PRESENT:

MATTHEW W. DAUS, CHAIRPERSON/COMMISSIONER

ELIAS AROUT, COMMISSIONER

HARRY GIANNOULIS, COMMISSIONER

IRIS WEINSHALL, COMMISSIONER

EDWARD GONZALES, COMMISSIONER

JEFFREY KAY, COMMISSIONER

CHARLES FRASER, GENERAL COUNSEL

CHAIRMAN DAUS: Good morning, everyone. I am very, very sorry to keep everybody waiting. There was a bad accident on the Brooklyn Bridge that delayed one of our
commissioners so I apologize for that. We will try to be as brief as we can. It is a long day with a long agenda. I would like to go to item one on the Chair's report. I am going to truncate my report in the interest of time. First, just a reminder to everyone that we are going to be holding a public hearing on April 16 at our regular Commission meeting concerning livery reforms to the FHV industry and the FHV rules. Many stakeholders already know about this. The rules are posted on our website. There are actually copies on the back of a handbook or a synopsis of the changes that the Commission is proposing.

If there are any stakeholders that want to meet prior to the meeting, we are willing to do so. I think we have met with mostly everybody.

To that end, also, the council had passed and the Mayor had signed a livery passenger bill of rights on February 26. That will be part of this rule proposal as well, and we will be voting on that day.

The monthly report on the Accessible Dispatch Program system, there is actually a lot going on. First, there has been a change to the policy regarding lane priority at JFK International Airport. For those of you who remember, at the beginning of this process we gave shorty tickets or line priority to everyone who had an accessible vehicle.

Now, as of March 1st, only priority will be given to those who actually have demonstrated through a process that they have actually taken an accessible ride or given an accessible ride to a wheelchair-bound passenger.

We also, effective this week, are starting a program that we have been working on very closely with several industry members in the Mayor's Office of Operations regarding using the taxi technology systems and the driver information monitor in the front of the accessible yellow cabs to now be utilized for the dispatch of accessible cabs in addition to the BlackBerry, so about half of the 238 accessible cars will be BlackBerrys as part of this pilot, and we will be comparing that to about half that will be operating using the T-PEP system, and we will monitor to see which works better.
I want to thank a couple of groups that assessed in that: The Greater New York Taxi Association, Creative Mobile Technologies, also Aleph and Executive Charge.

This has a lot of potential for future applications, whether it be access-a-ride or other issues, and we will be looking at what the future may bring if this system works well in terms of using prepaid or other debit cards as part of that system to transport passengers in the cars.

The dispatch service numbers, we have, as of -- actually, we had an increase in activity. It has increased to about 81 calls per week so on average we are seeing about 39 vehicles logging on daily to accept calls.

The total number of dispatches so far has been 1404, 149 cancellations. The average wait time has consistently been in the same range, about 31 minutes, and that is pretty much it.

I am not going to get into details about this, but as you probably know, there are bus lane cameras on 34th Street, and there is also a big change coming up in June regarding Broadway, that DOT is going to be closing down certain parts.

There are industry notices describing that out front, and actually we have already had some outreach meetings with DOT and the Mayor's Office with the industry, and we will continue that outreach before June to make sure that everybody understands the terms of the pilot.

Taxi Technology Systems, we are expecting within the next week or two to release the RFI that has been promised.

And also, as you have probably seen, many of you, a New York Times article, for the first time we have comprehensive data and the ability to massage it and tweak it and show, quite frankly, exactly what the cabs are doing at all times so it is very, very interesting.

Just a couple of quick highlights. We now have all data at our fingertips to analyze from December of '08 to February of '09, and every month we hope to put on our website and show the public the monthly changes that we are seeing in the industry so ridership and other data will be kept up to date at all times for everybody to see, consistent with our transparency policies.

The good news about the data we
have seen is that ridership is consistent. It is actually up from December to February, and the actual number of riders have increased actually by 11 percent from December to February.

There are more cabs on the road. Drivers are still earning between $14 and $16 per hour, and they are actually surprisingly working less hours than expected. They are working anywhere between -- certainly less than nine-and-a-half hours on average per driver in this industry, which is a lot less than we thought.

Credit card usage continues to be consistent at 20 percent.

Unfortunately, the black car industry has been losing some money and some fares as a result of unintended consequences to credit cards being in the yellow cabs. I think that is clear at this point, and it is what it is.

Our thoughts are with the black car industry. I am confident that they, as a resilient industry that they have demonstrated to be in the past, will bounce back and do what they can from an innovation standpoint, as they did after 9-11, to deal with the economic conditions that they are facing right now.

But on the taxi side, it is encouraging news I think for the industry, especially since hotel occupancy has continued to decline, and airport arrivals have continued to decline so it is actually a little bit of good news in all the things that are going on with all the economic challenges that we are facing.

On that note, also we have some more records that were broken for the taxi drivers. We have a record number of 47,200 drivers, which is the most drivers we have ever had in the history of the New York City taxi industry.

Medallion sale prices, also the highest sales prices we have ever seen in the history of the TLC this month. Individual -- corporate sales, $750,000 on average in both January and February, and an average of $559,000 for an individual cab in January.

There is also a lot going on on the technology front with hearings and adjudications.

Since December of '08, passengers can testify by phone. They call 311 if they have a complaint against a cab or
an FHV driver or owner. They can testify by phone, and licensees also from the Staten Island facility who would like to contest their summonses can actually go to the facility and testify by phone. And as of this week, thanks to the hard work of Jeff Grunfeld, Gary Weiss and especially Ray Scanlon, Under Deputy Commissioner, as well as Commissioner Arout, we are pleased to announce we are the first city tribunal in the City of New York, and anywhere that I can think of, to offer video conferencing to our licensees in Staten Island. And hopefully, if that works, we can roll that out to our passengers and anyone who files complaints. Just think about that. And some of the money actually came from the Mayor's initiatives, the green initiatives, so this is great. People don't have to actually go in their cars and be transported to hearings and be hassled by waiting in line at Long Island City. You can now hopefully testify from our Staten Island facility. If this works, passengers can testify from wherever they are using webcams, and all of you would be able to testify in your offices. You never have to come to the TLC, which I am sure will please a lot of people. That is something that is real cutting edge, and I want to thank the staff. They worked very, very hard on getting this done very quickly, and we are going to work to do it and with the staff to make sure this is successful, and I want to thank Commissioner Arout. It is nice to have our new groundbreaking initiatives on Staten Island as opposed to -- sometimes Staten Islanders complaint that they are left behind. Here at least in the TLC they are doing, getting most of the cutting edge stuff that we are seeing. Hybrids, we have 2,019 total hybrids and 13 clean diesels on the road for a total as of today of 2,032 clean vehicles. That is over 15 percent of our entire taxi fleet. The rules of the revision project, we are going to vote on a couple of rule revisions today, but our next meeting and public hearing will be held in this room on April 3rd at 2:30 p.m. regarding brokers, Chapter 12, and our next meeting, we only have
a day for an April meeting, as I said, is
April 16.

That concludes my report.
Do we have any questions?
There being no questions, I
would like to move to item 2 on the agenda,
adopting the minutes of the February 12, 2009
commission meeting.
Do we have any comments, changes
or revisions to the minutes?
COMM. AROUT: Make a motion to
approve.
CHAIRMAN DAUS: We have a motion
to approve.
Do we have a second?
All in favor?
(Chorus of "ayes.")
CHAIRMAN DAUS: Minutes are
approved.

Item 3, can I have a
representative from Licensing, please?
MS. STEELE-RADWAY: Georgia

CHAIRMAN DAUS: Georgia, I just
received a letter from the community board on
Double A Car Service so I am going to pull
that one off the agenda, and we are going to
try to investigate what their complaints are
and come back with that one next month.
MS. STEELE-RADWAY: Licensing
would like to present before the Commission 17
bases with a recommendation for approval.
CHAIRMAN DAUS: Any questions?
Do we have a motion to approve
the bases that are listed on item 3 on the
agenda with the exception of Double A Car
Service?
COMM. AROUT: Motion to approve.
CHAIRMAN DAUS: Second?
All in favor?
(Chorus of "Ayes.")
CHAIRMAN DAUS: No denials this
month?
MS. STEELE-RADWAY: No.
CHAIRMAN DAUS: Item 4, For
Commission Action, Rules Revision Project;
Item 4(a), chapter 2, TLC Administrative
Matters.
Chuck, do you have anything to
add?
MR. FRASER: We have two

chapters for the TATC Rules and Revision
Project for vote this month. These would
recodify existing rules governing pilot
programs, rule making petitions and taxicab agents.

Both chapters were published for their prior 30-day public comment period, followed by public hearing at which I presided.

Copies of the written comments and hearing transcript have been supplied to the Commissioners.

Staff is recommending that one change be made to proposed Chapter 13, specifically Section 1302(b). This change is necessary to conform the rules to a Local Law that was passed last year providing a 30-day period for payment of a fine assessed by our adjudications tribunal, and staying payment further if a timely appeal is filed.

Copies of the proposed rules, including this recommended revision, have been given to the Commissioners and are available to the public in the back of the room.

The staff is recommending that the Commission approve these two chapters subject to a further vote giving final approval to the entire rule vote and appeal of the existing rules at the completion of this phase of the Rules Revision Project.

CHAIRMAN DAUS: Are there any questions on Chapter 2?

We have a motion to approve?

COMM. WEINSHALL: Motion.

