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NYC TAXI AND LIMOUSINE COMMISSION  
Public Hearing  
Held on Thursday, September 17th, 2009  
40 Rector Street  
5th Floor  
New York, New York 10006  
9:30 a.m.

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A P P E A R A N C E S :

- MATTHEW W. DAUS, Chairman/Commissioner
- LAUVIENSKA POLANCO, Commissioner
- ED GONZALES, Commissioner
- CHARLES FRASER, General Counsel
- ELIAS AROUT, Commissioner
- JEFFREY KAY, Commissioner
  
- NOT IN ATTENDANCE
- HARRY GIANNOULIS, Commissioner
- IRIS WEINSHALL, Commissioner

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COMMISSIONER DAUS: Good morning, everyone.

3

I'm sorry to keep everyone waiting. It was a

4

late night last night. We were out celebrating

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the ITR, the International Association of

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Transportation Regulator's Conference.

7

Basically, we had TLC regulators, government

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officials from TLC's all over the world but

9

mostly from North America, the United States,

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visiting New York City for the first time. The

11

organization, which is a not-for-profit, is one

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that basically shares knowledge and best

13

practices between the member jurisdictions. It

14

was held at the Brooklyn Marriott.

15

We had a lot of interesting events. I see a

16

lot of the people in the audience who were there

17

and it concluded yesterday. But it was a great

18

experience. The conference's theme was

19

technology, which is a prominent theme of the

20

Bloomberg Administration and the TLC's work over

21

the last several years. And we actually devoted

22

an entire day to the TPEP Systems, the Taxi

23

Technology Systems in our cabs. It was really

24

kind of one of these things years ago when we

25

went to ITR, we talked about what we were going

1  
2 to try to do with these systems. Everybody said,  
3 yeah, that sounds like a great idea. Yeah, let's  
4 see if it ever gets done. Well, it's several  
5 years later and it is not only been done and is  
6 really the gift that keeps on giving because it's  
7 just, all sorts of good things have come out of  
8 it for the TLC, the government, as well as for  
9 the industry. Now we're starting to see them in  
10 all these other cities, Boston, Chicago. So it's  
11 really exciting.

12 And also, the rest of the conference was  
13 focusing on technology, new media, the way that  
14 we run our agencies, various software and  
15 applications were demonstrated to increase  
16 sufficiency in the various agencies and it's  
17 amazing to see how these other municipalities  
18 around the world do business. So that was a  
19 great conference.

20 I think we have our executive director from  
21 ITR here today. Karen are you here? Karen  
22 Cameron?

23 MR. FROMBERG: I don't see her. She's  
24 supposed to be here.

25 COMMISSIONER DAUS: No? Okay. So the ITR

1  
2 conference is over.

3           Also, we usually do an annual driver  
4 recognition ceremony. This year we merged it  
5 into the ITR ceremony. They elected me the  
6 president of the group the other day. I'm  
7 looking forward to working with them and having  
8 them involved with the things that we do. But  
9 one of things that we thought would be nice since  
10 we merged our New York City Driver Ceremony into  
11 their first held in New York City International  
12 Driver Recognition Ceremony, we had drivers that  
13 were actually flown in from various cities,  
14 including Atlanta and DC and Chicago. And we  
15 gave the driver, I guess the Driver of the World  
16 Year Award. We took a driver based on all the  
17 different cities that we honored, including New  
18 York City drivers who are up there prominently  
19 and the driver of the year's name is Tom  
20 Chappell. He's from Phoenix Arizona. We gave  
21 him the award yesterday. He was so excited to  
22 come here and I don't think we could ever top  
23 this.

24           Talk about becoming one with your passenger.  
25 He basically gave a kidney, donated a kidney to

1  
2 his passenger to save a life. So I don't think  
3 you could ever top that. That was really a  
4 tearjerker for all of us that were there.

5           And these drivers, some of the stories.  
6 This one driver who was actually supporting an  
7 African village for half of his life. And as a  
8 cab driver, he doesn't make that much money and  
9 he's been sending money to this village. He not  
10 only, he put about 150 kids through school but  
11 you know how the situation is with HIV in Africa.  
12 His village has been zero percent HIV positive.  
13 So he really saved a lot of lives. It was really  
14 traumatic to see some of these folks.

15           Of course, we had our own drivers, the ones  
16 that returned the various stratavai, the violins  
17 and, I don't know if that's a word, the violins  
18 and violas that are left behind. And Hon Vinh  
19 gave a performance and we had a lot of music at  
20 the conference and it was a lot of fun.

21           So I want to thank everybody who worked on  
22 it. I want to thank all the folks, I see a lot  
23 folks in the room who attended. It was good  
24 seeing the industry and I hope you benefited and  
25 enjoyed the conference as well.

1  
2           We are also having an Information Exchange  
3 Summit and Conference at 11 o'clock today. Now,  
4 if you remember when we first did the TPEP  
5 process as an innovative procurement years ago,  
6 we started with a request for information and  
7 then we did an information summit where we got  
8 all the parties in the room to see who's  
9 interested in forming connections with one  
10 another and also as an extension of the RFI  
11 process to get more information in person before  
12 we decide how we're going to proceed. We have  
13 two one-year contract amendment options. We  
14 haven't decided whether to exercise that option  
15 and obviously at some point in the future, those  
16 contracts for the system with the three vendors  
17 will come to an end. So there will be an RFP at  
18 some point to deal with that.

19           So as we get ready to make that  
20 determination, this is an important step of the  
21 process. Not only for the existing vendors who  
22 do a good job but also for any new folks that  
23 want to get in the mix. We have a lot of new  
24 ideas.

25           One of the things that happened at the ITR

1  
2 Conference is we had New York Times columnist  
3 Dave Pogue had a session talking about the future  
4 of our system, something that's been on  
5 everybody's minds. That's really a big part of  
6 the RFI. Not just have we make the existing  
7 systems better in terms of their basic  
8 functionality under the contract but also what  
9 new items the passengers want and industry wants  
10 and we would want. I think he put a Twitter out  
11 to like 8 hundred to a million people and got  
12 some very interesting responses and we're looking  
13 at that information because it's nice to actually  
14 get information directly from passengers. So we  
15 had, you know, many, many passengers responding.  
16 But also now we need to hear from the industry,  
17 the technology industry, the various carriers as  
18 well as the existing and potential future  
19 vendors.

20 So this summit is designed to do just that.  
21 It's an extension of the RFI process. We're  
22 doing it this time because it was successful in  
23 the past and we want to replicate as much as we  
24 can from the prior process. The summit's from  
25 11:00 a.m., it's getting close, to 2:00 p.m. and

1  
2 there's also, I think, going to be a networking  
3 lunch from 1:00 to 2:00 as part of that and I  
4 believe that's in this building as well.

5 MR. FROMBERG: It's upstairs, 6th Floor.

6 COMMISSIONER DAUS: Okay, it's 40 Rector,  
7 6th Floor, starts at 11:00 a.m.

8 MR. FROMBERG: And the lunch is down here.

9 COMMISSIONER DAUS: The lunch is down here,  
10 great.

11 Also a reminder, the next TATC is Friday,  
12 October 2nd. That's going to be here in this  
13 Public Hearing Room at 2:30 p.m. The topic is  
14 going to be the Taxi Drivers' Rules. Again, this  
15 is not the substantive part of the rule making.  
16 This is still the technical reorganization and  
17 rewording of the rules.

18 I have good news, thanks to the lobbying  
19 efforts of the industry members, many of whom I  
20 see here today, as well as the TLC and the  
21 Mayor's office. The State Senate finally passed  
22 some legislation for us.

23 On September 10th, the Airport Hustling  
24 Legislation passed, which is a tremendous victory  
25 for our agency and also for the various partners

1  
2 that we were with. Including, not just the  
3 Mayor's office but the Economic Development  
4 Corporation and Port Authority of New York and  
5 New Jersey.

6 The existing law provides for hustling as an  
7 unclassified misdemeanor. Now, these are people  
8 who go to the airports, for those of you who  
9 don't know and it cost passengers without  
10 licenses telling them to get in their car. It's  
11 a real safety issue in our view. It's a real  
12 problem for the legitimate licensed people in our  
13 industry who go about doing things the right way.  
14 So we needed to add some teeth to that law and I  
15 wouldn't say we have fangs but I think we have a  
16 couple more molars that were put into it and it  
17 should help us a little bit. It's not ideal but  
18 we're very, very happy that we're going to be  
19 increasing the penalties. So instead of an  
20 unclassified, I'm sorry, now it's going to be a B  
21 Misdemeanor. So it went from an unclassified  
22 Misdemeanor, which had some small fines to a B  
23 Misdemeanor. And fines for each of the offenses  
24 will range from \$500 to \$1,250 and/or up to 90  
25 days in jail. So this could be serious for

1  
2 somebody who is a persistent violator of these  
3 rules and we're going to work with the District  
4 Attorney's office, who is another, the Queens DA,  
5 Richard Brown, was a very, very big supporter of  
6 this bill and we're going to work very hard to  
7 enforce it along with the Port Authority. I  
8 believe it's up for the Governor's signature, so  
9 we hope the Governor will sign it. And we are  
10 going to, I wouldn't say the fight's over yet. I  
11 think everybody who lobbied, I would encourage  
12 you to put your letters of support into the  
13 Governor's office. I think it's going to be  
14 delivered to his desk very shortly.

