxi driver, Sidikiba
Diallo's, license no. 436633,
license is revoked.

CHAIRMAN YASSKY: We have

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some base applications here who,
from licensing, is going to present
them, please.

MS. MEOLA: Good morning.
My name is Angelique Meola. I'm
the supervisor for the
Applicant/Owner Licensing Section.
We have 32 bases for approval and
one base for denial.

CHAIRMAN YASSKY: I move
that the recommendations of the
Licensing Division be adopted and
those bases be approved.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed,
no.

(No response.)

CHAIRMAN YASSKY: Thank you,
Angelique.

MS. MEOLA: Thank you.

CHAIRMAN YASSKY: We have
one more matter on your agenda.
Last meeting, as you know, we

1
2 adopted a pilot program to
3 investigate the utility of E-Hail
4 applications. We would like to
5 make a few technical changes to
6 that pilot program. Commissioners'
7 resolution in making those changes
8 has been distributed to you.

9 Meera, would you describe
10 them briefly, and then we will
11 vote.

12 MS. JOSHI: Before you,
13 Commissioners, is a proposed
14 amendment to the resolution that
15 the Commission passed on December
16 13, 2012 authorizing a pilot
17 program to evaluate e-hail
18 applications. The amendment
19 clarifies that safety evaluations
20 will be done initially and
21 continuously. It further clarifies
22 that the last quarterly report will
23 be considered the final report, and
24 it sets a deadline for further
25 making action, if any is necessary.

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CHAIRMAN YASSKY: Is there any discussion?

(No response.)

CHAIRMAN YASSKY: If not, I move that we adopt the resolution.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed, no.

MR. AROUT: I abstain.

MS. JOSHI: One abstention.

MS. MARINO: I'd like to abstain on the vote to implement the pilot program. I think to vote on these amendments is kind of in conflict, so I think I have to kind of abstain as well.

CHAIRMAN YASSKY: Very well. So then with four in favor and two abstaining, does that mean, we do not act?

MS. JOSHI: We cannot act because there's not a majority.

CHAIRMAN YASSKY: Fair

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enough. Okay.

Then we have one last item on our agenda, a set of proposed rules regarding security standards for TPEP.

Meera, would you describe them briefly? And there's one person signed up to speak, and then we'll do a vote.

MS. JOSHI: Before the Commissioners are proposed rules to establish information security standards for authorized TPEP providers. The rules were published in the city record on January 18, 2013. Today, the Commission will hold a CAPA hearing and vote. We received one comment on the rules and no changes have been made to the rules before you now, and no changes have been made from the published version to the version that you have before you now.

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Our first speaker is Richard Thaler.

CHAIRMAN YASSKY: Richard Thaler.

Just to fill in again, Commissioners, we adopted our rules for the continuation of TPEP at our last meeting. At that time, these detailed security standards were not quite ready to submit for publication in time for that meeting. As you see, they are detailed, and so we held them over for the following meeting, which is now.

Yes, Mr. Thaler.

MR. THALER: Good morning, Commissioners.

Over the past ten years, the Payment Card Industry, PCI, has established increasingly strong security requirements dedicated to protecting the Cardholder Data Environment, known as the CDE, from

1
2 untrusted access. One major
3 challenge has been balancing strong
4 security levels with the cost of
5 compliance. The PCI DSS security
6 standard version 1.2 is the global
7 data security standard adopted by
8 the card brands for all
9 organizations that process, store
10 or transmit cardholder data to
11 build and maintain a secure network
12 according to the 12 requirements as
13 published by the PCI security
14 counsel. I'm not going to recite
15 these, but the list of 12 are shown
16 here.

17 While the proposed Chapter
18 76 security rules generally covers
19 all of these code requirements, it
20 is solely the right and
21 responsibility of the Payment Card
22 Industry to regulate branded
23 payment card operations. However,
24 the definition TPEP Data, subject
25 to Chapter 76 rules includes,

1
2 quote, "data related to credit,
3 debit and prepaid card
4 transactions," end quote.

5 Therefore, the TPEP CDE, which
6 includes the passenger cardholders'
7 Primary Account Number, known as
8 the PAN, should be removed from the
9 Chapter 76 and replaced with a
10 requirement that the TPEP must
11 process fare payments through a
12 certified PCI compliant Payment
13 Gateway, which, in any event, is a
14 requirement of the Merchant Payment
15 Transaction Processing Industry.