CHAIRMAN DAUS: Second?

Commissioner Arout.

All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: Chapter 13, tax agents, item 4(b) on the agenda.

MR. FRASER: I actually thought that was included.

CHAIRMAN DAUS: Just to clarify, because I think my comments were on Chapter 2, so just to clarify, to bring it to a vote, Chapter 2 and Chapter 13, we have a motion to approve?

COMM. AROUT: Approved.

CHAIRMAN DAUS: Second?

All in favor?

(Chorus of "ayes.")

CHAIRMAN DAUS: Item 5, Proposed Rules for Public Hearing and Commission Action. Item 5(a) is the Repeal of Special Inspection Requirements for Accessible and Alternative Fuel Taxicabs.

MR. FRASER: These proposed rules would repeal an existing rule relating
to vehicle retirement extensions for clean air
and accessible taxicabs.

    Under existing rules, in order
for accessible and clean air taxicabs to
qualify for an additional 12 to 24 months of
vehicle life, such vehicles must pass
inspection on the first try at least two out
of three times during the 12-month period
immediately preceding the time at which such
vehicle would otherwise be require to be
retired.

    The intent was to insure that
such vehicles were well-maintained by owners;
however, in light of our experience with the
rule, the staff believes that such a
requirement is unnecessarily restrictive.
    A vehicle should not be forced
into retirement because of minor inspection
failures that can easily be remedied for a
follow-up inspection.

    The proposed rule would, of
course, retain the requirement that a vehicle
must pass inspections to remain on the road
regardless of its scheduled retirement date.

    The proposed rules were
published for a 30-day public comment period,
and no comments were received.

    CHAIRMAN DAUS: Thanks.

    The first pre-registered speaker
we have is Councilman David Yassky, and in the
interest of professional courtesy, the Council
member has requested, and we will grant him
the ability to comment on any of the rules
today since he has to leave and serve the
people.

    Thank you, because this law was
actually something that you had sponsored and
helped pass so it is going to see you here
today.

    COUNCILMAN YASSKY: Thank you.
I do indeed -- I at least have to attend a
council hearing so thank you for the courtesy.

    First, I want to speak in strong
support of item (a). This is, as Chuck Fraser
explained, put in place to see how the kind of
pilot program would work, whether the vehicles
would be durable. The experience shows
absolutely.

    Now, in practice, you have kind
of a higher standard of maintenance for the
fuel efficient vehicles and for others,
inconsistent with the goals of the Commission,
and so I strongly support, and I really thank
you for going back and taking a look at that.
I appreciate the Commission being so diligent
on that. I would like to just say a quick word about items (b) and (c), and I appreciate you letting me do that.

Item (b), if that is correct, if that is the difference in the incentive for fuel efficient vehicles, I am here to testify in full-throated enthusiastic support of what the Commission is doing here, the Mayor's and Commission's initiative.

To ensure that the entire city taxi fleet is fuel efficient I think is one of the most important environmental issues that this city government has ever undertaken. I am in unabashed admiration for the Commission's work on this.

Due to the unfortunate federal court decision that struck down a mandate, what you are doing here actually is the exact right policy.

Because the savings of the -- the fuel savings of a fuel efficient car are, you know, realized by the driver rather than by the owner, it makes sense to structure the lease cap rates so that the driver has, you know -- saves on gas, pays a higher medallion fee or car rental fee, and the owner, who doesn't see the gas savings, does see some extra revenue to compensate them for the increased cost of purchasing the hybrid in the first place.

This actually is a better policy even than the original one so I commend the Commission for doing it. I am just here to enthusiastically support it.

I do want to say just a quick word also about item (c). If lease cap variations are going to be effective and work as policy, the lease caps themselves have to be meaningful, and what the Commission is doing in item (C) is addressing what has become, I think, an egregious loophole in the lease cap system that allows medallion owners to lease the medallion to a driver and say "Okay, you leased the medallion from me, but you have to at the same time buy your car through me," and from the research that we have done in our office, it appears that in many cases -- I am not going to say all because we don't know, but at least from the leases, the sales agreements that we looked at, you see a lot of examples of medallion owners charging twice as much, literally twice as much to purchase the car as it's actually worth so it really is simply a way for the
medallion owners to circumvent the lease cap, and if we are going to have lease cap incentives mean something, then the lease caps have to mean something. You can't allow folks to circumvent it.

That means you need every permutation that creative lawyers can figure out must be addressed, and this you are moving to address that in item (c). I commend you for doing that.

My last comment would be to say I urge you to look hard and closely at the economics as you do that and not set the combined lease cap so high that it really does allow the exploitation that has been in place heretofore.

It shouldn't allow somebody to charge 40,000, $38,000 for an 18 or 20 or $23,000 car. That will slowly but surely drive everybody into that arrangement. That is not the idea.

The lease cap should kind of permit whatever variation you want at the economics that are appropriate to that so I would urge you not -- to set the level at the appropriate point, and to really look hard at the underlying economics when you do that.

So I thank the Commission and Chair Daus, and all the Commissioners very much for these initiatives.

CHAIRMAN DAUS: Thank you, Councilman.

Any questions?

COMM. GIANNOUNIS: I believe when you first wrote the law you allowed for this more restrictive period on hybrids. I've heard from both you and from the Commission that "Well, now we know. The car has been on the road three years. We know we don't need that anymore," but to have it on the road for the fifth, sixth, seventh year so what has kind of changed in people's thinking?

COUNCILMAN YASSKY: Well, to be honest, from my perspective, that was not something that I -- I would have preferred to pass it without that in the first place. Legislation is compromised, and that was something that the folks and the professional staff I believe at the Commission thought was important at the time, to see how -- because they had some concerns about the durability of the vehicles.

I see no reason for that concern. These are cars that are out on the road, have been out on the road plenty prior
to being used as taxicabs so there was plenty
of experience with them, but, granted, the
experience of a taxicab is different from a
private use vehicle.

So in my view, nothing has
changed; just that now experience has borne
out what we thought we would see, which is
these work just fine.

The professional staff of the
Commission, as I understand it, sees that and
agrees with it so it is time to get rid of it.

COMM. GIANNOULIS: Thank you.

COMM. KAY: If I am not
mistaken, this also makes it sort of clear
that if the car went in for a missing mirror,
whatever particular it is, that that could be
sort of fixed, and that has nothing to do as a
result of being hybrid or not; it is just a
vehicle.

CHAIRMAN DAUS: He is absolutely
right, and that was really the injustice of
this, but the same high standards that apply
to every inspection also apply to the
inspections in the later extension years for
the cleaner vehicles.

COUNCILMAN YASSKY: To be clear,
I know the Commission knows this, but the rule
that is being proposed still would say, as it
should, and as it does for all taxis, that if
a vehicle fails inspection, even if it is for
a missing mirror or broken light, it is off
the road until it is repaired and can then
pass inspection.

What you are changing is the
prior rule that said once you fail inspection,
even if you go and fix the car, now it is
perfect, it can't go back on the road. That
doesn't make sense.

CHAIRMAN DAUS: Any other
questions? Councilman, thank you for
joining us today.

COUNCILMAN YASSKY: Thank you,
Mr. Chairman.

CHAIRMAN DAUS: Thank you for
your support.

The next scheduled speaker is
Jean Ryan from the Taxis for all Campaign.
She is not here.
We have one final speaker who
signed up today, Mr. Ethan Gerber.

MR. GERBER: Thank you, Chairman
Daus. Thank you Commissioners.

My name is Ethan Gerber. I am
from the Greater New York Taxi Association.

Members have been on the forefront of development and putting on the road hybrid and accessible taxicabs.

I will speak later on the incentive and penalty provisions before you, but I wanted to speak on -- a couple of words on what you are doing right now.

I once promised Chairman Daus and I promised Mr. Fraser that when the TLC does something well, I publicly applaud it and speak on it.

Today the repeal of the special inspection requirements rights an injustice, and finally makes the retirement extension for hybrids and accessible vehicles real.

This is something we have asked of the Commission for over a year, and I am very grateful that you finally acknowledge it and have put into place.

I also want to thank Councilman Yassky for this portion of the provisions, and I want to thank the Commission for finally righting this wrong.

Thank you.

CHAIRMAN DAUS: You are welcome.

Any questions?

Do we have a motion to adopt?

COMM. AROUT: Mr. Chairman, may I say a few words, if you don't mind, on this proposal?

CHAIRMAN DAUS: I think you are talking about the other one, not this one.

COMM. AROUT: I'm sorry. I take it back.

CHAIRMAN DAUS: Motion to approve?

COMM. GONZALES: Approved.

CHAIRMAN DAUS: Second?

All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: Item 5(b), Hybrid Taxicab Lease Cap Incentives.

We have a lot of changes. Chuck is going to go through them.

MR. FRASER: These proposed rules would modify existing rules governing taxicab leasing in several respects.

First, the proposed rules would rescind the existing rules mandating that taxicabs hacked-up beginning on October 1, 2008 must be city rated at or above 25 miles per gallon, and that taxis hacked-up beginning on October 1, 2009 must be city rated at or above 30 miles per gallon.
In place of that requirement, the proposed rules would alter the maximum lease rates in such a way as to create incentives for taxicab owners to buy cleaner, more fuel efficient vehicles.

Second, the proposed rules would specify that owners and agents may not add costs to the lease beyond the lease cap amounts other than charges specifically provided for in the rules.

