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PUBLIC MEETING

NEW YORK CITY TAXI & LIMOUSINE COMMISSION

40 RECTOR STREET, 5TH FLOOR

NEW YORK, NEW YORK

THURSDAY, MARCH 26, 2009

10:00 A.M.

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P R E S E N T :

MATTHEW W. DAUS, CHAIRPERSON/COMMISSIONER

ELIAS AROUT, COMMISSIONER

HARRY GIANNOULIS, COMMISSIONER

IRIS WEINSHALL, COMMISSIONER

EDWARD GONZALES, COMMISSIONER

JEFFREY KAY, COMMISSIONER

CHARLES FRASER, GENERAL COUNSEL

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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

5 commissioners so I apologize for that.

6 We will try to be as brief as we
7 can. It is a long day with a long agenda.

8 I would like to go to item one
9 on the Chair's report. I am going to truncate
10 my report in the interest of time.

11 First, just a reminder to
12 everyone that we are going to be holding a
13 public hearing on April 16 at our regular
14 Commission meeting concerning livery reforms
15 to the FHV industry and the FHV rules. Many
16 stakeholders already know about this. The
17 rules are posted on our website. There are
18 actually copies on the back of a handbook or a
19 synopsis of the changes that the Commission is
20 proposing.

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

25 To that end, also, the council

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1 had passed and the Mayor had signed a livery
2 passenger bill of rights on February 26. That
3 will be part of this rule proposal as well,
4 and we will be voting on that day.

5 The monthly report on the
6 Accessible Dispatch Program system, there is
7 actually a lot going on.

8 First, there has been a change
9 to the policy regarding lane priority at JFK
10 International Airport.

11 For those of you who remember,
12 at the beginning of this process we gave
13 shorty tickets or line priority to everyone
14 who had an accessible vehicle.

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

21 We also, effective this week,
22 are starting a program that we have been
23 working on very closely with several industry
24 members in the Mayor's Office of Operations
25 regarding using the taxi technology systems

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1 and the driver information monitor in the
2 front of the accessible yellow cabs to now be
3 utilized for the dispatch of accessible cabs
4 in addition to the BlackBerry, so about half
5 of the 238 accessible cars will be BlackBerrys
6 as part of this pilot, and we will be
7 comparing that to about half that will be
8 operating using the T-PEP system, and we will
9 monitor to see which works better.

10 I want to thank a couple of
11 groups that assessed in that: The Greater New
12 York Taxi Association, Creative Mobile
13 Technologies, also Aleph and Executive Charge.

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

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

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

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

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

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

22 And also, as you have probably
23 seen, many of you, a New York Times article,
24 for the first time we have comprehensive data
25 and the ability to massage it and tweak it and

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1 show, quite frankly, exactly what the cabs are
2 doing at all times so it is very, very
3 interesting.

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

14 The good news about the data we

15 have seen is that ridership is consistent. It
16 is actually up from December to February, and
17 the actual number of riders have increased
18 actually by 11 percent from December to
19 February.

20 There are more cabs on the road.
21 Drivers are still earning between 14 and \$16
22 per hour, and they are actually surprisingly
23 working less hours than expected. They are
24 working anywhere between -- certainly less
25 than nine-and-a-half hours on average per

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1 driver in this industry, which is a lot less
2 than we thought.

3 Credit card usage continues to
4 be consistent at 20 percent.

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

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

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

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1 that we are facing.

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

8 Medallion sale prices, also the
9 highest sales prices we have ever seen in the
10 history of the TLC this month. Individual --
11 corporate sales, \$750,000 on average in both
12 January and February, and an average of
13 \$559,000 for an individual cab in January.

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

17 Since December of '08,
18 passengers can testify by phone. They call
19 311 if they have a complaint against a cab or

20 an FHV driver or owner. They can testify by
21 phone, and licensees also from the Staten
22 Island facility who would like to contest
23 their summonses can actually go to the
24 facility and testify by phone.