15 The 400 vehicle rules are proceeding very,  
16 very well. Again, I want to reiterate our  
17 commitment of outreach and not to summons people.  
18 We want to work with you, so that will continue.  
19 I'm seeing a lot of the and our staff is seeing a  
20 lot of the cars with the decals on them and it  
21 looks to be like a tremendous amount of  
22 compliance so far. Thanks to a lot of the  
23 members of the industry who I see here today, the  
24 Federation, the folks that are working with the  
25 bases to try to get compliance not to have a

1  
2 situation where we, you know, hand out summonses,  
3 we want to work together.

4 So we're reaching out also to community  
5 boards informally to explain the changes from a  
6 passengers perspective in terms of the Bill of  
7 Rights and what that means to them. And also, so  
8 that they know how to identify properly licensed  
9 cars and bases. I think these rules will help  
10 but we need to do more. Our Deputy Commissioner  
11 from Public Affairs, Allan Fromberg, is working  
12 with us on a plan. We need to do more outreach.  
13 We need to get the word out about these rules so  
14 that people understand what the decals look like,  
15 where they should be, etcetera. Both the  
16 passenger and industry brochures explaining the  
17 new rules are on our web site. And for the first  
18 time, they have been translated into numerous  
19 languages; English, Spanish, French, Russian and  
20 Arabic.

21 COMMISSIONER POLANCO: I'm sorry, Matt. I  
22 have a question. Where we are in terms of, since  
23 we're on the topic of the Point Relation Program?

24 COMMISSIONER DAUS: Well, the Point  
25 Reduction Program went into effect on August 1st,

1

2 right Chuck?

3

COMMISSIONER FRASER: The points went into  
effect on August 1st, yes.

5

COMMISSIONER DAUS: But not the Reduction  
Program?

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COMMISSIONER FRASER: We don't have a course  
yet.

9

COMMISSIONER DAUS: Oh, we don't, okay.

10

I think anyone is going to be, first of all  
accruing any points just yet. I think that's  
going to take a lot of time for that to happen.

11

12

13

COMMISSIONER FRASER: The first vehicle to  
get a point just got a point. This vehicle, no  
bases have received any points yet.

14

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COMMISSIONER DAUS: Do we have an update on  
what's going on with the points reduction  
program?

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18

19

MR. SALKIN: Yes.

20

COMMISSIONER DAUS: Wasn't the Federation  
working on something too?

21

22

MR. SALKIN: Based on the Commission's  
direction, we put out an RFI for education and  
training among other things but it specifically  
asks about a point reduction program. We didn't

23

24

25

1  
2 get any comments very specific towards that  
3 program, so staff went ahead and started making  
4 some recommendations and that's just being  
5 developed right now. So the goal is to have a  
6 program in place before someone gets suspended  
7 per se. So we have some time on that considering  
8 we have one car with one point, 4,000 others to  
9 go.

10 COMMISSIONER DAUS: So we'll report back.  
11 So if there is anyone who's working on proposing  
12 a point reduction program to us, we'd urge you to  
13 do that as soon as you can.

14 So over the summer we explained the new regs  
15 to many bases and drivers. And it appeared at  
16 the meeting that Samara Epstein attended, our  
17 Assistant Commissioner For Constituent Affairs,  
18 that particular bases needed some help. We've  
19 helped them. I think Pansy Mullings, are Deputy  
20 Commissioner for Enforcement has actually visited  
21 a lot of bases to give them a helping hand. I  
22 think they're little a trepidatious when she, a  
23 little trepidation when Pansy shows up but I  
24 think her folks have basically gone there to  
25 insure that they know where to put the decals and

1  
2 they know how to go about complying with the law.  
3 So I think the outreach was well received and  
4 that's good.

5 We have started both visual and DMV  
6 inspections at our facilities and the results so  
7 far, despite a lot of alarms that were being  
8 raised by the industry, are very positive. We  
9 had a total of 160 inspections, 95 passed and 65  
10 failed, so that's roughly about a 60 percent pass  
11 rate. On reinspections, they're doing very, very  
12 well. For the 37, I'm sorry, the 44 that came in  
13 for reinspection, the pass rate was about 85  
14 percent or 84 percent. That's pretty good for a  
15 new industry that's never had this done before.  
16 Now granted, they are new cars. But, you know,  
17 it's good to see that level of compliance. I  
18 think that's it on the program.

19 The other thing I want to mention is  
20 Operation Safe Cab. As many of you know,  
21 Fernando Matteo, Valoria and the Federation have  
22 been working with the Police Department and the  
23 TLC to make sure that drivers are kept safe.  
24 There were a recent number of very high-profile  
25 robberies with drivers and it's very, very

1  
2           unfortunate. But what we want to do is make sure  
3           any livery vehicle owner and driver that wants to  
4           participate in the Operation Safe Cab program has  
5           the stickers that are necessary to allow police  
6           officers to do safety checks of the car. And the  
7           way that works is, you put the sticker on the car  
8           and legally gives the officers the right to stop  
9           the car for any reasons just to make sure  
10          everything is okay. So thanks to the Federation  
11          and TLC and the Police Department, we've been  
12          getting out these stickers and they will actually  
13          go above the rear, corner panel window. So you  
14          should see the little, the poker chip as they  
15          call it, the little round sticker that shows your  
16          license and above or below it I believe you can  
17          have, it's a square sticker that has the NYPD  
18          logo on it. So I just want to make sure the  
19          Commission is aware of that.

20                 The Acceptable Dispatch Program, as of  
21                 September 15, we have a total to date of 3,638  
22                 dispatches, 391 cancellations and average wait  
23                 time is 35 minutes.

24                 That concludes my report. Any other  
25                 questions?

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2 (No response.)

3 COMMISSIONER DAUS: Okay. Well, thank you.

4 We now have a quorum. We would like to  
5 proceed to Item 2 of the Adoption of the Minutes.  
6 Any questions, changes or issues regarding the  
7 minutes.

8 (No response.)

9 COMMISSIONER DAUS: Do we have a motion to  
10 approve?

11 COMMISSIONER AROUT: Motion to approve.

12 COMMISSIONER DAUS: Second?

13 COMMISSIONER GONZALES: Second.

14 COMMISSIONER DAUS: All in favor?

15 THE COMMISSION: (In unison) Aye.

16 COMMISSIONER DAUS: Jeff?

17 COMMISSIONER KAY: Aye.

18 COMMISSIONER DAUS: Item 3. Do we have a  
19 rep from Licensing? Georgia?20 MS. STEELE-RADWAY: Good morning. Licensing  
21 would like to present before the Commission 57  
22 bases with a recommendation for approval.23 COMMISSIONER DAUS: Okay. Do we have a  
24 motion to approve?

25 COMMISSIONER GONZALES: Motion to approve.

1

2 COMMISSIONER DAUS: Second?

3 COMMISSIONER POLANCO: Second.

4 COMMISSIONER DAUS: All in favor?

5 THE COMMISSION: (In unison) Aye.

6 MR. STEELE-RADWAY: We would also like to  
7 present 7 bases with a recommendation for denial  
8 with a request that the Commission grants an  
9 additional 30 days so that they may submit their  
10 outstanding items.

11 COMMISSIONER DAUS: Okay. Motion to deny?

12 COMMISSIONER AROUT: Motion to deny.

13 COMMISSIONER DAUS: Second?

14 COMMISSIONER GONZALES: Second.

15 COMMISSIONER DAUS: All in favor?

16 THE COMMISSION: (In unison) Aye.

17 COMMISSIONER DAUS: Thank you, Georgia.

18 That was easy.

19 Item 4 for Commission action, the Rules  
20 Revision Project. I'm going to turn it over to  
21 Chuck Fraser.

22 COMMISSIONER FRASER: These are two TATC  
23 chapters based on one existing chapter. Commuter  
24 van rules are currently one chapter. The TATC  
25 revision divides them in two. Chapter 7 would

1  
2 govern commuter van drivers. Chapter 11 would  
3 govern commuter van services and vehicles. As  
4 to, both were separately published for public  
5 comment and we had public hearings on both.