16 The security requirements
17 applied to the remaining TPEP trip
18 data should be reexamined for the
19 necessity to apply the same level
20 of security as required for the CDE
21 in order to provide data integrity
22 and protection for the remaining
23 TPEP trip data. As an example, the
24 number of passengers per trip does
25 not need a security level equal to

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the cardholder PAN data.

The TPEP security and fare payment rules have not kept up with recent advances in mobile cash payments providing a direct cash transfer to a driver at greater payment card security, more rapid transaction time, greater passenger convenience and lower transaction cost. Therefore, on a case-by-case basis, mobile cash should be regulated by the rules for cash payment and not be subject to the TPEP rules for cashless payment.

Regarding the confidentiality of TPEP data including tracking information, the Commission must forbid the access and release of TPEP data to private third parties not essential for the collection of TPEP data under contract with a TPEP vendor requiring confidentiality.

The Commission should be

1
2 complimented for setting open
3 standards for TPEP approval.
4 However, given the original
5 contract termination date of
6 February 2013, if new TPEP
7 contracts with taxi operators must
8 not be executed between March and
9 April, there is insufficient time
10 for all eligible TPEP vendors to
11 complete the approval process.

12 With full knowledge years
13 ago of the original contract
14 termination date this month, to let
15 the clock run close to the contract
16 termination before enabling the
17 approval process for eligible TPEP
18 vendors has again resulted in a
19 restricted, anticompetitive market
20 denying medallion operators the
21 opportunity to evaluate and select
22 the best TPEP systems by the April
23 date.

24 CHAIRMAN YASSKY: Let me
25 just ask you to conclude, if you

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would.

MR. THALER: Yes. Just, the last sentence -- therefore, assuming the current vendors are found to meet the requirements of Chapter 75 and 76, the Commission should extend the time enabling a taxi operator to switch their TPEP vendor contract at least for an additional six months without any termination fee.

But I would like to ask, based on my confusion of the February 6th notice, there seems to be some conflict. It says that the current contracts terminate March 1st. And on March 2nd, for the first time, there will be a list provided for all of the approved vendors. Now, I called the TLC legal as to when the window would be open to submit applications for approval, and I was told that there would be a

1
2 notice filed, and I would be told.
3 But presumably, there's been no
4 window opening for approval for new
5 vendors.

6 So my question is, first,
7 where it says, by April 30th, it
8 says, the TPEP vendor only has to
9 comply with Chapter 75. Does that
10 mean --

11 CHAIRMAN YASSKY: Just to
12 clarify that, currently, that
13 window is open. We are --

14 MR. THALER: There was no
15 notice, ever. And we were supposed
16 to be informed. So I take --

17 CHAIRMAN YASSKY: Just so
18 you know now, if anyone wishes to
19 apply for approved vendor status, I
20 believe -- I'm looking at Gary, or
21 I'm looking for Gary -- I believe
22 that the form is on our website.
23 Am I right? Yes. It is on our
24 website.

25 MR. THALER: Could you tell

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me when it was posted? Because I haven't seen it.

CHAIRMAN YASSKY: It's been posted for a couple of weeks, but I --

MR. THALER: In any event --

CHAIRMAN YASSKY: At any rate, it is certainly up there now, and if you wish to file the application -- I understand your point about the short timeframe. Whatever applications we receive, we will make every effort --

MR. THALER: Understood.

CHAIRMAN YASSKY: -- to dispose of them in time for people to compete with --

MR. THALER: Thank you. But the only other remark I have is, by April 30th, it states that a TPEP vendor must comply with Chapter 75. It doesn't mention these rules, Chapter 76. That's from the February 6th notice.

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CHAIRMAN YASSKY: I hear your point. We will take a look and see if that needs to be corrected.

MR. THALER: Thank you.

CHAIRMAN YASSKY: On your point about, there is nonsensitive information that TPEP handles that does not need to be subjected to the same rigorous security standards as credit card information, I hear that point. We will consider that. That's something we may be able to handle administratively.

In other words, if what you're saying, if someone may want to apply and be a TPEP provider and meet the security standards only for credit card information and not for others, that's, perhaps, something we can consider administratively. I'm not sure that it's a practical matter. The

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way the systems are set up to operate, it would make sense to have security standards. But at a theoretical matter, I take your point --

MR. THALER: Thank you.

CHAIRMAN YASSKY: -- and that's something I think we can handle administratively.

MR. THALER: Thank you.

CHAIRMAN YASSKY: So, thank you, Mr. Thaler.

MS. MARINO: I just want to -- can we go back to this resolution, please?