25 And as of this week, thanks to

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1 the hard work of Jeff Grunfeld, Gary Weiss and
2 especially Ray Scanlon, Under Deputy
3 Commissioner, as well as Commissioner Arout,
4 we are pleased to announce we are the first
5 city tribunal in the City of New York, and
6 anywhere that I can think of, to offer video
7 conferencing to our licensees in Staten
8 Island.

9 And hopefully, if that works, we
10 can roll that out to our passengers and anyone
11 who files complaints.

12 Just think about that. And some
13 of the money actually came from the Mayor's
14 initiatives, the green initiatives, so this is
15 great. People don't have to actually go in
16 their cars and be transported to hearings and
17 be hassled by waiting in line at Long Island
18 City. You can now hopefully testify from our
19 Staten Island facility.

20 If this works, passengers can
21 testify from wherever they are using webcams,
22 and all of you would be able to testify in
23 your offices. You never have to come to the
24 TLC, which I am sure will please a lot of
25 people.

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1 That is something that is real
2 cutting edge, and I want to thank the staff.
3 They worked very, very hard on getting this
4 done very quickly, and we are going to work to
5 do it and with the staff to make sure this is
6 successful, and I want to thank Commissioner
7 Arout.

8 It is nice to have our new
9 groundbreaking initiatives on Staten Island as
10 opposed to -- sometimes Staten Islanders
11 complaint that they are left behind. Here at
12 least in the TLC they are doing, getting most
13 of the cutting edge stuff that we are seeing.

14 Hybrids, we have 2,019 total
15 hybrids and 13 clean diesels on the road for a
16 total as of today of 2,032 clean vehicles.
17 That is over 15 percent of our entire taxi
18 fleet.

19 The rules of the revision
20 project, we are going to vote on a couple of
21 rule revisions today, but our next meeting and
22 public hearing will be held in this room on
23 April 3rd at 2:30 p.m. regarding brokers,
24 Chapter 12, and our next meeting, we only have

25 a day for an April meeting, as I said, is

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1 April 16.

2 That concludes my report.

3 Do we have any questions?

4 There being no questions, I

5 would like to move to item 2 on the agenda,

6 adoption of minutes of the February 12, 2009

7 Commission meeting.

8 Do we have any comments, changes

9 or revisions to the minutes?

10 COMM. AROUT: Make a motion to

11 approve.

12 CHAIRMAN DAUS: We have a motion

13 to approve.

14 Do we have a second?

15 All in favor?

16 (Chorus of "ayes.")

17 CHAIRMAN DAUS: Minutes are

18 approved.

19 Item 3, can I have a

20 representative from Licensing, please?

21 MS. STEELE-RADWAY: Georgia

22 Steele-Radway.

23 CHAIRMAN DAUS: Georgia, I just

24 received a letter from the community board on

25 Double A Car Service so I am going to pull

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1 that one off the agenda, and we are going to

2 try to investigate what their complaints are

3 and come back with that one next month.

4 MS. STEELE-RADWAY: Licensing

5 would like to present before the Commission 17

6 bases with a recommendation for approval.

7 CHAIRMAN DAUS: Any questions?

8 Do we have a motion to approve

9 the bases that are listed on item 3 on the

10 agenda with the exception of Double A Car

11 Service?

12 COMM. AROUT: Motion to approve.

13 CHAIRMAN DAUS: Second?

14 All in favor?

15 (Chorus of "Ayes.")

16 CHAIRMAN DAUS: No denials this

17 month?

18 MS. STEELE-RADWAY: No.

19 CHAIRMAN DAUS: Item 4, For

20 Commission Action, Rules Revision Project;

21 Item 4(a), chapter 2, TLC Administrative

22 Matters.

23 Chuck, do you have anything to

24 add?

25 MR. FRASER: We have two

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1 chapters for the TATC Rules and Revision

2 Project for vote this month. These would

3 recodify existing rules governing pilot

4 programs, rule making petitions and taxicab
5 agents.