6 As to the driver rules, we received one  
7 written comment, which has been distributed to  
8 the Commissioners. We had two witnesses come to  
9 testify at the hearing and the transcript has  
10 been distributed to the Commissioners. As to  
11 Chapter 11, we had no written comments and no  
12 witnesses appeared at the hearing.

13 The staff is recommending that these  
14 chapters be conditionally approved with a further  
15 vote to follow after all the TATC chapters are  
16 completed.

17 COMMISSIONER DAUS: Is everybody okay with  
18 the rules?

19 (No response.)

20 COMMISSIONER DAUS: Okay. Is there a motion  
21 to adopt?

22 COMMISSIONER AROUT: Motion to adopt.

23 COMMISSIONER DAUS: Mr. Arout. Do we have a  
24 second?

25 COMMISSIONER POLANCO: Second.

1

2 COMMISSIONER DAUS: Luvy. All in favor?

3 THE COMMISSION: (In unison) Aye.

4 COMMISSIONER DAUS: Item 5A, Proposed Rules  
5 for Public Hearing and Commission Action. This  
6 is a public hearing that we're going to commence  
7 codifying the MTA surcharge that was mandated by  
8 state law. I just want to point out ahead of  
9 time that the TLC had nothing to do with these  
10 rules. We have to do it. If we don't do it and  
11 don't vote on it, it's going to go into effect  
12 any way. But what will happen if we did not vote  
13 on it, we basically have rules on our books,  
14 which contradict state law, which is not a good  
15 thing. Especially with all this rule making  
16 cleanup that we're doing.

17 A couple of other fine points, Chuck will  
18 explain it before we start the hearing.

19 COMMISSIONER FRASER: As the Chairman noted,  
20 the State Legislator passed this law last spring  
21 and early summer. These rules would implement  
22 the law. The rules are necessary not just to  
23 comply with the statute. The statute mandates  
24 that we adjust fares in order to comply with the  
25 new law and this rule does that. This rule also

1  
2           though, is also necessary because the tax payer,  
3           the person under the existing law is obligated to  
4           pay the tax to the State is the vehicle owner  
5           under most circumstances except where a driver  
6           leases the vehicle for exclusive use 30 days or  
7           more. In which case, the driver it's the driver  
8           who is obligated to pay the tax.

9           What this rule does is allows, creates an  
10          additional exception to the prohibition on  
11          passing on charges from drivers to medallion  
12          owners. In the case of a fleet, the fleet is the  
13          tax payer because they own the vehicle. And  
14          therefore, this rule provides for passing on the  
15          \$0.50 tax that the driver is obligated to collect  
16          to the fleet who's obligated to pay it.

17          Just so everyone knows, there is a technical  
18          amendment, is the legislative jargon for it,  
19          pending in the Legislature, has passed the  
20          Assembly and is pending in the Senate, which  
21          would change the law from providing that the  
22          vehicle owner or leasing driver is the tax payer  
23          to make it that the medallion owner is the tax  
24          payer. We drafted this rule in an attempt to  
25          cover us. We had the text of the technical

1  
2 amendment, so we drafted the rule in a way that  
3 it would still be valid and still work if that  
4 technical amendment were to pass.

5 We published the rule for public comment for  
6 the 30-day period. We received one written  
7 comment, which has been distributed to the  
8 Commissioners.

9 COMMISSIONER DAUS: Thank you. So each  
10 speaker will have three minutes. The first  
11 preregistered speaker is Vincent Sapone from  
12 L.O.M.T.O.

13 MR. SAPONE: Good morning, Mr. Chairman, the  
14 Commissioners. Thank you for giving me this  
15 opportunity to speak out today. What I would  
16 like to do, one second, what did I do to my  
17 papers here. First of all, what I would like to  
18 do is congratulate Chairman Daus for being  
19 elected President of the ITR, which is well  
20 deserved. I'm sure he'll do a great job as he  
21 always does.

22 COMMISSIONER DAUS: Thank you.

23 MR. SAPONE: I would like to thank Mayor  
24 Bloomberg for speaking out and the TLC against  
25 the dollar taxi surcharge. And I'd like to thank

1  
2 the Commissioner, one second, I'm sorry. I'd  
3 also like to thank the Commission and I'm sure  
4 they weren't in favor of the taxi surcharge. I'd  
5 like to thank the Commission for changing the  
6 rates on the group ride fare from 3.50 a piece to  
7 \$6 from York Avenue to Wall Street. It's very  
8 good, very nice of you. And I would also like  
9 to thank the TLC, Chairman Daus, Pansy, Samara  
10 and especially Dave Pollock for doing a good job  
11 up in Albany, you know, trying to get this bill  
12 passed and they did. And I'd like to thank  
13 too --

14 COMMISSIONER DAUS: While you're at.

15 MR. SAPONE: While I'm at it, right. I'm a  
16 little slow today but I'll catch up.

17 On the \$0.50 fare, okay, you've got nothing  
18 to do, tax rather, you've got nothing to with the  
19 Commission, okay. I know the Mayor was against  
20 it, you guys are against it and I love you for  
21 it, for that. But the cesspool, MTA, okay, who  
22 gets a raise every year, okay. They just hired  
23 somebody for \$350,000 a year; is that right?  
24 That's what I was told.

25 COMMISSIONER GONZALES: That's correct.

1

2 MR. SAPONE: It's just terrible how they  
3 come to us. It's also a payroll tax for the  
4 owners, drivers, okay and also the \$0.50.

5 I am telling you my feeling, being in the  
6 business 40 odd years, this is going to hurt some  
7 sort of a way on the income of taxi drivers,  
8 lease drivers, owner drivers. What I really  
9 would like to see but I don't think it will  
10 happen is instead of putting \$0.50 on the meter,  
11 put a dollar and give the cabdriver the other  
12 \$0.50, you know, for a little protection.

13 It's been three years since we got an  
14 adjustment of the fare and it's been eight years  
15 since a fare increase. I don't know if the TLC  
16 can do that but if not. When I see that they  
17 hurt a person, I'm going to put in a petition for  
18 some sort of an increase, you know, because every  
19 time a passenger has to pay more, they get less,  
20 all right. So if you can find it in your hearts  
21 to think about something, which this Commission  
22 is getting to be really very good towards  
23 cabdrivers. If you could be a little bit nicer  
24 and maybe give them half a dollar more for all  
25 this agita, I would appreciate it.

1

2

Thank you so much.

3

COMMISSIONER DAUS: Thank you, Vinny.

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MR. SAPONE: Any questions? Mr. Kay, no questions today?

6

COMMISSIONER KAY: No.

7

8

MR. SAPONE: Happy New Year to everybody, happy Ramadan and all that stuff. Thank you.

9

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COMMISSIONER DAUS: Thanks. Next speaker is Ron Sherman from M.T.B.O.T.

11

We have pinch hitter.

12

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MR. WOLOZ: We have a pinch hitter. I'm not Ron Sherman, as you know but I'm delivering his testimony.

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Good morning, Commissioner Daus, members of the Taxi and Limousine Commission. My name is Ron Sherman. I'm president of Metropolitan Taxicab Board of Trade, a 57-year-old organization representing owners of nearly 3,500 licensed taxicab medallions.

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As a result of the action taken by the New York State Legislature, taxicab owners and agents, including M.T.B.O.T. members will soon have the responsibility of collecting and remitting the \$0.50 per ride taxi tax that has

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2           been imposed as part of the MTA bailout. The  
3           first time in New York history a portion of the  
4           fare paid by taxi riders will not go to support  
5           driver earnings or to purchase or maintain  
6           equipment or to cover operating cost incurred by  
7           cab owners. Now a portion of each ride will go  
8           to bailout a government entity that provides a  
9           competing service. So drivers and owners of one  
10          industry, a private sector industry made up of  
11          small businesses, owner/operators and  
12          hard-working drivers will provide a direct  
13          subsidy to a government entity.

14                 In addition to the tax itself, additional  
15          administrative cost will be incurred by the  
16          industry for collection, record keeping and  
17          administration. These cost, of course, are not  
18          reimbursed. While this is not the time or the  
19          place to debate the merits of the state law, I  
20          wish to offer some suggestions regarding the  
21          rules before the Commission today, which seek to  
22          implement the provisions of this taxi tax law.

23                 First, a minor technical correction.  
24          Proposed Rule 1-73A deals with flat rates for  
25          out-of-town trips. The reference is to

1  
2 Westchester and Nassau counties. This rule  
3 should be deleted since trips to these  
4 destinations are governed by the meter, rate of  
5 fare may not be negotiated by flat-rate trips.