CHAIRMAN YASSKY: Certainly.

MS. MARINO: I understand we're short today. We're only six commissioners, we only have eight now because Commissioner Gjonaj now is no longer a commissioner.

CHAIRMAN YASSKY: Yes.

MS. MARINO: The resolution that we previously voted on

1
2 includes a final report as opposed
3 to just a quarterly report,
4 correct? And I think that's a good
5 idea. I was against the pilot
6 program, I'm not changing that, not
7 because I'm against technology --

8 CHAIRMAN YASSKY: I
9 understand.

10 MS. MARINO: -- I made that
11 clear, but I'm against the way it
12 was implemented and what, I
13 thought, was a rush. However, I
14 believe, having a final report is
15 better than not having a final
16 report. It's kind of a lesser than
17 two evils.

18 So I just want to change my
19 vote. I will vote, yes, but I just
20 want it clear that I'm not -- this
21 does not effect my prior vote from
22 the last hearing where I did
23 abstain, because I didn't think the
24 rules had enough time to be
25 developed. And as I said, I think

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2 once the pilot program is
3 implemented, it's going to be hard
4 to withdraw.

5 So without disturbing that
6 vote or that opinion, I will change
7 my vote to implement this today,
8 because I do think a final report
9 is better than no final report.

10 CHAIRMAN YASSKY:
11 Commissioner Marino, I understand
12 what you're saying, and I
13 appreciate your thoughtfulness. I
14 bear responsibility for really
15 putting you in a position having to
16 do that because we didn't have a
17 chance to discuss this on such
18 short notice.

19 If you will, though, put
20 that aside for a moment, because I
21 do want to conclude the vote on the
22 security standards --

23 MS. MARINO: I apologize for
24 that.

25 CHAIRMAN YASSKY: -- and

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then we'll return to that.

That's okay.

So are there any further witnesses in the hearing on the security standards vote?

(No response.)

CHAIRMAN YASSKY: Seeing none, I move that we adopt the rule for TPEP security standards.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed?

All opposed say, no.

(No response.)

No opposed?

MR. AROUT: I abstain.

CHAIRMAN YASSKY: Abstain on the TPEP security standard?

MR. AROUT: Oh, okay. Sorry about that.

MS. MARINO: I'm sorry. That was my fault.

CHAIRMAN YASSKY: No problem. That's okay.

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So by a unanimous vote of six to nothing, the rules for the TPEP security standards are adopted.

Okay. So let me now return to the proposal of the resolution with the three technical amendments to the E-Hail Pilot Program. Again, that resolution is all before you. I move that we adopt that resolution.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: All opposed, say, no.

(No response.)

CHAIRMAN YASSKY: All abstaining?

MR. AROUT: Abstaining.

CHAIRMAN YASSKY: Okay. Meera?

MS. JOSHI: With a vote of five in favor and one abstention, the resolution to amend the pilot

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program, resolution adopted
December 23, '12 is passed.

CHAIRMAN YASSKY: Very good.

MS. MARINO: I just want to
make a statement on the record.

I didn't know that I
could -- technically, it was okay
to vote, yes, but I do want to set
a time, or for as long as it's
going through, and I have no
control over that at this point.

CHAIRMAN YASSKY: I
appreciate that level of
thoughtfulness, and again, I
apologize for the short notice on
which that resolution was adopted,
and I understand that --

MS. MARINO: And as long as
we're on the subject, what has
happened with our Bronx
Commissioner? Are we expecting a
replacement relatively soon?

CHAIRMAN YASSKY: You know
what, that's up to the city council

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to forward a name. No doubt they're taking a serious consideration. As you all know, folks for the TLC, you serve for a --

MS. WEINSHALL: It's a life sentence.

CHAIRMAN YASSKY: -- a significant period of time, and I'm sure they want to make sure that we have somebody, a Commissioner, who can venture the responsibilities.

So I think that concludes our business for today. With one minute to spare, I move that we adjourn the meeting.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Meeting for February 21st is adjourned.

(Time noted: 10:44 a.m.)

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C E R T I F I C A T I O N

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, MARGARET CRANE, a
Notary Public within and for the
State of New York, do hereby
certify:

I reported the proceedings
in the within-entitled matter, and
that the within transcript is a
true record of such proceedings.

I further certify that I am
not related to any of the parties
to this action by blood or marriage
and that I am in no way interested
in the outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 23rd day
of February, 2013.

MARGARET CRANE

NYC Taxi & Limousine Commission

February 21, 2013

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