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

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

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

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

25 The staff is recommending that

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1 the Commission approve these two chapters
2 subject to a further vote giving final
3 approval to the entire rule vote and appeal of
4 the existing rules at the completion of this
5 phase of the Rules Revision Project.

6 CHAIRMAN DAUS: Are there any
7 questions on Chapter 2?

8 We have a motion to approve?

9 COMM. WEINSHALL: Motion.

10 CHAIRMAN DAUS: Second?

11 Commissioner Aroust.

12 All in favor?

13 (Chorus of "Ayes.")

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

16 MR. FRASER: I actually thought
17 that was included.

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

23 COMM. AROUST: Approved.

24 CHAIRMAN DAUS: Second?

25 All in favor?

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1 (Chorus of "ayes.")

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

7 MR. FRASER: These proposed
8 rules would repeal an existing rule relating

9 to vehicle retirement extensions for clean air
10 and accessible taxicabs.

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

20 The intent was to insure that
21 such vehicles were well-maintained by owners;
22 however, in light of our experience with the
23 rule, the staff believes that such a
24 requirement is unnecessarily restrictive.

25 A vehicle should not be forced

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1 into retirement because of minor inspection
2 failures that can easily be remedied for a
3 follow-up inspection.

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

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

11 CHAIRMAN DAUS: Thanks.

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

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

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

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

7 Now, in practice, you have kind
8 of a higher standard of maintenance for the
9 fuel efficient vehicles and for others,
10 inconsistent with the goals of the Commission,
11 and so I strongly support, and I really thank
12 you for going back and taking a look at that.
13 I appreciate the Commission being so diligent

14 on that.

15 I would like to just say a quick
16 word about items (b) and (c), and I appreciate
17 you letting me do that.

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

24 To ensure that the entire city
25 taxi fleet is fuel efficient I think is one of

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1 the most important environmental issues that
2 this city government has ever undertaken. I
3 am in unabashed admiration for the
4 Commission's work on this.

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

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

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

24 I do want to say just a quick
25 word also about item (c). If lease cap

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1 variations are going to be effective and work
2 as policy, the lease caps themselves have to
3 be meaningful, and what the Commission is
4 doing in item (C) is addressing what has
5 become, I think, an egregious loophole in the
6 lease cap system that allows medallion owners
7 to lease the medallion to a driver and say
8 "Okay, you leased the medallion from me, but
9 you have to at the same time buy your car
10 through me," and from the research that we
11 have done in our office, it appears that in
12 many cases -- I am not going to say all
13 because we don't know, but at least from the
14 leases, the sales agreements that we looked
15 at, you see a lot of examples of medallion
16 owners charging twice as much, literally twice
17 as much to purchase the car as it's actually
18 worth so it really is simply a way for the

19 medallion owners to circumvent the lease cap,
20 and if we are going to have lease cap
21 incentives mean something, then the lease caps
22 have to mean something. You can't allow folks
23 to circumvent it.

24 That means you need every
25 permutation that creative lawyers can figure

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1 out must be addressed, and this you are moving
2 to address that in item (c). I commend you
3 for doing that.

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

10 It shouldn't allow somebody to
11 charge 40,000, \$38,000 for an 18 or 20 or
12 \$23,000 car. That will slowly but surely
13 drive everybody into that arrangement. That
14 is not the idea.

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

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

24 CHAIRMAN DAUS: Thank you,
25 Councilman.

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1 Any questions?

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

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

21 I see no reason for that
22 concern. These are cars that are out on the
23 road, have been out on the road plenty prior

24 to being used as taxicabs so there was plenty
25 of experience with them, but, granted, the

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1 experience of a taxicab is different from a
2 private use vehicle.

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

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

10 COMM. GIANNOULIS: Thank you.

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

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

24 COUNCILMAN YASSKY: To be clear,
25 I know the Commission knows this, but the rule

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1 that is being proposed still would say, as it
2 should, and as it does for all taxis, that if
3 a vehicle fails inspection, even if it is for
4 a missing mirror or broken light, it is off
5 the road until it is repaired and can then
6 pass inspection.