Third, the proposed rules would formalize the leasing relationship in several respects. Some examples are that a lease would have to be in writing and signed by the driver; a copy of the lease would have to be given to the driver; the lease would have to contain an itemization of charges; and the lease would have to clearly state the lease term.

Similarly, the proposed rules would provide that owners and agents provide leasing drivers with receipts for payments made by leasing drivers.

Fourth, the proposed rules would expressly prohibit retaliation by an owner against a driver for filing a complaint alleging in good faith an owner's violation of the TLC lease rules.

Fifth, lease cap changes could be made by the Commission based on all relevant policy considerations, including driver earnings, and not exclusively based on owner expenses as provided by the existing rules.

The proposed rules were published for a 30-day comment period. Five written comments were received, copies of which have been supplied to the Commissioners.

Based on our extensive discussions of the proposed rules with affected industry groups, the staff is recommending 11 changes to the proposed rules as published. A number of those changes are technical, and I have detailed them in a memorandum to the Commissioners.

The more substantive changes are as follows: Change to the phase-in provision for the $12 decrease in the non-hybrid non-accessible lease cap provision from two decreases of $6 each over one year to three decreases of $4 each over two years; Prohibit an agent or owner from charging drivers for parking tickets and red light violations where the agent or owner pleads guilty to the violation without
allowing the driver the opportunity to defend
the violation;
Require that a copy of the
signed lease be given to the driver;
Require that payment receipts
include the driver name and medallion number;
Require reimbursement to drivers
of credit card payments at least weekly
instead of daily for medallion-only leases,
which must be for at least a week.
Copies of the proposed rules,
including the staff's recommended revisions,
have been given to the Commissioners and are
available to the public in the back of the
room.

CHAIRMAN DAUS: Okay. The first
pre-registered speaker is Mr. Jack Hidary.
Each speaker will be given three minutes, and
I will announce the next speaker to come as
well.

After Mr. Hidary is Amy Henes
from the American Lung Association.

Good morning.

MR. HIDARY: Thank you, Mr.
Chairman. Great to be here today.
My name is Jack Hitary, chairman
of SmartTransportation.org.

It is a pleasure to be here
today, and also I want to join the Chair in
recognizing the efforts of Councilman Yassky,
and his efforts in this whole arena have been
absolutely stupendous and critical to the city
and to the future of our folks.

I would like to address
particularly 5(b), this issue of the
incentives and disincentives.

I come in support of it today.
We are an organization who works with the
business community, the entrepreneurial
community, with the environmental community,
with the health community, with American Lung
Association, who will also be speaking today,
and others as well.

Before I address the actual
issue, I want to give some context to the
federal issue around this.
That is, the Obama
administration has now come in and has made it
clear that one of their highest priorities is
higher mileage standards and tighter
greenhouse gas standards for all cars,
vehicles, in the United States.

On January 26, six days after
taking office, Obama signed a memorandum to
the EPA asking the EPA to rethink its decision
on the California waiver.
And he made it very clear, and I want to quote from the president. He said, "Increasing fuel efficiency in our cars and trucks is one of the most important steps that we can take to break our cycle of dependence on foreign oil. It will also help spark the innovation needed to ensure that our auto industry keeps pace with competitors around the world."
Those are the words of our president.
So the federal government has made it absolutely clear that no matter what happens here in New York or other places, the federal government is moving towards higher mileage standards. That is where this country is moving.
We are moving from the current CAFE standard that we have today to a much higher mileage standard program that will take place over the next three, four, five years. Basically, this ruling is really in tune with where the federal government is going, is in tune with where the president is going, and so I just wanted to give that context there.
Second, on the actual ruling itself, it calls for an increase of $3 for fuel efficient vehicles, and it calls for a lowering of the cap of $12 for less efficient vehicles. That makes a lot of sense. It is pure economics.
So the ruling itself on its own really makes a lot of sense, because it just sends a very simple economic message as to how to -- what kind of cars we want on the road today.
I would also say the following: That I think we are all concerned in this room, everyone here is concerned, about the economy, everyone is concerned about their income, and the Chair already addressed that thank goodness taxi rides are up, people are doing well relatively to a lot of other parts of society, but we are concerned, right? Airport arrivals are down, hotel vacancies are down. We are concerned about this economy.
The fact is, you have to look at the larger context of where livery and taxis fit, which is that in general in the City, in New York City, we would like to see fewer personal cars on the road and more use of shared types of services: Taxis, black cars, and the public transport system.
Look at the public transport system. The ridership is down there, and that is a big concern.

So what I would say to the taxi community, for those who are concerned about this particular ruling, this is really the small picture. The big picture is we need to really push for a total rethink of how we use cars in the city.

Congestion pricing did not pass the first time. It will come up again. I urge the livery and taxi community to support that wholeheartedly. I urge the livery and taxi community to support other initiatives of the city to say let's have fewer personal cars in the city, and let's use the shared services of yellow cabs, black cars and the public transport system.

That is going to be good for your bottom line, that is going to be good for your pocketbook. That is where the city needs to go.

Thank you very much, Mr. Chairman.

CHAIRMAN DAUS: Thank you, Mr. Hidary.

Amy Henes?

And the next speaker after Ms. Henes is Peter Mazer from MTBOT.

Good morning.

MS. HENES: Good morning.

My name is Amy Henes, and I am from the American Lung Association in New York.

This morning I am going to be reading testimony from Michael Seilback, who is our vice president, and he was unable to join us this morning so if you have any questions at the end, I am happy to give you his contact information.

The American Lung Association in New York works to save lives by improving lung health and preventing lung disease.

On behalf of the organization, I am pleased to provide testimony in support of New York City's efforts to increase the use of more efficient clean hybrid taxis.

As we have testified many times before this body, increasing MPG standards for taxicabs, combined with the use of greener, cleaner cars, will lead to decreased emissions from the taxicab fleet.

Decreased emissions will serve to decrease the amount of triggers in our air,
which exacerbate conditions for individuals
who have lung disease.

The more than 8 million
residents in New York City are exposed to some
of the dirties air in the nation. Year after
year, the American Lung Association's State of
the Air Report shows that the outdoor quality
in the five boroughs is toxic.

Pollutants like particle
pollution, more commonly known as ozone, can
permanently damage lung tissue and has been
shown to shorten lives.

Mobile source emissions from the
taxicab fleet are a large reason why. The
pollutants emitted from the passenger vehicle
fleet are the main contributor to high ozone
levels, and ozone is a powerful respiratory
irritant that can trigger asthma attacks and
can damage the structure and function of a
child's lung.

The reality is that our lungs
weren't made to breathe the levels of
pollution here in New York City.
The association works on behalf
of more than 2 million residents who struggle
with diseases like asthma, chronic obstructive
pulmonary disease and emphysema.

In particular, there are
1 million residents who have been diagnosed
with asthma, and 320,000 of them are children.

For a city like ours to be
committed to the fight against asthma and lung
disease, we must do everything we can to
reduce exposure to poor air quality.

The American Lung Association of
New York is please to work with the Taxi and
Limousine Commission to clean up our taxicab
fleet and ensure that we allow all New York
City residents to breathe easier.

We urge you to vote in favor of
this proposal, because it will put more green
taxi on our roads and will have a positive,
lasting impact on the air we breathe.

Thank you.

CHAIRMAN DAUS: Thank you,
Mr. Mazer, and then Mr. Sherman.

MR. MAZER: Good morning,
Commissioner Daus and other Commissioners.

My name is Peter Mazer, and I am
general counsel to the Metropolitan Taxicab
Board of Trade.

This morning I wish to address
some elements of the proposed rule amendments
concerning taxicab leasing that are under
consideration.
In the interest of brevity, my remarks will be limited to three of the proposed changes.

First, the reduction of the maximum lease cap rules proposed in Rule 1-78(a)(3)(ii); second, certain language contained in proposed Rule 1-78(b) relating to allowable extra charges; and, third, the proposed repeal of existing Rule 1-78(e).

On the first point, today the TLC is proposing downward adjustments to the basic lease cap as set forth in proposed Rule 1-78(a)(3)(ii). This section will reduce the maximum lease cap initially by $4 a shift or $28 per week for any vehicle on the road that is not a hybrid or a clean diesel vehicle. Further reductions will occur later.

I submit to you that the Commission can neither consider nor act upon this proposed rule today, as such a reduction will violate the TLC's own rules and would be unlawful.

Section 1-78(e) of the TLC rules is currently in full force and effect. It sets forth the standard under which the Commission may consider any proposed changes to maximum lease rates. Section 1-78(e) provides in relevant part "The Commission shall not lower any upper limitation of lease rates established in Rule 178 herein, unless, in the view of the Commission, the record before the Commission includes substantial evidence of reduced operating expenses of the affected medallion owners."

Today the Commission is considering a proposal to lower the upper limitation of lease rates. Under TLC rules currently in effect and not yet repealed, the only basis for reducing the upper limitation of lease rates is a showing of decreased operating expenses by medallion owners.

In its Statement of Basis and Purpose, the Commission acknowledges that the reason it is proposing a reduction in maximum lease rate is to "Create incentives for taxicab owners to buy cleaner vehicles." This has nothing to do with owner operating expenses.

The Commission further acknowledges that its lease cap initiative and disincentive proposal was prepared in response to the Federal Court ruling at MTBOT v. City of New York, which invalidated certain fuel economy mandates, which the Commission previously enacted, and which may be formally
repealed today.