6 Second, we could recommended a change to  
7 proposed Rule 1-70D, dealing with group rides.  
8 The way this section is written, the driver would  
9 bear the cost of the taxi tax on any group ride  
10 since it is included in the overall group ride  
11 fare. The taxi tax should be in addition to any  
12 group ride fare that is authorized, so as to pass  
13 the cost to the passenger where it is mandated by  
14 state law.

15 Proposed Rule 2-25J states that a driver  
16 must reimburse the owner no less often than  
17 weekly. Drivers should reimburse the owner at  
18 the end of each lease period. Therefore, drivers  
19 who lease cabs by the shift should pay the taxi  
20 tax each shift. This is especially true since  
21 these owners must provide daily reimbursement of  
22 credit card fares to the drivers. A shift driver  
23 should reimburse the owner after each shift, not  
24 weekly. Weekly reimbursement of the taxi tax  
25 could be appropriate for weekly lease drivers.

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2 Just one more suggestion. Finally, Section  
3 1-78A sets --

4 COMMISSIONER DAUS: 4.

5 MR. WOLOZ: 4, sorry. Sets for a hierarchy  
6 for the owner collecting the taxi tax from the  
7 driver. One method provided in this section is  
8 collection from the deposit. This is not  
9 practical since deposits are normally collected  
10 by the owner once, when the driver first begins  
11 working for an agency. Deposits are not  
12 typically replenishment accounts, are not  
13 designed to be used. I suggest that Rule 1-78A4  
14 be amended to allow the owner to establish the  
15 method of reimbursement. Whether it be through a  
16 cash adjustment to a lease price, credit card  
17 receipt or some other source. Rather than  
18 micromanaging the collections attached from the  
19 driver, a better approach would be to simple  
20 authorize the owner to collect a per trip tax  
21 from the driver as the first sentence of proposed  
22 Rule 1-78A4 allows and leave the methodology to  
23 the industry.

24 Rules requiring receipts and explanations of  
25 all collections already provides drivers with

1  
2 adequate protection from other charges and offers  
3 drivers an explanation of the charges incurred.  
4 While it appears that we all have to live with  
5 the MTA taxi tax for the foreseeable future, it  
6 is our intention to work with the City and State  
7 to insure a smooth administration of this  
8 program. Thank you.

9 COMMISSIONER DAUS: Thank you, Mr. Woloz.  
10 The next speaker is Richard Thaler from Omni  
11 Media.

12 COMMISSIONER KAY: I have a question.

13 COMMISSIONER DAUS: Okay.

14 COMMISSIONER KAY: These are obviously  
15 substantive comments and I think we're all  
16 sitting here trying to move these rules as  
17 seemingly and painless as we possibly can. These  
18 rules were posted when?

19 COMMISSIONER FRASER: 30 days ago plus, I  
20 don't know the exact date.

21 COMMISSIONER KAY: I appreciate this stuff.  
22 I hope and there may be obviously further  
23 comments on this that as soon as these things be  
24 published, the sooner we get this, the better.  
25 We're obviously on a time constraint here and

1  
2 this has to be in effect when?

3 COMMISSIONER DAUS: November 1st.

4 COMMISSIONER KAY: Actually, I don't think  
5 we can delay these rules in order to get  
6 implemented. We may have some disagreements, I'm  
7 trying to read this quickly. But I would  
8 appreciate for everyone that has comments on  
9 proposed rules to have them published 30 days in  
10 advance so we can see them. It's really  
11 difficult for us right now, it's difficult for me  
12 right now to pass this thing knowing that we  
13 might actually have to have a discussion about  
14 this. This is a complicated process. We didn't  
15 want it but we have to do it. So I ask that as  
16 you guys bring this stuff, just please let us  
17 know as soon as possible so we can engage in a  
18 conversation with you.

19 We don't have all the answers. That's why  
20 we have this. That's why there are public  
21 hearings. I know sometimes you guys don't think  
22 we actually are open to consideration and  
23 comments but we do. And this is one that I think  
24 we should have and should continue having  
25 discussions with you all about. I think we have

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2 to pass this today because we don't have time.

3 COMMISSIONER DAUS: It's going to be mess if  
4 we don't.5 COMMISSIONER FRASER: If I may second that  
6 that's the general sense that I get from some  
7 members of the industry that the staff will not  
8 hear your comments and consider them. And I  
9 would just like to reemphasize what Commissioner  
10 Kay said, I cannot rewrite the rule on the fly  
11 from the dais. I need to have these comments for  
12 substantive changes in advance. When we, the  
13 Commission meets monthly, as you know and when we  
14 have a statutory deadline we have to meet, it  
15 simply isn't productive to hold your substantive  
16 comments. I understand and the answer I always  
17 get when I say this, we have a right to speak at  
18 the hearing and yes, you do. But is your purpose  
19 here to exercise your rights or is your purpose  
20 here to accomplish a change in the rules that  
21 make it effective and good? And I would urge you  
22 to try to put out of your minds the sense the  
23 staff will not consider your comments. It's  
24 simply not the case.

25 COMMISSIONER DAUS: Look, I don't know what

1  
2 happened here Michael but, you know, you guys are  
3 usually pretty good with this stuff. So, in  
4 fact, I usually, from Ron Sherman get a package  
5 of stuff a week before, which is sent directly to  
6 the Commissioners because I guess you don't trust  
7 that I'm not going to send it. So I don't know  
8 what happened here. Is everything okay?

9 MR. WOLOZ: Can I respond to that for a  
10 second. I think M.T.B.O.T. has been the only  
11 entity at all these rules hearings. I think  
12 Peter and Jean have been sitting there, you know,  
13 in front of Chuck. So I think to say that we've  
14 not been responsive to submitting rules.

15 COMMISSIONER FRASER: I didn't say you have  
16 not been responsive, I said it's not useful to  
17 produce these comments asking for substantive  
18 changes at the Commission meeting.

19 COMMISSIONER KAY: Hold on. Let me clarify.  
20 I'm sorry. I wasn't attacking anyone. I  
21 actually do think these are substantive. I would  
22 ask in the future if we could get them a little  
23 bit earlier so we can make that --

24 COMMISSIONER DAUS: I know that in the past  
25 you have done that.

1

2 COMMISSIONER KAY: I know you have.

3 COMMISSIONER DAUS: The purpose of this  
4 hearing is to do just that. It's okay but I  
5 think this rule making is unique, Jeff, because  
6 we on a deadline from the State. Otherwise, it  
7 wouldn't be as a big deal. Maybe in the future  
8 we'll try to emphasize that in our notice because  
9 usually you're pretty good at getting this stuff  
10 to Chuck.

11 COMMISSIONER KAY: I didn't mean to attack  
12 anyone in any way.

13 COMMISSIONER DAUS: We'll get through them.  
14 We'll address these before.

15 Why don't we move to Mr. Dick.

16 MR. THALER: Chair Daus, Commission and  
17 President Daus. With your forbearance, I'd like  
18 to try to quickly summarize my comments, by the  
19 way, which was submitted on the 14th, as per your  
20 request.

21 COMMISSIONER KAY: Thank you.

22 MR. THALER: So I assume all the  
23 Commissioners have read them and have drawn some  
24 collusions.

25 COMMISSIONER DAUS: We have.

1  
2 MR. THALER: Thank you. So let me get onto  
3 the next remark. Why is the driver prohibited  
4 from optionally arranging their own tax escrow  
5 account guarantee for quarterly payment instead  
6 of being limited to making weekly payments to the  
7 tax payer? This will allow the driver to perhaps  
8 accrue some interest before the quarterly payment  
9 is due. To the previous remark, if the fleer  
10 operator is not required the make a payment until  
11 a quarter, the question is how do you guarantee  
12 an escrow, that would the issue in my opinion.

13 Next, the extended owner definition in  
14 Article 29A provides a clear indication that the  
15 current DOV operation is not formally recognized  
16 in TLC rules. A DOV medallion lease is not a  
17 proper legal characterization of the permitted  
18 use of a medallion. I'll explain how that ties  
19 into this.

20 DOV operation must be defined as a grant of  
21 a sublicense. Medallion rights and  
22 responsibilities to a DOV operator independent of  
23 the financial agreement with medallion licenses  
24 owner. Now it gets to an FCC sublicense of a  
25 frequency. Now, in this case, the responsibility

1  
2 that would be extended to the DOV operator would  
3 be that of a tax payer. If, as Counsel has  
4 pointed out, it may not take place. It may be  
5 the owner who's responsible. I guess that  
6 currently has not been resolved.

