Testimony of Commissioner Meera Joshi
NYC Taxi and Limousine Commissioner/Chair
City Council Committee on Transportation

January 12, 2015 Testimony on:

Int. No. 47, in relation to removing the off-street parking requirement for base station licenses.

Int. No. 556, in relation to prohibiting for-hire vehicles from charging excessive rates.

Int. No. 559, in relation to agreements between livery base stations.

Int. No. 615, in relation to allowing the taxi and limousine commission to consider improved trouble lights for use in licensed vehicles.

Good morning. I am Meera Joshi, Commissioner and Chair of the New York City Taxi and Limousine Commission. Chair Rodriguez, members of the Transportation Committee, and members of the Council, thank you for the opportunity to speak today on four bills that directly affect operations of industries licensed by the Commission.

Int. No. 47

Int. No. 47 would eliminate a longstanding requirement that each livery base provide off-street parking for fifty percent of its affiliated vehicles. Those who crafted the existing requirement likely hoped that the dedicated off-street parking would reduce street congestion around bases. However, there is no requirement that drivers use this parking, and we hear anecdotally that many drivers do not use it because it is more practical for them to park elsewhere. Some drivers park at their homes when they are not working or at locations convenient for their next passenger pickup when they are between calls. Unfortunately the requirement does not achieve its intended purpose, and we support this legislation, which eliminates the requirement.

We recognize that sometimes neighborhoods have real concerns with drivers who congregate on the street and occupy on-street parking. This is the case even with the existing requirement, which suggests that it has not solved the problem. Car service drivers are allowed to park on the street so long as they follow all posted regulations. However, they are of course *not* allowed to engage in activities like littering or making noise above legal limits. When we hear about these issues, we find that the most effective means of addressing them is to work with the key actors in the community. We speak to the drivers' base to engage management's support in correcting the behavior, we contact the local precinct so police can respond if necessary, and we apprise the local community board of the complaint and the City's actions to remedy it. We find that community car service bases have vested interests in maintaining

strong relations with the neighborhoods they serve, and their partnership, along with enforcement when necessary, is the best way to ensure that drivers are good neighbors. We will continue this practice and build on it should Intro. No. 47 pass.

Int. No. 556

New York City for-hire transportation is a complex, dynamic industry. It serves a large, diverse, and growing passenger base through channels ranging from calling the local car service, to booking an airport pickup online, to ordering a car through a tap on a smartphone. Overall this is a really good thing: New Yorkers have more options for getting where they need to go than they did just a few years ago.

With this growth and change comes a need to reexamine the regulations that surround this industry. Whereas, traditionally our approach to regulating pricing in the for-hire industry has been to let market competition, among an uncapped number of car service companies, drive pricing and customer service levels—something that for many years worked well and provided New Yorkers with a full range of choices—recent changes, such as apps that engage in surge pricing, have caused us to give this topic a fresh look.

One common justification for surge pricing is that it allows bases to entice drivers to work and serve passengers in order to ensure vehicle availability when cars are scarce. However, it is hard to think that vehicle scarcity is today's reality. In 2012 there were 38,000 For-Hire Vehicles (FHV) and 52,000 FHV drivers. Those numbers have ballooned in two years to approximately 50,000 FHV vehicles and 70,000 FHV drivers. And therefore, one of the fundamental reasons for unfettered surge pricing—an insufficient supply of drivers—likely no longer exists. I am also concerned that apps could actually use their technology to perpetuate a false scarcity of vehicles, leaving passengers with the impression that aggressive surge prices are justified—and that accepting them is the only way home—when they may be the result of artificial inflation.

Although in general I believe that companies and consumers should be able to agree upon a price and proceed with a transaction so long as both are willing, I believe there is some breaking point—what comes to mind is the example of a young woman in Baltimore who took a 20-minute Uber ride home late at night on her 26th birthday that cost her $362. It is situations like these when passengers in a vulnerable position may need some protection from companies taking advantage of their situations.

A final concern of mine that I'm sure is nearly universally shared is when passengers receive a bill at the end of a ride that is far more expensive than they expected when they stepped into the car. Most of us have had experiences when we have paid a high price for a service and believe it was well worth the cost, but it is essential that the City help ensure that consumers have true transparency about the prices they will be paying.

For all of these reasons, I strongly support regulation surrounding surge pricing to protect passengers from egregious pricing. However, I am not able to specifically support Int. No. 556 for several reasons:

- As drafted, the legislation would penalize the driver for charging a surge price at a level that is higher than permitted. We have to remember that it is the base, not the driver, that sets the fare. Therefore, the appropriate responsible party for legislation going forward would be the base.
- We also have to remember that developing a standard for how high is too high is a very complex task. Creating an objective standard that will work for the majority of passengers requires a baseline understanding of prices generally, and then the point at which people think they are being "ripped off." I cannot tell you today that I know what that breaking point is, nor do we have much of the underlying information that would help determine it. To create a regulatory framework that is meaningful and truly meets the City's goals of protecting passengers requires a carefully crafted policy. It is well worth our time to do more systematic data collection, serious research and broad community outreach on this issue so we can be confident that we are getting the policymaking right.
- We have to take a hard look at what specifically we are trying to achieve and any unintended consequences that may result. We would need to think if the cap would be an overall maximum charge permitted by *any* base licensed in NYC, which could be difficult given the diversity of prices charged by luxury versus mass market businesses, or whether the cap would be linked to the prices that a specific base typically charges. With the latter option, as drafted in the legislation, the "normal range of prices" would have to be recalculated for each base every day and can include the previous day's surge pricing rate, which would mean that the "normal range of prices," and the subsequent allowable surge pricing rate, could increase every day to the point at which the bill would be self-defeating.
- Because passengers may not always know when they have been overcharged, true enforcement of a surge pricing cap requires TLC access to fare data so that it can be continuously analyzed to set baseline prices against which surge levels can be measured and continuously reviewed for violations. New TLC rules to increase accountability in the FHV industry call for regular trip record submission to TLC, but currently the fare is not a field in the required dataset.
- Finally, I think most recognize that, within reason, dynamic pricing can be a good thing. It is common in other transportation industries, such as trains and airlines, and used by other businesses, such as restaurants that offer early bird specials, to smooth consumer demand between peak and off-peak times. I do believe that at certain times when drivers are choosing between working a busy night or doing something else, the availability of additional income opportunities tips the scales towards working, creating more service availability for passengers. Therefore, I recommend that legislation going forward strike a balance between protecting passengers from outrageous pricing and allowing dynamic pricing to provide the benefits of more service availability at times when scarcity could become an issue.

We have also begun working on a set of TLC rules that would require additional price transparency so that passengers who are making a choice to take a ride, regardless of its cost, have the information they need at the get-go to make an informed decision. For livery

passengers, who are entitled to a binding fare quote at the beginning of the ride, we are clarifying rules to ensure that any base, including an app-based base, is required to provide the passenger with the opportunity to provide a destination and receive a binding fare quote each and every time he or she requests a ride. For passengers ordering black cars through apps, which do not have a binding fare quote requirement, we are also exploring what requirements we need to put in place to ensure that passengers have a very clear sense of what it is going to cost *before* they book the ride. Of course, we welcome your input as to what tools we could best employ to ensure price transparency. We look forward to working with Council on all of these issues and appreciate your attention to this important matter.

Int. No. 559

Requiring agreements between bases wishing to dispatch one another's affiliated vehicles is something the Commission considered last year. After extensive conversations with base owners, FHV drivers and workers' compensation experts, along with field testing and a public hearing on the matter, we came to have significant concerns with the agreement requirement and declined to move forward with it. I would like to share these with you.

We originally considered imposing an agreement requirement out of concern that there may be a gap in workers' compensation coverage for drivers when they were dispatched by bases other than their home bases. But after over two months of information gathering, it became clear that an agreement between bases was not a prerequisite for coverage in either the black car or the livery car sector, so ensuring workers' compensation coverage was no longer justification for an agreement requirement.

Through the process we also came to have a real concern that a base agreement rule would give insufficient deference to the legal status most drivers have as independent contractors rather than base employees, and that it could limit drivers' earning opportunities. The downside for drivers of not being base employees is that the base does not provide them with many common benefits of employment, such as healthcare and sick leave. The upside, however, is that drivers have a right to greater flexibility to choose when they work and who they work for. Requiring base agreements would diminish the upside of their independent contractor status without gaining them any of the benefits of employment. Practically, a driver affiliated with a base that did not have agreements with other bases—either because it did not wish to enter agreements or because the agreements offered by other bases were deals it could not accept and still remain profitable—would lose his or her freedom as an independent contractor to earn additional income by working with other bases, even during times when he or she had made no commitment to fulfill trips from the home base.

Additionally, although agreements may at first glance seem like a way to protect smaller bases from having their drivers' time preoccupied by dispatches from other bases, the requirement could actually end up hurting them by making it more difficult for small bases to retain drivers. Some smaller bases do not always have enough business to occupy their affiliated drivers *or* enough market power to enter into an agreement with another base that has terms friendly enough for the smaller base to accept and remain profitable. Allowing drivers affiliated with

small bases to supplement their income by taking trips from other bases—without needing the base owners to come to an agreement—could actually help smaller bases retain drivers rather than lose them to larger, busier bases.

As to Int. No. 559 specifically, imposing the agreement requirement on the livery industry *only* may create an imbalance that will draw drivers away from the livery industry and to the black car sector where drivers have increased opportunity to work. For these reasons at this time we are not supportive of mandating livery base agreements.

Int. No. 615

We are grateful for Council's support when we proposed updating the "trouble light" requirements. The proposed legislation would remove the outdated "trouble light" specifications and give TLC and the industry the freedom to invest in the best possible alert technology to protect drivers in distress. Notably, this is the second driver protection initiative undertaken by the Council within four months.

Once enacted, the TLC would be able to explore systems that go far beyond the current blinking light and create trouble light specifications that could be more useful to law enforcement and ultimately keep drivers safer. Thank you for proposing a simple change to the Administrative Code that could have a positive impact on driver safety.

This concludes my testimony on the proposed legislation. At this time I would be happy to answer any questions you may have.