The Commission has not claimed, nor has the Commission's staff presentation regarding leasing demonstrated that there is any evidence whatsoever of reduced operating expenses by affected vehicle owners.

Indeed, a full and fair hearing on the issue will demonstrate that owners' operating expenses have increased since the last lease rate adjustment.

Without a showing of medallion owners' operating costs have declined, as required by existing TLC rules, the disincentive proposal cannot be considered by the Commission. To do so would violate the Commission's own rules and would be unlawful; therefore, any public hearing in consideration of the proposed lease cap reductions should not go forward.

Second point, the proposed rule amendments contain certain limitations of so-called extra charges that may be passed along to a driver in a lease agreement. Missing from the list of permissible charges is the collection of sales tax on the portion of the lease of a medallion and vehicle that represents the value of the vehicle.

New York State mandates that a 5 percent rental tax be collected from all drivers on that portion of the lease. This tax is not retained by the owner but is merely collected and remitted to the state. The owner acts under state law as a trustee of the state. The taxi owner is just like any other merchant in the state who collects sales tax from its customers. The collection of this tax from the consumer is authorized by state law, and to the extent that the TLC is attempting to prohibit the owner from collecting sales tax on the portion of the lease fee subject to such tax, the proposed rule violates state law.

I call your attention to Section 1132(a)(1) of the New York State Tax Law, which states, in part, "Every person required to collect a sales tax shall collect the tax from the customer when collecting the price."

Finally, the Commission today is proposing that Rule 1-78(e), originally enacted in 1996 to create a standard of review for maximum lease rates, be repealed in its entirety.

The Commission proposes that setting of maximum lease rates no longer be based upon factors set forth in the law such
as owners' expenses, driver earnings and retention of experienced drivers. Instead, the Commission seeks the power to either raise or lower lease rates at will at any time based upon what it calls, quote, appropriate policy consideration.

To understand the effect of this proposed change, it is necessary to look back at a time when lease rates were first regulated by the TLC. That goes back to 1996 when the Commission first proposed and enacted a lease cap in conjunction with a fare increase to ensure that a portion of a fare increase approved at that time would remain in the hands of the drivers.

The Commission stated, "Public safety is directly related to working conditions, particularly earnings."

At the time, the TLC recognized that lease rates originally set forth in a comprehensive review of owner and driver incomes at the time should never be lowered unless there is evidence that owners' expenses have declined.

In 1998, the New York State Supreme Court had an opportunity to look at the TLC's regulation of maximum lease rates. Judge Kahn noted that the TLC had a legitimate public purpose in ensuring that drivers operate their vehicles slowly and safely. He stated that the lease cap should be considered in conjunction with charter provisions governing rates of fare, and its purpose was to ensure an equitable distribution of fare revenues between drivers and owners; therefore, the lease cap provisions cannot be read apart from the City Charter provisions relating to the consideration of taxicab rates of fare. To do so would render the Charter provisions meaningless.

The standards --

CHAIRMAN DAUS: Can you try to sum up?

MR. MAZER: I am going to end with one final note, which is that the standards set forth in Rule 178(e) have worked well. They provide for regular review of lease rates and the opportunity for any affected member of the industry, owner or driver, to request reconsideration of these rates.

There is stability in the taxicab industry because all parties can rely upon rules, standards and procedures which have been in place for many years and have
worked well.

The industry is healthier today for both drivers and owners because we have come to rely upon the rule of law and set procedures rather than the amorphous policy considerations that have not withstood the test of time and can be changed at will.

I thank you for your time and consideration, and I will be happy to answer any questions.

CHAIRMAN DAUS: You have a question?

COMM. GIANNOULIS: Peter, when you say that it would be a violation of state law because we would be mandating people to not attempt to collect sales tax, I don't understand your point.

MR. MAZER: New York State law, Section 1132(a) of the Tax Law, provides for the collection and remission of sales tax. It provides that a vendor or a merchant is a trustee of the state for the purpose of collecting the sales tax from the consumer and remitting the sales tax to the state.

There is a ruling by the New York State Commission of Taxation and Finance that a portion of the lease rates that represents the lease of the vehicle is subject to a 5 percent tax on motor vehicles.

The portion of the lease representing the lease of the medallion is not subject to sales tax so an owner can collect and remit to the state a sales tax. It works out to about three dollars a shift on the portion of the lease that represents the value of the sales tax -- represents of the value of leasing the vehicle.

That is not a permitted extra charge under proposed Rule 1-78(b) so that means that an owner would be expected to remit the sales tax to New York State because there is nothing that says you no longer can remit it, but the owner can't collect it.

COMM. GIANNOULIS: Is that the case, counsel, permitted, extra charge?

MR. FRASER: No. It is a prohibited extra charge, but that is different than saying we are prohibiting them from collecting. We are absolutely not prohibiting them from collecting their state mandated sales taxes.

What we are saying is they have to price their lease such that the sales tax on top of it does not exceed the lease cap.
The notion that a price would include taxes is not exactly alien. When you think about it, gas prices all include sales taxes. When you go to the pump, you are paying not just the gas plus tax; you are paying the whole deal is in one price. Nothing startling here.

This was our understanding of the rule right from the beginning. We have been surprised over the last couple of years to find out that these taxes are being charged on top of the lease cap. We regard that as a violation of our existing rules, but we are making that ultra clear in this rules revision.

CHAIRMAN DAUS: It doesn't violate the law because the vendor is still collecting it?

MR. FRASER: Absolutely. Required to collect it, must pay it; just simply can't charge a total price over the lease cap.

COMM. GIANNOULIS: Maybe -- we have had this conversation prior, but one of my concerns on this issue is the issue that Peter brings up regarding that voting on the rule today would be a violation, given that the rules are clear in terms of we can only lower lease caps if expenses are shown to be lowered, and do you had an explanation for that? I think it is good for the public to at lease know what our position is.

MR. FRASER: Yes. The same that I said in December when the issue came up following David Klar's presentation.

The procedure written into our rules about what can be considered and what is a necessary condition of changing lease caps is a rule. The Commission passed that rule. The Commission can change that rule. The Commission today, if it adopts this rule, will change that rule and will simultaneously pass a lease cap change that follows that new rule.

Neither one becomes effective before the other. They both become effective simultaneously because it is all part of one rules package so there is on violation.

Furthermore, even if we didn't change that rule, the Commission -- this reminds me of the sophomoric metaphysics joke.

The Commission cannot pass a rule that is so big the Commission cannot change it.

The Commission has the right to pass a rule that it feels like passing. It always has that right, no matter what its
rules say, and so this is not a violation of anything. It is not illegal in any respect regardless of the order we do them.

COMM. GIANNOULIS: By passing this rule, would the earlier rule that was cited be null and void, or would it still stand?

MR. FRASER: Would our existing rule be null? Our existing rule would be repealed and revised by this rules revision.

COMM. GIANNOULIS: By specific action in here or just de facto?

MR. FRASER: Well, you could have done it just de facto in my opinion, but no, we didn't do it just de facto. It explicitly repeals the paragraphs that limit the Commission's ability to change lease caps.

CHAIRMAN DAUS: Just to clarify, it is adding a provision, saying that -- like we did with vehicle retirement, we can look at policy considerations in raising and lowering the lease cap, but it is also retaining the provisions saying that the industry or anyone can really petition us if they want to change the cap in the future because of an increase or decrease in operating expenses, correct?

MR. FRASER: The public or the industry can petition us to change our lease caps at any time, and we still retain -- every two years lease cap hearings are still mandated, and we will still hold them.

CHAIRMAN DAUS: Does that answer your question?

Thank you, Mr. Mazer.

Is Mr. Sherman coming today?

Michael Woloz will be substituting for Ron Sherman from MTBOT, and the next speaker after him is Eddie Burgess from Environmental Defense.

MR. WOLOZ: Michael Woloz. I am just reading testimony from Ron Sherman, who, unfortunately, had to leave due to a private matter.

Good morning, Mr. Chair. Good morning Commissioners.

Ron Sherman is the President of the Metropolitan Taxicab Board of Trade which represents 28 fleets and approximately 3500 yellow medallion taxicabs.

Our fleets mostly operate double shifted taxis, run 24/7.

MTBOT supported the Mayor's original 2012 hybrid taxi plan published in PlaNYC and has demonstrated a major commitment to testing alternative fuel taxes.
Today, 10 percent of our fleet is hybrid or clean diesel; however, in our experience, they have not held up in 24/7 operation, and they spend too much time with our mechanics, not enough time servicing the riding public.

Last year MTBOT stood up for our passengers, our drivers and our members and successfully challenged the hybrid taxi mandate that we believed compromised safety, comfort and the ability of this industry to adequately serve the riding public. Whether you agree with our position or not is in the past.

Commissioners, today you are being asked to pass what is effectively the same hybrid mandate that was struck down by a federal court, except this mandate also immediately punishes the MTBOT fleets that challenged the prior mandate.

Regardless of whether Crown Vic fleet owners have three weeks or three years left on their retirement cycle, these rules strip them of revenue right away.

The fact that there is no grandfather clause in these rules is unusually severe and punitive.

You are being asked to disregard long-standing rules that forbid the TLC from reducing lease caps if operating costs have not actually decreased.

Of course, operating costs have only increased since 2004 when the drivers received 85 percent of that fare increase.