7 Now, the total MTA tax filing and financial  
8 burden on drivers is not considered at all. Note  
9 that the first claim in the bill is that the MTA  
10 tax revenue by the State Department of Taxation  
11 and Finance in Section 1288 is for its own  
12 administrative expenses. Now, the drivers don't  
13 have that benefit. Also, on the TPEP, the  
14 drivers pay 103.75 percent to 105 percent on the  
15 tax paid on credit card fares. Drivers are  
16 already paying that on the E-ZPass tolls because  
17 the credit card cap is not limited to driver  
18 revenue only. The estimated additional annual  
19 cost to drive is over 1 million bucks. That's a  
20 nice gift, an unattended gift to the vendors and  
21 the non-driver merchants.

22 Two MTA reports. The controller's  
23 Access-a-Ride audit, I think that was in July of  
24 this year and the New York State Employment  
25 Relationship Board's Arbitration decision

1  
2 demonstrate the extravagances of the MTA that  
3 taxi drivers are now required to support. For  
4 the first time a fare increase, as mention  
5 before, provides no value to passengers or  
6 drivers except as a subsidy to the transit  
7 workers despite of the MTA spending spree. So  
8 the average MTA wage is 64,226 bucks. And  
9 according to the arbitration decision, over the  
10 next three years, their wage increases run from  
11 11.7 percent to 12 percent. That's about a  
12 \$300 million per year increase to the transit  
13 workers.

14 And also now, under the controller's audit,  
15 Access-a-Ride was budgeted at \$242 million, which  
16 comes out to \$48 per average trip. So if the  
17 livery industry provided Access-a-Ride services,  
18 the savings for the MTA would be greater than the  
19 annual MTA taxi tax revenue. Livery  
20 Access-a-Ride program has been proposed for this  
21 purpose, I think it was proposed for this last  
22 Monday. This is an MTA taxi tax moment and it  
23 could be used to reduce driver cost whatever  
24 possible in a good faith attempt to overcome this  
25 tax burden.

1  
2           Automatic electronic tax filing and payment  
3 should be used to minimize cost by using the  
4 State Department of Taxation and Finance,  
5 electronic funds transfer electronic filing  
6 banking standard format. This is enabled in the  
7 bill in Section 1286, Article 29A using state  
8 mandated driver trip record recording directly  
9 from the event sources independent of the TPEP.  
10 The state requirement also provides the some  
11 mirroring of TPEP vendor trip record recording  
12 for validation of the vendor data by the drivers.  
13 Linking the electronic tax filing and payment  
14 account with the credit card merchant account at  
15 the final institution of the driver's choice is  
16 even more cost efficient. Credit card processing  
17 should finally be separated from TPEP. Drivers  
18 must be allowed to select merchant acquired  
19 financial institution for tax filing and payment  
20 as well as for the protections of a regulated  
21 fiduciary.

22           Finally, the fast hail enhancement, which is  
23 mentioned in these comments, is proposed for more  
24 efficient street hail in order to reduce taxi  
25 cruising milage and increase taxi productivity.

1  
2 Now that the consumers are charging debit over  
3 credit, fast hail could be linked to a new direct  
4 other payment option at a total fee of \$0.25 or  
5 less. This saves the driver's out of pocket cost  
6 for the MTA taxi tax --

7 COMMISSIONER FRASER: Mr. Thaler, if you can  
8 sum up, I would appreciate it.

9 MR. THALER: Three sentences. The MTA taxi  
10 tax and E-ZPass tolls applied to credit card  
11 fares and allow the drivers to keep their entire  
12 tip. Enhancing taxi productivity using fast hail  
13 is also safer than shared ride considering the  
14 exposure of the health risks in the share ride to  
15 N1H1. Thank you.

16 COMMISSIONER DAUS: Thank you. The next  
17 speaker is Mr. Simmons from NYTWA.

18 MR. FROMBERG: He's not present.

19 COMMISSIONER DAUS: Osman Chowdhury.

20 MR. CHOWDHURY: Good morning, everybody. My  
21 name is Osman Chowdhury. I'm a member of New  
22 York Taxi Worker Alliance Organization member.

23 Today I came here to the MTA taxi tax \$0.50  
24 for taxi driver. He's working 12 hour, 7 days of  
25 working without making money, even sometimes he

1  
2 can be wonder what can happen to \$0.50. The MTA  
3 standard \$0.50 like bailout program. Next year  
4 they're going to have a bailout deficient again,  
5 they're going to increase more than \$0.50. They  
6 have just started, beginning.

7 And also, as Thaler said that we need \$1 MTA  
8 tax is going help them good. That's the problem,  
9 no. The \$0.50, I don't tax it because it's  
10 \$0.50. If on my shift I make 20 fare. Then I  
11 make \$10. \$10 make it 50 person go to driver  
12 programs because they don't have any income  
13 because that was their only said income.  
14 Sometimes gas price go high that the whole night  
15 working, they're not getting enough money.  
16 That's why I said the \$0.50 charging they will  
17 have money to go to driver programs because  
18 drivers don't have any insist in the last  
19 five years. Thank you very much.

20 COMMISSIONER DAUS: Thank you Mr. Chowdhury.  
21 Next speaker is Mr. Bill Lindauer. And then the  
22 last speaker after Bill is Bhairavi Desai.  
23 Welcome.

24 MR. LINDAUER: I have a likely ending for  
25 the story of the Arizona driver who donated his

1  
2 kidney to a passenger. Since he didn't have  
3 health insurance, he had to file for bankruptcy.  
4 And since he doesn't have workman's compensation,  
5 he couldn't make up the money that he lost by not  
6 driving, so he's probably homeless now, thank  
7 you. But let me get to the point.

8 Now, sometimes a person gets into a taxi and  
9 they say, oh, I forgot something at the office or  
10 I forgot my wallet and the driver has already  
11 pressed the meter. But the guy immediately gets  
12 out and doesn't pay. But then the MTA tax would  
13 be on that meter fare instead of 2.50, I mean \$3.  
14 And then, you know, we have that onerous, hideous  
15 five percent surcharge we pay on all these credit  
16 card fares. Also on tolls and tips, something we  
17 really detest and now, will it be on the \$0.50?  
18 Will drivers lose money on the \$0.50 that goes to  
19 the MTA? I think the five percent should only be  
20 on the part that does not go to the MTA.

21 And another thing, I'm worried about the  
22 brokers and the garages imposing an  
23 administrative fee or service charge, whatever  
24 you might call it, on the MTA tax, so drivers  
25 will be hurt again. I would like a rule stating

1  
2 that under no circumstances can garage and  
3 brokers tack on any administrative charges to the  
4 drivers. Thank you.

5 COMMISSIONER DAUS: Thank you, Mr. Lindauer.  
6 Our last speaker Bhairavi Desai from New York  
7 City Taxi Workers Alliance.

8 MS. DESAI: Good morning.

9 COMMISSIONER DAUS: Good morning.

10 MS. DESAI: Well, guilty as charged. We did  
11 not submit comments earlier. But for the record,  
12 I would like to go over, we actually have a set  
13 of the different items. Some of them would  
14 involve rule making but not all of them. Half of  
15 them actually could be implemented really through  
16 policy. It would not require Commission action.

17 COMMISSIONER DAUS: Okay.

18 MS. DESAI: So on that note, whether the  
19 driver is the tax payer or it's the owner or the  
20 agent who's the designated tax payer, either way,  
21 we think it's critical that there be mechanism  
22 setup, which allows for the drivers to collect  
23 proper documentation of the fares. At the  
24 moment, for example, not all end-of-the-shift  
25 receipts total every item of your shift. And so

1  
2 particular for example, not every system allows  
3 you to punch in Voided Fare or Incomplete Fare or  
4 Disputed Fare, which might be, for example, a  
5 fare that's been beaten by the passenger. And  
6 our concern would be that on those fares, as Bill  
7 mentioned that drivers would have to pay the  
8 \$0.50 tax out of pocket even though they actually  
9 did not collect that fare from the rider. We  
10 feel it's very important that on every  
11 documentation, from the receipt at end of the  
12 shift to all other GPS records, as they clearly  
13 indicate which fares were not, in fact, collected  
14 by the driver.

15 COMMISSIONER DAUS: That's a fair point.

16 MS. DESAI: Secondly, whichever documents  
17 are provided to the owner or the agent to help  
18 them reconcile the accounting for the tax, we  
19 feel that those copies should also be provided,  
20 free of charge to the drivers. As of now,  
21 drivers are really dependent on the agent or the  
22 owner to get copies of their GPS printout. When  
23 people, for example, wanted end-of-the-year  
24 printout, they had to pay \$5 to the vendor. And  
25 particularly given that this tax holds certain

1  
2 legal liabilities, it's only fair that driver be  
3 provided all the necessary documentation in case  
4 he or she is even required to defend themselves  
5 at some point by this state or by the owner or  
6 agent, whoever it may be.