You are being asked to simply write new rules that allegedly allow you to reduce lease caps on non-hybrids for a total of $12, making the operation of non-hybrids financially unfeasible.

The TLC staff has stated that a differential in gas cost between hybrids and non-hybrids justifies the new $15 gap between incentivized hybrids and disincentivized hybrids, but a closer look at gas prices today reveal a much narrower differential, as gas prices, as we all know, have plummeted 50 percent from a year ago.

We have provided each of you with MTBOT's alternative green and sustainable taxi proposal. In it, we call for the end of the Crown Victoria, despite its peerless standing as a safe, comfortable and durable fleet taxicab.

We need to start replacing Crown Vics with more fuel efficient commercially
designed vehicles such as the Ford Transit Connect, which will be available in six to eight months.

The Transit Connect, it is an ultra low emissions vehicle. It is rated ULEV II by the EPA. It gets 22 miles per gallon in the city, 25 miles per gallon on the highway. It has a proven safety record in Europe for the last two decades. It is 50 percent more fuel efficient than the Crown Vic. It is 70 percent cleaner on the tailpipe than Crown Vics on the road today. Replacing Crown Vics with Connects would be the carbon equivalent of taking 2,577 taxis off the road.

2010, Ford will make an electric plug-in version, which we are prepared to pilot.

Then as early at 2012, consistent with the Mayor's original hybrid taxi plan, Ford has indicated it would consider a hybrid version of the Connect that will result in even greater fuel efficiency.

In addition, MTBOT proposes outfitting existing Crown Vics with advanced catalytic converters that have been proven to reduce overall emissions by at least 35 percent.

The rules you are being asked to vote on today will prevent the Transit Connect from ever being hacked up as a taxicab simply because it is not a hybrid. This kind of technology-specific rule making is bad policy. How can you deny passengers a vehicle that is green, that is fuel efficient, that has the potential to become greener and more fuel efficient, has the leg room, cargo space to keep passengers safe and comfortable? Because it isn't a hybrid?

Under the proposed rules, a 20 miles per gallon Chevy Tahoe hybrid is incentivized, but not a 22/25 miles per gallon Ford Transit Connect. It doesn't make any sense.

When it comes to its own fleet, the city is much more cautious about its vehicle purchases. For example, in justifying the NYPD's purchase of a small amount of Nissan Ultima hybrids, an NYPD spokesperson remarked, We won't know whether they are suitable for the NYPD's demanding environment, which includes virtual 24-hour a day operation by multiple drivers." Sounds like a yellow taxicab.
Even within the TLC's own jurisdiction, a double standard applies. Black cars, which compete with yellow taxis for business, will continue to purchase roomy, comfortable and luxurious Lincoln Town Cars for at least another year, and there is no hybrid mandate that exists for liveries. MTBOT wants nothing more than to work with the TLC in creating a green and sustainable taxi policy. All we have asked for is a chance to operate the Transit Connect, which is available in just a few months, and other commercial vehicles that offer safety, durability, comfort and fuel efficiency.

And we ask that our fleets are not punished for legally operating Crown Vics that were purchased under existing TLC rules. Don't deny the public the opportunity to have comfort, safety, and to be green. Vote no on the disincentive rules.

Thank you.

Mr. Woloz.

Mr. Eddie Burgess? And then Mr. Dave Pollack is the next speaker.

MR. BURGESS: Good morning. My name is Eddie Burgess. I am with the Environmental Defense Fund, and thanks for the opportunity to testify here today.

Environmental Defense Fund is a non-profit group based here in New York representing over 500,000 members, and we also have a long history of working with businesses and industries on environmental issues.

That is why we understood that the MPG requirements proposed last year, while a necessity for the city to create a healthy environment, would be a challenge for the taxi industry; however, we supported the requirements because we believed the benefits they would bring in terms of air quality, global warming pollution and savings to drivers were too important to put off to the future.

Many taxi owners started adopting these changes right away, and now we have over 15 percent of all the yellow cabs on the road burning less fuel and emitting fewer harmful pollutants.

We are disappointed to see that some of our colleagues in the business community found the requirements to be an insurmountable challenge, but we applaud the
city for working to devise an alternative market-based solution that still gives owners a choice of which car to purchase without any mandates. We hope fleet owners can join us in embracing this compromise solution.

Market-based solutions are, in fact, a cornerstone of EDF's philosophy, the idea that we can protect the environment and address business interests at the same time with the right economic proposals in place.

This current proposal makes sense because taxi fleets will recoup the additional cost of the purchase and maintenance of fuel efficient cars, such as hybrids.

By raising the lease cap by $3 per shift, owners will be able to pay back the additional purchase cost in less than three years and make a profit thereafter.

The proposal is also much fairer to taxi drivers who have no control over the purchasing decisions of their fleet owners. Right now, Crown Victoria drivers pay enormous fuel costs and are susceptible to gas price spikes like we saw last summer, but under this proposal, taxi drivers will pay less than the status quo no matter which kind of car they drive.

We ran the math ourselves and found that the fuel savings of hybrids far outweigh any increase drivers will see from the lease caps, and those unfortunate enough to still be driving the gas guzzling Crown Vics will get a better rate.

And so, in sum, we believe that this proposal is fundamentally fair. It is fair to taxi drivers who pay less no matter which car they drive, it is fair to taxi owners who are given a choice, not a mandate, to purchase fuel-efficient cars at less cost, and fair to all New Yorkers, especially taxi drivers themselves who breathe the air and pay the cost for problems like asthma, heart attacks and lung cancer.

Thank you very much.

I have copies of my testimony.

COMM. GIANNOULIS: Could we address this issue of grandfathering? There seems to be arguments on that side as to why. It would make some sense.

I mean, can we -- from the Agency's perspective, what does it mean?

CHAIRMAN DAUS: I mean, you know, it is certainly something that was
thought about, there is no question about
that, but I think with the changes that we are
proposing, one could argue that that is
somewhat of a grandfathering in some respects.
We are breaking in down.

Instead of having the $12
reduction over -- in effect immediately, what
we changed this morning, which I think tends
to accomplish the same result in my mind as
what you are proposing, is $4 initially, $4 a
year from then, and $4 after that so that
there is a situation where we can ease into
it, but at the same time the Crown Vic is
going to be gone anyway so we are looking at a
situation where hybrids really are the future
right now anyway so I think that is my
response.

I view that as kind of a de
facto grandfathering.
The next speaker, Mr. Dave
Pollack, are you here?

No.
Bhairavi Desai?
Michael Levine?

MR. LEVINE: My name is Michael
Levine. I am president of Ronart Leasing
Corporation, a taxicab fleet in New York City.
Most of you know me and have
seen me speak here before, and when the TLC
does things right, I am happy to applaud it.
As a matter of fact, we have
been a very innovative fleet over the past
decade or two, being responsible for many of
the innovations that went into the rear seat
screens, as well as a lot of other things that
are going on.

Along those lines, we have been
testing hybrid vehicles for over two years
now. We have a large number of Ford Escape
hybrids and Nissan Ultima hybrids in our
fleet, and we have found, as expected, that
the vehicles are not only unsafe, as two of
our Escapes have flipped over in minor traffic
accidents, and the Ultimas tend to shut off
completely while driving, leaving no power
steering or brakes, but they are also
uncomfortably small.
The Ultimas can't even take two
people to the airport with luggage, and do not
hold up under the stress of a taxicab cycle.
The Escape has transmission and
steering column issues, and the Ultima has
electrical issues.
I have had -- I have reduced my
taxicab fleet this year by 10 percent.
I have had four standby vehicles for the past decade, and this year I have added two standby vehicles only to cover for the down time on the hybrid vehicles that I have on the road.

I have testified to these facts previously, but I may or may not have made a cogent enough logical argument so today I brought a new analogy complete with a demonstration.

On the way to work this morning, I heard on Bloomberg Radio, no plug intended, that computer screens running after hours cost $3 billion in energy per year and create carbon emissions equal to 4 million cars so I thought well, Bloomberg created this great device which everyone uses to communicate financial data, but it is not green so I developed a device which serves the same purpose but is green. It is made from completely recycled materials, has zero carbon emissions and uses no fossil fuels.

I have it right here (indicating).

It is not as comfortable as using a Bloomberg terminal, because you have to put it to your ear, and it is certainly not as efficient as using a Bloomberg terminal because there are wires all over the place, but it is green and that is really all we are here for, right?

I would also like to allay the Commissioner's fears about the black car industry. Don't worry about it. They are picking up all of our taxi fares at the airport, at the Javits Center and at the hotels.

Thank you very much for your time.

CHAIRMAN DAUS: Mr. Ethan Gerber followed by Mr. Ed Ott.

MR. GERBER: I have no props.

Good morning. My name is Ethan Gerber. I am the Executive Director of the Greater New York City Taxi Association.

You have many rule changes before you. Let me draw your attention first to the new whistle blower provision.

Proposed Rule Section 1-79.3 states "An owner may not act in retaliation against a driver for making a good faith complaint against an owner for violation of a rule."

It further states that "The word 'retaliation' shall be broadly construed to


mean any adverse effect, condition or consequence on the driver for withholding or withdrawing any benefit or consequence to the driver."

Please, Commissioners, take a moment to soak in the irony of this provision. Today the TLC has proposed a rule that is clear-cut retaliation against owners for making a good faith allegation to a federal court that the TLC rule concerning mileage standards was in violation of federal law.

Using the same criteria as the retaliation provision before you, no fair-minded person could conclude otherwise. During the worst economic crisis since the Great Depression, the TLC is trying to lower the income for small businesses for having the temerity to bring its law violation to the federal court.

Remember, the federal court agreed with MTBOT. Again, please soak up the irony. The lowering of the lease cap is transparent retaliation. You have given a $3 incentive, and then what ultimately becomes a $12 penalty. This 300 percent difference between incentive and penalty is obvious on its face.

Moreover, you have to change your own rules in assessing lease cap raises and decreasing just to pass these changes. Again, it is retaliatory in nature and is transparent. It is also bad policy for many reasons. One, it punishes the wrong people. My organization represents owners who fully embrace hybrid technology. We did not sue the city. Indeed, one of our owners was the principal purchaser of hybrids in the first hybrid auction.

The TLC did not approve a single hybrid vehicle. It took a lawsuit and city council to force the TLC to approve any hybrids.

Now this very same owner and others like him are being punished, because they still have a number of traditional vehicles on the road, whose three-year life span is not expired.

There is no grandfather clause, and an owner who has three months left is put in the same boat as one who just hacked up a Crown Victoria.

These owners have done everything to advance the hybrid agenda.
Indeed, the Mayor used one of our member's garages as a backdrop for his hybrid speech. We even had to fight with staff just to get these vehicles on the road, and now they are being punished. Again, please soak up the irony.

It is also bad policy because it will have the opposite effect of what it intends.

Initial hybrid rules were proposed when gas was at $4 a gallon, and drivers were literally fighting to get hybrids.

Now that gas has declined in price, the $12 cheaper lease will make drivers flock to Crown Victorias, making owning a hybrid, which is more expensive to purchase, service and maintain, far less attractive.

If the TLC simply gives a decent increase for hybrids, owners can choose how much, if any, of the increase to charge depending on market factors.

GNYTA members took the lead in hybrids because we believed it was right, and there was future market conditions would make these cars economically feasible.

If gas continues to rise, those who stubbornly cling to the past will be punished by those very same market forces.

Good government rewards the innovative, does not punish the timid; the market will take care of that. You Commissioners are better than that.

I also wish to speak out against the new trend to micromanage the taxi issue by making uniform leases that do not recognize that people and business need room.

There are many problems with provisions. No penalties or additional costs does not contemplate reasonable fines or surcharges for such acts as recklessly smashing the owners cars.

Should not drivers have some economic incentive to drive carefully? Your rules encourage recklessness.

Your rules prohibit charging sales tax to the driver. This is actually cheating the coffers of New York State and may be in violation of Rule 1132(a) of the Tax Law.

The rules give title to DOV operators, and prohibit insurance costs from passing on. What other owners in New York are exempt from paying insurance costs?

Your rules may very well end the
DOV operator and may very well end the weekly lease.

Your rules make every fleet essentially the same. When every lease is exactly the same, no fleet has any incentive whatsoever to write any amenities not covered by the lease.

In short, your rules today attempt to micromanage a complicated business. Governments have tried such policies in the past, and they always failed. Much of what is here today is simply retaliation against one sector of the taxi industry.

Please create incentives and not punishments.

Thank you.

CHAIRMAN DAUS: Mr. Ed Ott?

Mr. Haq?

We will defer you for that. Does the same go for Mr. Simmons and Mr. Lindauer and Mr. Chowdhery?

Did you want to talk about the next rule or this one?

Bererford is next. Did you want to talk about this rule?

MR. SIMMONS: No.

CHAIRMAN DAUS: We will defer you.

Mr. Lindauer?

Do you want to talk about this rule, or is this a mistake?

MR. LINDAUER: Can I comment on both rules at the appropriate time?

CHAIRMAN DAUS: If you want to comment on this rule, why don't you come up now, and after you there will be Mr. Chowdhery.

You are from the same group so if you want to switch, that is fine.

After you are both done, I think that is it.

MR. CHOWDHERY: Good morning, everyone. My name is Osman Chowdhery. I am a member of the New York Taxi Alliance. Also, I am driving the last 12 years.

I am here supporting the American Lung Association, the one who testified, because I am the driver. The last 12 years I am driving the Crown Victoria cars.

After one half hours a year, the car is coming out of -- under the hood is the carbon dioxide.

That's why I am supporting the
hybrid for the driver, because when I am
driving the Crown Victoria, I have serious
problems to my back. The seat is very low.

When I get the Ford Escape, I am
driving 2005, it is better conditions with the
higher seat, particular very, very helpful.

When I am driving the Ford
Escape, I have a better condition in my back,
no problems.

That is why even in the
summertime, we saved a lot of money from the
gas. Last summer we are dying for the gas,
$4.50. The Crown Vic is killing the driver.
The 47,000 drivers now is affecting the hybrid
car.

Also, hybrid, I am driving this
car. My owner bought a hybrid car.

Maintenance, I hear one
gentleman, he said 2004, the driver, 80 per
cent increasing. 2004, the medallion price
like 180, now it is 700. We don't look that
way.

Even after 2004 the fare
increase, at that time we had sent a letter,
but now we don't get the opportunity. Now I
have to pay like 750.

That medallion lease cap, $600.
How much they are making money, still they are
not satisfied? Even the Crown Vic car, not
able to -- when the driver, problem suffering.

Thank you.

CHAIRMAN DAUS: Mr. Lindauer?

MR. LINDAUER: I am for all the
reforms that were submitted by the Taxi
Workers Alliance, pushed by the Taxi Workers
Alliance and just plain common sense and human
decency.

I mean, to require any business
to give a receipt is not rocket science. Why
haven't you required this? This is simple. I
mean, it is unbelievable.

Second of all, you say that the
sales tax is currently part of the lease cap.
In other words, drivers are being charged,
overcharged $3 every day. How come there is
non-existent enforcement? Non-existent
enforcement. This is a shame. This is a
disgrace.

And now, my question is, if
drivers are being overcharged $3 a day because
of the sales tax, can they get retroactive
restitution of these overcharges? It is only
fair.

I rest my case. Thank you.

CHAIRMAN DAUS: We actually have
one final speaker. She was here but was out of the room so this will conclude the public hearing.

Ms. Desai, actually a preregistered speaker. She was out of the room when we called her.


I am going to make this very short and sweet and simple.

First of all, I think, as Bill just said, a lot of the rules that you are proposing are really fantastic, and we are in support of them. We need protection against the overcharges that drivers have been suffering from for several, several, several years now, which total thousand of dollars of for individual drivers.

Particularly the retaliation clause I think is particularly good, because we know that it is an issue that is one of the reasons that drivers have not come forward more often.

Secondly, the receipts, we also know that when drivers have come to us, for example, and have talked about overcharges and we say to them "Can you bring in your receipt," their response is always "My garage won't give me a receipt," so I think that these new proposals will go a long way toward addressing these issues and really bringing even more credibility to the existing rules and regulations of the TLC that all parties involved are abiding by them.

And it is only fair. I mean, certainly if a taxi driver overcharges a passenger by $10, they lose their license. You know, I mean, the fleet should be happy that hey, the proposals are not calling for a loss of their medallion if they overcharge a driver by $10.

If you wanted real equity, that is actually what it should say.

Secondly, in terms of the proposed lease caps, we are in favor of hybrids, as you know. Drivers are the only ones who bear the cost of gas. It is only fair that particularly since the Commission has been reluctant to pass a fuel surcharge through the years, we feel this is a fair way to address that issue for taxi drivers, without going as far as saying the fleet should cover the cost of gas.

So our only concern, though, I
just want to state for the record, is that we do believe that for the hybrids, the lease cap should remain what the current lease caps are now in existence for the non-hybrids, and then lower them for the non-hybrids as you are proposing them.

We feel that would be only fair; that drivers should not have to bear any extra cost for having the hybrid on the roads, regardless of the fact that they are the ones who would be saving from gas, because through the years we have not gotten a surcharge, and the amount that drivers have already paid over, we feel it is more than enough to cover for any increase in the lease caps on the hybrids.

Thank you.
CHAIRMAN DAUS: Thank you.
That concludes the public hearing.
Do any Commissioners have any questions or comments?
Commissioner Kay and then Commissioner Arouit.
COMM. AROUT: Thank you, Mr. Chairman.
I just want to say I have given this proposal a lot of thought. This has always been a complicated issue in terms of how it would affect drivers and owners, and also how it potentially affects the people who live and work in our city.
There has been a lot of material to digest, and I have reviewed every bit of it very carefully and very thoroughly.
I am aware of the concerns that have been brought to our attention by some segments of the industry, and I am also aware of the need to balance those concerns with the advantages pointed out by environmental advocates.
After careful consideration, I have decided to support the proposal.
At the end of the day, I think what impressed me the most was the opportunity to do something that I personally believe is fair to everyone involved and allows the Taxi and Limousine Commission to set an example, not only for New York City, but the taxi and limousine commissions in other cities.
I think today is an important day for the Taxi and Limousine Commission. Thank you.
CHAIRMAN DAUS: Commissioner Kay?
COMM. KAY: The issue of hybrid taxis has been a very long road. As many of our people testified today, has a long history with the TLC. I think over the last two years, year-and-a-half we spent a lot of time on this particular issue.

We, of course, did pass a rule mandating hybrids, which, of course, as was noted, the law prohibited us from doing that, the federal law.