7 Also, we feel it's very important that the  
8 owner or the agent, if they're the designated tax  
9 payer, should also be required to give  
10 documentation to the driver as to exactly how  
11 much they have extracted for the tax and from  
12 where that money had been extracted. To specify,  
13 is it from the credit card, is it from the  
14 security deposit or is it from a cash payment  
15 required of the driver.

16 And on security deposits, we feel that the  
17 interest, since the TLC's current regulation  
18 requires it, security deposits be kept in  
19 interest bearing accounts. We feel that that  
20 interest should be preserved for the driver.

21 Very lastly, I'll quickly summarize. We  
22 also feel very strongly that the tax should be  
23 deducted from the gross and not the net on the  
24 credit card fare. And again, that does not have  
25 to require rule making. That could require

1  
2 policy since at the moment it's set to contract  
3 with the vendors. Thank you.

4 COMMISSIONER DAUS: Thank you.

5 COMMISSIONER GONZALES: I have a couple  
6 quick question.

7 COMMISSIONER DAUS: Sure.

8 COMMISSIONER GONZALES: Mr. Desai, you  
9 mentioned the issue of fare dispute. Two quick  
10 questions. One, how common is a fare dispute on  
11 an average shift and what's the materiality of it  
12 as far as dollar amounts in your opinion?

13 MS. DESAI: I think that the commonality of  
14 it could honestly range anywhere from, you know,  
15 once a week to maybe every other week. We  
16 haven't done any kind of industry-wide  
17 documentation of it. But that would be my best  
18 estimate from conversations with drivers.

19 And the amount can vary much, you  
20 know. It can be from a small fare, a relatively  
21 small fare of even say 10 to \$15 to quite  
22 substantial fares. We had many incidents, for  
23 example, of fares where, you know, maybe the  
24 credit card reader was not functional and the  
25 passenger did not have cash and so they would

1  
2 right out a check and the checks would bounce.  
3 We've had several incidents of that where we then  
4 intervene and get in touch with the passenger.  
5 And sometimes you're still not able to recover  
6 that money and no driver has the time to go to  
7 small-claims court and file that complaint. So  
8 they end up, basically just taking that hit.

9 And so I think that cumulatively within the  
10 course of an entire 12 months of labor, I think  
11 it is, it could a substantial amount of money for  
12 that total loss of fare. And to loose, to pay,  
13 basically to pay \$0.50 tax once you've actually  
14 been robbed, it's, you know, it's just such an  
15 injustice. It would be so unfair, regardless of  
16 how often it happens. We think it's something  
17 that could be easily prevented by the TLC through  
18 some policies in terms of the records that the  
19 vendors provide to the drivers.

20 COMMISSIONER GONZALES: Thank you.

21 COMMISSIONER DAUS: Any other questions?

22 (No response.)

23 COMMISSIONER DAUS: Okay. So, Chuck, I  
24 think you wanted to address all the comments and  
25 questions?

1

2 COMMISSIONER FRASER: I'll address some of  
3 them. I'm sure I'll miss some.

4 First, to the extent that the comments are  
5 either intentionally or otherwise directed to the  
6 law itself, obviously we can't change that. So  
7 while some of these may be very good policy  
8 ideas, for instance, the notion of allowing the  
9 driver to designate the tax payer, we didn't do  
10 that. The statute specifies who's the tax payer  
11 and we don't have any digression as to that.

12 Secondly, there were a number of comments  
13 that went more to our contracts, our TPEP  
14 contracts than to our rules. In other words, our  
15 vendors are not bound by our rules. They are not  
16 licensees of ours. Their contract is ours, so  
17 they are bound by our contracts. Again, some of  
18 them may have been very good policy ideas, we  
19 have to take them up with our contractors.

20 COMMISSIONER DAUS: I want to add, Chuck,  
21 that I think some of them are good ideas and  
22 we'll discuss them with the vendors in terms of  
23 their contract extensions being up for renewal,  
24 we'll ask them if it's possible.

25 COMMISSIONER FRASER: Within that group,

1  
2 Miss Desai mentioned, she said the vendors should  
3 be required to provide free and timely copies of  
4 records to drivers. My understanding is that  
5 they do already, all though, you have to go on  
6 the internet to get them. Again, that's a  
7 contract issue. If the notion is that we should  
8 have them delivered in paper, that's something we  
9 can take up but it's a contract issue, not a  
10 rules issue.

11 Mr. Woloz's first point as to 173A is  
12 correct. There's a technical redundancy in the  
13 rule. It mentions Westchester and whatever the  
14 other one is, twice.

15 COMMISSIONER DAUS: Nassau.

16 COMMISSIONER FRASER: It's absolutely  
17 harmless. It's purely a redundancy. So, I would  
18 suggest that it's not a concern.

19 Next, the concern about group rides. The  
20 concern is one we agree with. The recommendation  
21 is not a rule-making issue, excepting that we  
22 already dealt with it. The reason we raised  
23 group ride fare on York Avenue is first because  
24 we understood that the in practice, the higher  
25 amount is already being charged. Second, because

1  
2 taking the \$0.50 out of that would not be fair.  
3 So we raised the York Avenue group ride.

4 We did not similarly treat the LaGuardia  
5 group ride because it's our understanding that no  
6 one uses that. And next month, the Commission  
7 will be hearing a staff presentation on that that  
8 will include something regarding the LaGuardia  
9 group ride.

10 As to the other group rides, the other group  
11 rides' fare is not fixed by rules but because  
12 they're pilot programs and the \$0.50 obviously  
13 will be taken into account in fixing those group  
14 ride fares.

15 The concern that our rule that provides that  
16 the driver must reimburse the owner for the tax  
17 no less than weekly, precludes the collection of  
18 the tax daily, I think, is incorrect. No less  
19 than weekly, no less often than weekly would  
20 permit daily collection.

21 As to the concern about the hierarchy, the  
22 first item from which the \$0.50 tax is to be  
23 collected is the credit card amount. I think  
24 it's our anticipation that virtually all of the  
25 time that will cover the tax. And then second,

1  
2 it would come out of the security deposit. If  
3 that's not the best way to do it, then it's  
4 second in the priorities, then that's something I  
5 think we can discuss. But as I say, I don't know  
6 that I can do that kind of rules revision on the  
7 fly here. That's something I think we need to  
8 discuss and meet about.

9 COMMISSIONER DAUS: There's nothing  
10 precluding us from passing these rules and then  
11 taking that up subsequently.

12 COMMISSIONER FRASER: Absolutely. In fact,  
13 we could even do it, if we chose to do it as part  
14 of the TATC revisions. But as I said, it's our  
15 anticipation that the credit card receipts will  
16 cover the tax all or almost all of time.

17 COMMISSIONER KAY: Chuck, I ask that if  
18 we're going to move on this now, that by next  
19 month, within the next month that you sort of  
20 write something up in response to some of these  
21 recommendations for all the Commissioners in the  
22 industry about whether one, if it is a state  
23 concern, not anything we can do about it. Two,  
24 we may have a disagreement in policy. Or three,  
25 let's work out and see if we can fix it. But I

1  
2 do think we should probably move on what we have  
3 now and come back to this next month only because  
4 if we don't move on it now, our number is going  
5 to come around and we're not going to be  
6 conforming.

7 I do think that all these things and you're  
8 trying to answer, I think, everyone's concerns on  
9 the fly. I think it's sort of appropriate for us  
10 to get some written answer on most of these of  
11 what purview it is, I think that would be  
12 helpful.

13 COMMISSIONER FRASER: A couple of the  
14 comments were directed --

15 COMMISSIONER DAUS: Was that a motion?

16 COMMISSIONER KAY: Sure.

17 COMMISSIONER DAUS: I'm just asking. I'm  
18 sorry, Chuck.

19 COMMISSIONER FRASER: A couple of the  
20 comments were directed to the payment mechanism  
21 from the driver to the tax payer. I think our  
22 assumption is and this is something I guess we're  
23 open to discussing, but our assumption was that  
24 the drivers who are not a tax payer under the  
25 statute would not really want a hassle with this.

1  
2           So I think our assumption was, for instance, that  
3           the suggestion is the driver setting up an  
4           escrow, so we're really not the preferred group.  
5           If the drivers want to tell us that they would  
6           prefer to do that, I think that's something we'd  
7           be open to. But I think our strong sense was  
8           that the drivers who are not the tax payer don't  
9           have to pay the tax quarterly to the state,  
10          aren't really going to want to hassle with it.  
11          They would rather be done with it at the end of  
12          the day. If that's not correct, obviously we're  
13          open to discussing that. Finally --

14                 COMMISSIONER DAUS: That might actually be  
15                 celebrating the technical amendment, correct?