While we, of course, disagree, we recognize that and, in fact, we know we need to change the law, and that is why we have said we are going to go to Washington and work with Congressman Adler and the New York delegation and see if we can change the law. The law is the law, and we understand that.

What we can do, however, is not go around that law or try to achieve that particular goal in any way. The reality is we can't. We can't prohibit a car from the road. We can't prohibit the Transit Connect from becoming a taxicab, assuming it meets other proposals. It has nothing to do about clean energy.

What we can do is look at expenses of both the owners and the drivers, and to make it pretty clear that we are not going to allow drivers to -- we are not going to allow drivers to be disadvantaged by the choice that the owner makes from an economic perspective that provides money into the driver's pockets. It also hopefully provides incentives on the road to get more hybrids, which we can all discuss about the effects of that.

What today really is, we will hopefully get more green taxis on the road, and we will also protect our drivers of the choices that the owners make, and that's what this really is about.

These are to provide the incentives and to make it clear that drivers will not be harmed by those choices. This has been -- as I said, this has been a really long road.

We have had many discussions with many of you, with many of the fleet owners as early as three days ago, and I think the TLC, I know the Mayor's Office, want to get -- always want to do things in a way that protects the industry, that protects the drivers, that protects the owners, protects the environment and is good for our
passengers. We believe that this is the fair way to do that.
I think we have made the case here that we have done the best that we can to achieve a multiple of goals, and I really do look forward to passing these today.

CHAIRMAN DAUS: Thank you, Commissioner. Do we have any other comments from anyone? Do we have a motion on the rules?

COMM. AROUT: Make a motion.
CHAIRMAN DAUS: We have a motion to adopt with Mr. Fraser's changes, correct? Second?

COMM. KAYE: Second.
CHAIRMAN DAUS: All in favor? Opposed?

COMM. GIANNOULIS: I abstain.
CHAIRMAN DAUS: So the motion passes with every Commissioner voting except for Commissioner Giannoulis abstaining.

Thank you. Thank you, Commissioners. Actually, I would like to jump out of order on the agenda real quick. I would like to defer item 5(c) and go to item 6(a) and (b).

The first, item 6(a) is a request for a pilot proposal to actually test the Honda Accord non-hybrid vehicle, which since we already have a Honda Accord hybrid makes no sense so I am recommending to the Commission since it has less fuel economy that we not approve it.

Any questions or comments? I think we sent some materials out. Do we have a motion to deny the pilot?

COMM. WEINSHALL: So moved.
CHAIRMAN DAUS: Second?
All in favor?
(Chorus of "Ayes."

CHAIRMAN DAUS: Item 6(b), Assistive Audio Induction Loop Technology Pilot.

If you remember, the Commission approved a pilot, which is currently under way, but is about to expire within the next day or two, I believe, involving the testing of hearing loop technology for people who have hearing impairment.
I am proposing to the Commission that we extend that pilot to July 31, 2009. There are about 18 vehicles on the road. The problem that we are facing right now is Assistive Audio has not completed the reports that they have been required to do and have not completed the testing so I would like to give them a little bit more time so if everybody is okay with that, we have a motion to extend the pilot to July 31, 2009.

Do we have a second?

COMM. GIANNOULIS: Second.

CHAIRMAN DAUS: All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: It is unanimous.

Thank you.

Now I would like to take a quick break, and we will come back and start the public hearing on item 5(c), Long-Term Lease Taxicabs. Thank you.

(A recess was taken.)

CHAIRMAN DAUS: Back on the record. I apologize for the delay.

I believe where we left off was item 5(c), Proposed Rules for Public Hearing and Commission Action, Long Term Taxicab Leases.

I think Chuck had some changes, and then we will go to public hearing.

MR. FRASER: These proposed rules would create a new option for taxicab leasing and long-term lease of a medallion and vehicle together.

Existing leasing rules allow for daily or weekly leasing of the medallion and vehicle together, and for weekly or longer leasing of the medallion only.

These proposed rules would create a new long-term lease option for the medallion and vehicle together.

Agents leasing medallions to drivers who own their own vehicles normally enter into leases of five months or less. This is at least in part because certain taxes apply to longer leases.

The proposed long-term lease option would enable agents to recoup the transfer tax from the leasing driver.

In return, the proposed rules would give long-term lease drivers several benefits. First and foremost, the proposed rules would prohibit owners and agents from adding charges to leases that extend the total cost to drivers above the long-term lease caps.
The proposed rules would also provide that at the end of the long-term lease, the driver would be given title to the vehicle.

The proposed rules would apply. All the requirements otherwise applicable to leases, in terms of form and content, to long-term leases including lease cap incentives for agents and owners to buy clean vehicles.

The proposed rules were published for the required 30-day public comment period. Two written comments were received, copies of which have been supplied to the Commissioners.

Following publication of the proposed rules, we engaged in extensive and very productive discussions with interested industry groups.

All of the feedback was useful, but I would like to single out for particular mention the Committee for Taxi Safety and the Taxi Workers Alliance, both of which brought useful comments and suggestions to the table.

Based on these discussions, the staff is recommending 17 changes to the proposed rules. Several of these are technical only, and I have detailed the changes in a memorandum to the Commissioners.

The more substantive changes are as follows: Change the phase-in provision from the $12 decrease in the non-hybrid, non-accessible lease cap provision from two decreases of $6 each over one year to three decreases of $4 each over two years.

Eliminate the per shift late fee on long-term leases.

Change the minimum term of a long-term lease from five to six months; change the maximum term of a long-term lease from five years to the remaining allowable life of the vehicle pursuant to TLC's retirement rules.

Add that in addition to the weekly lease rate, a long-term lease may include a refundable deposit up to $5,000, which can be payable either at the beginning of the lease or over time. The deposit is refunded to the driver at the end of the lease term unless the driver breaks or terminates the lease.

Add that title to the vehicle must be transferred to the long-term lease driver at the end of the lease term.

Add that a long-term lease
driver can assign a lease to another
TLC-licensed driver, and that the owner or
agent may not unreasonably reject such an
assignment.

Allow an owner or agent to offer
an optional collision damage waiver or repair
contract to the driver where the driver is
responsible for vehicle maintenance; that is,
where the lease is a medallion-only lease or
long-term medallion and vehicle lease.

Requirement reimbursements to
drivers of credit card payments at least
weekly instead of daily for long-term leases

where the driver does not ordinarily report
into the owner or agent on a delay basis.
Delete allowance of a lease
cancellation charge for the long-term lease.
Prohibit an agent or owner from
charging drivers for parking ticket and red
light violations where the agent or owner
pleads guilty to the violation without
allowing the driver the opportunity to defend
the violation.

Copies of the proposed rules,
including the staff's recommended revisions,
have been given to the Commissioners and are
available to the public in the back of the
room.

CHAIRMAN DAUS: Thank you,
Chuck.

First speaker is Mr. David
Pollack from the Committee for Taxi Safety.
COMM. POLANCO: Good morning,
Commissioners, Mr. Chairman.
My name is David Pollack,
Executive Director of The Committee for Taxi
Safety, an association representing
approximately 2500 medallions, and the men and
women that drive those taxis.

It has been repeatedly found
that driver-owned vehicles, known as DOVs, and
owner-drivers are the safest in the industry.
The DOV driver is also the
long-term driver, and that is a professional
driver; the type of driver that stays in the
industry and that the TLC has always sought.
A DOV driver can and does earn
up to 40 percent more than shift drivers.

Overlooked, if the TLC does not
address the disparity in the lease cap between
the fleets' daily shift rate and the DOV
operators, you will force the DOV operators to
convert to shift leasing, resulting in a
dramatic decrease in the very drivers that the
TLC has repeatedly stated they want in the
industry. A safer, more professional driver is who they want. This will take away the opportunity for significant additional earnings by the driver.

From a practical perspective, titles cannot be placed in drivers' names. Vehicle manufacturers will not finance a driver with insufficient credit.

Now it is the agents that finance vehicles using the agent's credit. If after banks or car manufacturers finance the vehicle purchases, title to the vehicle is then transferred to the driver, the loans from the car manufacturer or banks become due. The driver fails to pay this obligation; its much more difficult to repossess a car that is titled to a third party as compared with the entity paying the loan; therefore, transfer of the title should only occur when full payment is made. Because it is the agent purchasing the vehicle, the agent is able to negotiate a better interest rate.

If the agent is not the purchaser of the vehicle, with credit being based on the agent's credit history, the benefit of that reduced interest rate will not be passed along to the driver, thereby increasing driver costs.

A simple solution to this issue concerning title might be for the TLC to change its definition of an owner of a vehicle to include equitable or beneficial interests, or possibly to a driver who will be entitled to receive the title upon request when the vehicle is paid in full or at the end of the contract.

The TLC should not micromanage the taxi industry. Contractual terms are not within TLC's jurisdiction. If the TLC finds that an agent is not conducting business properly, it has the regulations in place by which to regulate that specific agent. The TLC disregards that there is financial risk in financing vehicles. The TLC should not be able to mandate business terms with reference to security deposits in terms of contract if it is not its money at risk. The marketplace keeps licensed agents competitive. The TLC should not be interfering with the marketplace.

There are sales tax implications
with reference to the length of the lease. If you do not pay any sales tax at the time of the purchase, you pay an advance based upon your lease. If your lease is six months with a renewal option that is considered a 1-year lease under the Tax Code, and the sales tax is paid for that period of time, if the leases are now five years, sales tax must be paid in advance for the five year lease, adversely impacting upon agents who pay the sales tax. Lease cap changes should be based on the economics of the industry, not upon whims of TLC to be exercised at the time based upon policy considerations. Appropriate policy considerations may be interpreted to mean anything by the TLC, and the meaning of which can obviously change from day-to-day. Lease caps are all about and only about economics. If the driver is the vehicle owner, and the cost and benefits accrue only where the title to the vehicle is held by the driver, then it is the driver who should pay for the cost to operate that vehicle, including and not limited to premiums of insurance, tax stamps, registrations, meter, et cetera.

The TLC has repeatedly stated, both verbally and in print, that during the first phase of the Rules Revision Project, Rules Revision is intended to involve no substantive changes to the rules, and that public hearings are to be held separately concerning substantive changes at later dates; that after the first phase of its Rules Revisions is completed, the TLC will move to the second phase, which will involve the assessment of its rules for more substantive changes. Detailed explanations and more detailed comments you have before you and are submitted comments that we submitted prior. The Committee for Taxi Safety believes that the idea to increase the number of hybrid taxis is commendable. Rewarding both drivers and owners is a win-win situation. $3 is a minimal amount to pay as drivers will save much more than that on gasoline. That said, we will also ask that you do not reduce the lease amounts for the Crown Victorias.

Thank you very much.
CHAIRMAN DAUS: Thank you.
Mr. Pollack?
Next speaker is Mannunul Haq,
and then Mr. Berersford Simmons.
MR. HAQ: My name is Mannunul Haq, the New York Taxi Workers Alliance.
Thank you so much for giving me this opportunity to come here.
I just want to mention a few things. I am driving a taxicab for a long period of time. Actually the last few months I don't drive, you know, the full time, because I am trying to get out of this business, looking for something else and working for some other places. I know as a DOV driver, I own the car and lease the medallion from the broker so I totally know what is going on the whole lease and everything.
I just want to make sure that you are taking action, which is make sure that the lease increment which goes to the broker and the driver, it should be your knowledge, the TLC's knowledge what is going on, because there is a sudden loophole, a legal loophole which is now the drivers are suffering and the brokers are taking advantage.
Lots of things going on, they overcharge the driver; drivers are being overcharged for a long period of time. In this economy, and we talk about and also Yassky, Councilman, he mentioned about how much of the cost to buying a car from the broker. I mean, it is overcharging from the buying from outside, and a driver has no choice; they are going to have to buy the car through the broker.
You have to make sure that it is in your knowledge and also the driver not being overcharged, and the lease increment should be -- there is a contract which is a driver should receive one contract.
A lot of brokers, a garage owner who lease the medallion to the driver, the driver don't receive a single document that he own the car.
Obviously, it is still the title in their name until the car paid, or even the car gets repaired, they never get title.
The duration of the car, and loss of driver -- because I am an organizer. I organize the cab drivers for several years from my community. It is the largest community in New York City, the cab drivers are from Bangladesh.
They keep calling they are losing their car before their retirement. Once the car is paid off in a half-year or more than a year, and they just took the medallion -- the medallion from the car.

So this is really important. I mean, the drivers are paying quite a lot of money for two years, paying off the car, two-and-a-half years paying off the car.

After that, of course they are looking for -- to make a little bit of money because the car is paid, like 270, $300 they are paying weekly. They are looking for something to make, and costs are really higher. The maintenance cost is really, really high, which is a driver being outside.

I mean, I am urging that you make sure that the contract should be very standard, which is that the driver not going to be entrapped, they are not going to lose their car before their retirement.

I hope you will do that. It is very important. A lot of drivers now are suffering from this problem.

Thank you so much.

CHAIRMAN DAUS: Thank you, sir.

Next speaker is Mr. Simmons.

MR. SIMMONS: Good afternoon or good morning. My name is Bererford Simmons. I am a member of the Taxi Workers Alliance, and I am very proud today for the Taxi and Limousine Commission for working alongside with the drivers and the industry on a whole, because of years of abuse coming out of many of the garages.

I am going to be short, because I am very happy about what -- it is a historical day for me as a 35-year driver in the industry, and now I can go out and tell the drivers that the Taxi and Limousine Commission has finally decided to work and help us out.

Thank you very much.

CHAIRMAN DAUS: Thank you.

Anybody else wish to be heard? Ms. Desai, and you are the last speaker, and then Mr. Ott.

MS. DESAI: Good afternoon. I will also make this short.

First of all, I really commend the TLC for considering the long-term lease cap. I think it is a great proposal, because there has been no standard contract for the drivers, and the contracts that are negotiated between the agents and the drivers, drivers
don't have any of the bargaining advantages, and as a result there are no protections in them, and so we see things like overcharges, cost pass-alongs added on through the course of five-year financing of the vehicle and the medallion.

And so I think that by being able to create this new lease cap, you are allowing for the drivers to really access -- first of all, you are extending the regulation, your regulatory powers to every segment of the industry, which is only fair; that as you extended them to the drivers and the garages, it is only fair they also be extended to the agents through this process.

Secondly, I wanted to comment to say that a lot of the proposals, again around the requirements, around the receipts and the signing of the leases, and getting a copy of the lease agreement to the driver, we are in full support of those proposals, and we also commend you on those, because those are issues that are brought to our office on a daily basis where the driver has signed a contract for even up to five years, or maybe it could be six years -- six months or one year.

Regardless of the time lengths, they don't have a copy of it, and they are not fully aware of what was actually in it.

By giving this additional protection to drivers, I think you are really going a long way in preserving some very necessary and vital rights.

Lastly, I wanted to say that preventing car repossessions and medallion removals before that vehicle is retired is a major issue for us. It is something that continually happens in the industry.

I don't want to comment at the rate or the percentage. You know, I don't know that number, but I do know that even if it happens to 20 percent or even 10 percent of the drivers, the amount of suffering that that group of drivers face is quite large.

By having a long term lease cap, you are really providing -- and being able to extend the payments for a longer period of time, you are really providing drivers not only security to be able to keep that vehicle and that medallion, which they are investing into, but you are also safe-guarding them from any financial losses in cases of repossessions or medallion removal and so we are in full support of the concept of the long-term lease cap.
CHAIRMAN DAUS: Thank you, Ms. Desai.

Mr. Ott, and that is it.

MR. OTT: Hi. My name is Ed Ott, and I am the Executive Director of the New York City Central Labor Council.

First off, I just want to commend the TLC for the process. I would agree with the brother who spoke. It was kind of a historic moment. The level of respect involved in this process, the efforts of the Commission and the staff were unbelievable, and hopefully we in the future will continue this process and try to make improvements in the industry for everybody involved.

I realize there is a lot of stakeholders here with very different needs and interests, but I really thought at this point the TLC played a really strong role, and we expect to make more progress going forward. The concept as proposed I fully support, and for the record, I just want to say that we hope as we go forward that we can continue to knock down problems in the industry by this level of collaboration.

Thank you for your time.

CHAIRMAN DAUS: Thank you.

That concludes the public hearing. I would echo those comments. Certainly a new day is dawning here at the TLC. I have been working here for 13 years. I have never actually seen the groups involved, who I must commend, such productive, professional discussions as part of the comment period.

In addition to thanking Mr. Ott and the Central Labor Council being involved, Bhairavi Desai and her group, Taxi Safety Committee, Dave Pollack and Neal Greenbaum and all the folks there, this is actually a good thing that we are talking.

Most importantly, I want to thank the staff and the people that were involved, not only with this proposal, but everything that we heard today, because they have been working around the clock, and it has been very complicated and very tiring going through a lot of the minutiae on all these proposals, and in particular driving Chuck crazy the last day or two with a lot of changes, and Chris Wilson of the staff, also Andy Salkin and Samara Epstein, who spent countless hours dealing with all stakeholders.
on all these rules, as well as, of course, I want to thank Commissioner Kay and his staff, Emily Gauyo, for assisting specifically with all of our -- the last two rules on the agenda as well.

That is basically it.

I do want to state for the record that I do believe it is probably best, and we will hear from some commissioners if they want to make comments, but I think it is for the best that given the late hour of the comment period, we usually -- as of late our practice has been to try to get a couple of days between the actual public hearing and the date that we have the written comment deadline.

Unfortunately, things worked out with the publication and the timing and the scheduling of this meeting that the deadline was 5:00 p.m. yesterday so we have one comment I think is like 25 pages long.

In the interest of appropriately digesting all of these comments, and in the interest of the continued discussions between the major stakeholders in the industry between each other as well as with us, I am recommending to the board that we study this issue over the next couple of weeks, let them continue talking, and that we take it up for further potential action and debate at the next meeting or meeting thereafter.

Any comments?

So that concludes the public hearing.

We will defer consideration of item 5(c) on the agenda, and also we are going to lose our quorum so we are going to adjourn item 7(a), the Appeal and the Executive Session on the matter of TLC versus Parvez Iqbal, Hack License #433665, and we will put that on for the next meeting.

Thank you, Commissioners, for your support and for all of your time.

I would like to make a motion to close the meeting.

All in favor?

(Chorus of "Ayes.")

CHAIRMAN DAUS: Thank you.

(Time noted: 12:20 p.m.)
CERTIFICATION

I, HELENE GRUBER, a Notary Public within 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 __________, 20

__________________________________________

Helene Gruber, CSR