16                 COMMISSIONER FRASER: Yes, the technical  
17                 amendment --

18                 COMMISSIONER DAUS: Right. Which could pass  
19                 any day?

20                 COMMISSIONER FRASER: Which may, it has  
21                 passed the Assembly, as I recall and Senate has  
22                 been doing one-day discussion sessions about once  
23                 a month, so you never know. Maybe they'll pass  
24                 it and make the tax payer the medallion owner,  
25                 which I think our sense is would be easier all

1  
2 the way around.

3 Mr. Lindauer's point about the credit card  
4 charge, the five percent charge, he is correct  
5 that if a customer pays the fare, which would  
6 obviously include the \$0.50 surcharge by credit  
7 card, that \$0.50 surcharge will be part of the  
8 five percent credit card pass law for \$0.50 that  
9 comes to two and a half cents. A driver who does  
10 really well, carries 30 trips a day, that's \$0.75  
11 a day. I'm not suggesting that I think it's a  
12 wonderful idea to give away \$0.75 a day but I'm  
13 going to suggest that it's not devastating. In  
14 any event, that's something we can continue to  
15 look at in the future.

16 And as I think everybody knows, we are  
17 looking at in TPEP Version 2, we are hoping for  
18 these vehicles having an operation of a cost-free  
19 system and that would eliminate the issue all  
20 together.

21 COMMISSIONER DAUS: I think it's also less  
22 of an issue given that fact that the credit card  
23 usage has really saved the yellow cab industry.  
24 Its hurt the black car industry but the usage is  
25 now up to like 36 percent. It's unbelievable how

1  
2 its helped the industry. So it's not an issue  
3 now but it is, as it was pointed out, an issue of  
4 concern and I promise you we will address that as  
5 part of the discussion with the contract  
6 amendment process and TPEP 2.0.

7 Do you have one more, Chuck?

8 COMMISSIONER FRASER: A couple of minutes of  
9 Desai's points that I didn't already hit.

10 Requiring the owner or agent to itemize on  
11 receipt the amount extracted in tax. That would  
12 already be covered by our rules. Our rules  
13 require an itemized receipt for itemizing each  
14 charge and that would apply here.

15 Explicitly add the MTA tax to the list of  
16 items for which the owner or agent can not  
17 overcharge. Again, I think that's already in the  
18 rules. The rules specify what can be charged and  
19 specify that nothing else can be charge and no  
20 overcharges would be permitted.

21 Deduct the tax from the gross, not the net.  
22 I have to confess, on the fly I don't really  
23 understand that. I think I would say that the  
24 tax is not deducted from either one. It's added  
25 to gross. But it may be that I'm just not

1  
2 understanding Miss Desai's point.

3 And that's all the comments that I have.

4 COMMISSIONER DAUS: All right. I think Jeff  
5 was intimating at a motion that we, I don't want  
6 to speak for you but that we approve the rules  
7 and that we come back in a month or so to see if  
8 Chuck has any recommendations after he consorts  
9 through some of these additional points and  
10 addresses them one by one. But I think we are  
11 under, we've got to move on this. Otherwise,  
12 it's going to be problematic.

13 Does anybody else have any questions?

14 (No response.)

15 COMMISSIONER DAUS: Okay. So I think Jeff  
16 had moved. Do we have a second?

17 COMMISSIONER AROUT: Second.

18 COMMISSIONER DAUS: All in favor?

19 THE COMMISSION: (In unison) Aye.

20 COMMISSIONER DAUS: Thank you. I think we  
21 actually have to add something to the agenda. I  
22 will create an Item 5B. We tried to make this as  
23 painless as possible but we are going to have to  
24 change the stickers. So the Commissioners have  
25 all looked at a mockup. I want to thank DOT's

1  
2 print shop for working with Samara on this.

3           So the one thing that would change and is  
4 consistent with the rules we just passed is the  
5 initial fare on the outside sticker would go from  
6 2.50 to 3. But under the state's waste measures  
7 division's requirement, basically everything will  
8 have to be itemized separately as an MTA tax or  
9 state surcharge, which it will be on the receipts  
10 and which it will be on the pins in the back of  
11 the car, correct?

12           COMMISSIONER FRASER: Yes, that's right.  
13 The state law, the whole regulatory framework  
14 that governs meters requires that the receipt  
15 itemizes extras separately from the main fare and  
16 waste measure rules for us that the MTA surcharge  
17 is an extra. That, though, does not govern the  
18 detail that goes on the outside of the cab. So  
19 we decided that simplicity was primary virtue  
20 here and so the only change we're making to the  
21 detail is that it goes from 2.50 to 3.

22           COMMISSIONER DAUS: So I guess what I'm  
23 getting at is that I'm advised that we have to  
24 approve a new sticker. So do we have a motion to  
25 approve?

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2           COMMISSIONER POLANCO: Question. For a  
3 passenger, it would look like a fare increase in  
4 a way, right? But in the receipt it will say, it  
5 will show 2.50 fare and the \$0.50 is the tax?

6           COMMISSIONER FRASER: Yes. The receipt will  
7 distinguish them and the pin will distinguish  
8 them. The decal on the outside will not. I  
9 think our sense is that people don't really  
10 decide whether or not to get in a cab based on  
11 the fine print on the decal. I think that's our  
12 sense and that that decal really serves as a  
13 branding indicator that this is an approved taxi,  
14 they are going to charge the standard fare. I  
15 don't think passengers, frankly, really study  
16 that.

17           COMMISSIONER DAUS: That's true. It's hard  
18 to look at.

19           COMMISSIONER POLANCO: I think it's  
20 basically going to, that's the impression but.

21           COMMISSIONER DAUS: Yes.

22           COMMISSIONER POLANCO: I just want to be  
23 clear.

24           COMMISSIONER DAUS: It is for all practical  
25 purposes but the cabs are going to start looking

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ugly if we put all these surcharges and stuff.  
It's nice and simple.

So I think we have a motion to approve this sticker. Do we have a second?

COMMISSIONER AROUT: Second.

COMMISSIONER DAUS: All in favor?

THE COMMISSION: (In unison) Aye.

COMMISSIONER DAUS: So now I would like to go to Item 6A, Hearing Loop Technology. I also want to acknowledge, not only is Janet Shacter here but assembly member Mike Akel is here. I want to welcome you.

MR. KLAHR: Good morning, everybody.  
Hopefully this is a little less controversial.

This is a report on a pilot program that actually was approved quite some time ago, originally in October 2007, to test Hearing Loop Technology, which allows people who utilize hearing aids to receive an enhanced audio component directly into their hearing aid, making it easier for them to hear the drivers.

If you remember, the driver had a microphone in the front cabin and then the hearing loop is installed unobtrusively and invisibly in the rear

1  
2 cabin. And then, if you have your hearing aid  
3 set to the correct setting, you can hear what the  
4 driver is saying directly into your hearing aid.  
5 The test was to see whether this technology  
6 worked in taxi cabs and whether or not people who  
7 were trying it out liked it or not.

8 So originally it passed in October of '07,  
9 originally for 13 months but we extended it to  
10 allow for a more complete survey response. We  
11 didn't get a very large number of surveys  
12 initially. And I want to thank Fred for kind of  
13 going back to the well one more time and coming  
14 up with a very large number of additional  
15 surveys. We really appreciate that.

16 Under the terms of the original pilot, there  
17 were 15 cabs per vendor. However, there was only  
18 one vendor. And then survey and report  
19 afterwards.

20 The company that participated was called  
21 Assistive Audio and they're based in Toledo,  
22 Ohio. They actually had done quite a bit of work  
23 for private firms and government entities here in  
24 New York, so this a market that they are somewhat  
25 familiar with.

1  
2           The survey was done via comment cards  
3 located in the cabs themselves and also via  
4 e-mail. But not that many people responded by  
5 e-mail, most of it was cards. A total of 95  
6 passenger responses, which we considered a good  
7 number of responses. One interesting fact was  
8 for half of the people who responded, it was  
9 their first time trying out a hearing loop  
10 system. It was an interesting question we put on  
11 the survey. We want to get a sense of how often  
12 people use these hearing loops. So for quite a  
13 few people, it was their first experience with  
14 it.

15           We also received 11 owner or driver  
16 responses because we wanted to hear from the  
17 industry. How did it effected the functioning of  
18 the cab? Was it easy or hard to install? Did it  
19 do anything to the cab? The responses were  
20 overwhelmingly positive from owners and from  
21 drivers. You don't notice it if you're not using  
22 it and there was no impact at all on service in a  
23 negative way.

24           So the final survey results were that 75 out  
25 of the 95 respondees thought the loop made a

1  
2 great improvement, making it easier to hear the  
3 driver. That is the highest possible response  
4 they could give is the best response they can  
5 give. An additional 18 people thought it was  
6 much easier. That's the second highest response.  
7 However, there were two people who thought there  
8 was not much improvement. They didn't elaborate  
9 on their surveys as to why but that's still  
10 pretty good numbers.

11           Additionally, 73 out of the 95 users thought  
12 there was a great improvement in communicating  
13 with the driver. This was much more uniform in  
14 response. That is the highest possible response.  
15 And overwhelming majorities thought there was a  
16 very large improvement. I should note that there  
17 were no negative responses in this category in  
18 terms of communications. So even all the people  
19 who thought there wasn't much improvement in how  
20 they could hear the driver still thought it made  
21 a difference in communicating with the diver.  
22 Everybody who participated thought it made a  
23 difference.

24           Therefore, the staff's recommendation is  
25 that the hearing loops do not interfere in any

1  
2 way that we can detect in normal cab operation.  
3 All the passengers that have used it have  
4 responded positively. All the drivers that have  
5 used it responded positively.

6 We should note that hearing loops are not a  
7 uniform standard in the United States. About  
8 half, a little more than half of people who use  
9 hearing aids have the technology incorporated in  
10 order to be able to use the hearing loops. But  
11 it is increasing in popularity, so that number is  
12 going to go up every year.

13 Therefore, our recommendation is to extend  
14 the current pilot until the end of this year in  
15 order to allow time for rule making so people who  
16 have it already in their cars don't have to rip  
17 it out.

18 We also recommend approving this particular  
19 technology for voluntary installation by any  
20 owner who wishes to do so. Not just in medallion  
21 cabs but across all TLC regulated industries. It  
22 works in cabs, there is no reason why this  
23 wouldn't work in an FHD, a power transit vehicle,  
24 commuter van seems to help, not hurt anything.

25 And we would also like to explore including

1  
2 this technology as part of Taxi of Tomorrow. So  
3 eventually when we transition to an uniform  
4 vehicle for the industry that it incorporates  
5 improvements for people with disabilities that  
6 this is included within those improvements.

7 The cost is relatively low and it's easy to  
8 install and doesn't effect normal operations.

9 That's all unless anybody has any questions.

10 COMMISSIONER DAUS: Any questions?

11 (No response.)

12 COMMISSIONER DAUS: Okay. So my  
13 understanding is the staff is recommending that  
14 we continue the pilot so we can keep the  
15 equipment that's in these piloted vehicles in it  
16 while we are rule making?

17 MR. KLAHR: Correct. In other words, the  
18 pilot will expire and they'd have to take it out  
19 and we'd prefer they keep it in.

20 COMMISSIONER DAUS: Well, we do intend to do  
21 rule making if the Commissioners approve that  
22 will approve this as an ongoing voluntary  
23 installation. And I want to really thank Janet  
24 Shacter, who is here with us today, for being the  
25 advocate who made this happen and was very

1  
2 persistent and it was a successful pilot. And  
3 I'm please to announce she is going to be working  
4 with us in the Mayor's office on the Taxi of  
5 Tomorrow project. She's joined subcommittee of  
6 stake holders that deals with accessibility  
7 issues, chaired by Commissioner Matt Staplan, of  
8 the Mayor's office of People With Disabilities.  
9 So thank you for all your hard work on this.

10 I would like to make a motion that we extend  
11 the pilot until January 2010, that we approve the  
12 annual technology for voluntary installation  
13 across all TLC regulated industries and that we  
14 also preserve a rule making before the end of the  
15 year. That's my motion.

16 COMMISSIONER FRASER: I move it.

17 COMMISSIONER AROUT: Second it.

18 COMMISSIONER DAUS: All in favor?

19 THE COMMISSION: (In unison) Aye.

20 COMMISSIONER DAUS: Thank you very much.  
21 Congratulations.

22 The last item on the agenda is Item 6B. I  
23 thank you all for your patience. This is the  
24 Operation Safe Cab sticker. Is Pansy able to or  
25 are you able to describe where we, at least for

1

2 the record, want to put it?

3 MS. MULLINGS: Sure.

4

5 COMMISSIONER DAUS: Now, I mentioned  
6 earlier, Fernando Matteo, the Federation and also  
7 the Police Commissioner have partnered with us to  
8 put this program formally known as the Trip  
9 Problem or actually still known as the Trip  
10 Program, now know own as Operation Safe Cab, to  
11 allow technically in our livery rules the sticker  
12 to be placed and authorized. So have we worked  
13 out a location that we would like to describe for  
14 the motion? Because we do need to approve it as  
15 I understand it.

16 MS. MULLINGS: Yes, we have. So we kind of  
17 putting it right now with the poker chip sticker  
18 in the rear corner window or the opera window.  
19 If there is no opera window, then it goes in the  
20 rear window, sort of in the bottom, right conner.  
21 I think we're suggesting the Operation Safe Cab  
22 sticker go above that and that's where PD will  
23 put it. It's been put in a few different  
24 locations now but that's where we'd like to put  
25 them.

25 And Pansy, we're just going to get a copy of

1  
2 the sticker to show you. They're square, they're  
3 about that big (demonstrating) on them and it  
4 basically says the Police Department has the, it  
5 has the Police Department logo and it says the  
6 car can be stopped at any time if they suspect  
7 that they may need some assistance.

8 COMMISSIONER DAUS: Those stickers have been  
9 out there for quite some time. So are they able  
10 to put it on the rear, not the rear quarter panel  
11 window but one of the rear windows if they want  
12 to because some people were requesting that as  
13 well. Are you recommending that we allow that or  
14 do we want to put it uniformly?

15 MS. MULLINGS: I think it's fine to suggest  
16 that if it could either be on the rear window or  
17 rear, corner window.

18 COMMISSIONER DAUS: The rear, side windows?

19 COMMISSIONER FRASER: Not the rear  
20 windshield?

21 MS. MULLINGS: Yes. I mean the side window.  
22 We don't want to a break state law.

23 COMMISSIONER DAUS: Can we have a motion to  
24 approve that?

25 COMMISSIONER AROUT: Make a motion to

1  
2 approve that.

3 COMMISSIONER POLANCO: Why do we need an  
4 approval? It's already there now.

5 COMMISSIONER FRASER: The reason we need an  
6 approval, the sticker has already been approved  
7 but the Commission's approval, whatever years  
8 ago, did not specify locations for it. The Police  
9 Department has indicated that preference as to  
10 where it goes and we want to incorporate that  
11 into the approval. That's why there's a motion.

12 COMMISSIONER DAUS: There was a lot of  
13 confusion and people upset where do I put my new  
14 sticker that the TLC is requiring, where do I put  
15 this. It's better because they can at least tell  
16 the police officers where to look for the  
17 sticker.

18 MS. MULLINGS: And so passengers will see it  
19 when they get in the car so part of it is for  
20 driver safety.

21 COMMISSIONER POLANCO: That's fine. I was  
22 confused. Basically that has been approved a  
23 long time ago.

24 COMMISSIONER DAUS: Yes. We're just  
25 approving the location.

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2

COMMISSIONER GONZALES: Just one quick question. Who puts the sticker on? Is it TLC or the Police Department?

4

5

COMMISSIONER DAUS: Police Department.

6

7

MS. EPSTEIN: We also have it at Woodside, so we'll be putting it on and the Police Department will be putting it.

8

9

COMMISSIONER DAUS: Pansy's staff has been really helping out greatly.

10

11

So we have a motion; do we have a second?

12

COMMISSIONER POLANCO: Second.

13

COMMISSIONER DAUS: All in favor?

14

THE COMMISSION: (In unison) Aye.

15

COMMISSIONER DAUS: Thank you. Do we have a motion to close the meeting?

16

17

COMMISSIONER FRASER: Make the motion.

18

COMMISSIONER AROUT: Second.

19

COMMISSIONER DAUS: All in favor?

20

THE COMMISSION: (In unison) Aye.

21

COMMISSIONER DAUS: Happy Rosh Hashana to everybody who celebrates the holiday and we will see you in October. And a happy Ramadan, end of fast.

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(Time noted: 11:18 a.m.)

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C E R T I F I C A T E

STATE OF NEW YORK        )  
                                  :ss  
COUNTY OF SUFFOLK        )

I, NICOLE LIMONCELLI, a Notary Public in and  
for the State of New York, do hereby certify:

THAT the foregoing is a true and accurate  
transcript of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my  
hand this            day of            , 2009.

NICOLE LIMONCELLI