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

12 CHAIRMAN DAUS: Any other
13 questions?

14 Councilman, thank you for
15 joining us today.

16 COUNCILMAN YASSKY: Thank you,
17 Mr. Chairman.

18 CHAIRMAN DAUS: Thank you for
19 your support.

20 The next scheduled speaker is
21 Jean Ryan from the Taxis for all Campaign.

22 She is not here.

23 We have one final speaker who
24 signed up today, Mr. Ethan Gerber.

25 MR. GERBER: Thank you, Chairman

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1 Daus. Thank you Commissioners.

2 My name is Ethan Gerber. I am

3 from the Greater New York Taxi Association.
4 Members have been on the
5 forefront of development and putting on the
6 road hybrid and accessible taxicabs.
7 I will speak later on the
8 incentive and penalty provisions before you,
9 but I wanted to speak on -- a couple of words
10 on what you are doing right now.
11 I once promised Chairman Daus
12 and I promised Mr. Fraser that when the TLC
13 does something well, I publicly applaud it and
14 speak on it.
15 Today the repeal of the special
16 inspection requirements rights an injustice,
17 and finally makes the retirement extension for
18 hybrids and accessible vehicles real.
19 This is something we have asked
20 of the Commission for over a year, and I am
21 very grateful that you finally acknowledge it
22 and have put into place.
23 I also want to thank Councilman
24 Yassky for this portion of the provisions, and
25 I want to thank the Commission for finally

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1 righting this wrong.
2 Thank you.
3 CHAIRMAN DAUS: You are welcome.
4 Any questions?
5 Do we have a motion to adopt?
6 COMM. AROUT: Mr. Chairman, may
7 I say a few words, if you don't mind, on this
8 proposal?
9 CHAIRMAN DAUS: I think you are
10 talking about the other one, not this one.
11 COMM. AROUT: I'm sorry. I take
12 it back.
13 CHAIRMAN DAUS: Motion to
14 approve?
15 COMM. GONZALES: Approved.
16 CHAIRMAN DAUS: Second?
17 All in favor?
18 (Chorus of "Ayes.")
19 CHAIRMAN DAUS: Item 5(b),
20 Hybrid Taxicab Lease Cap Incentives.
21 We have a lot of changes. Chuck
22 is going to go through them.
23 MR. FRASER: These proposed
24 rules would modify existing rules governing
25 taxicab leasing in several respects.

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1 First, the proposed rules would
2 rescind the existing rules mandating that
3 taxicabs hacked-up beginning on October 1,
4 2008 must be city rated at or above 25 miles
5 per gallon, and that taxis hacked-up beginning
6 on October 1, 2009 must be city rated at or
7 above 30 miles per gallon.

8 In place of that requirement,
9 the proposed rules would alter the maximum
10 lease rates in such a way as to create
11 incentives for taxicab owners to buy cleaner,
12 more fuel efficient vehicles.

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

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

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1 term.

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

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

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

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

21 Based on our extensive
22 discussions of the proposed rules with
23 affected industry groups, the staff is
24 recommending 11 changes to the proposed rules
25 as published. A number of those changes are

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1 technical, and I have detailed them in a
2 memorandum to the Commissioners.

3 The more substantive changes are
4 as follows: Change to the phase-in provision
5 for the \$12 decrease in the non-hybrid
6 non-accessible lease cap provision from two
7 decreases of \$6 each over one year to three
8 decreases of \$4 each over two years;

9 Prohibit an agent or owner from
10 charging drivers for parking tickets and red
11 light violations where the agent or owner
12 pleads guilty to the violation without

13 allowing the driver the opportunity to defend
14 the violation;
15 Require that a copy of the
16 signed lease be given to the driver;
17 Require that payment receipts
18 include the driver name and medallion number;
19 Require reimbursement to drivers
20 of credit card payments at least weekly
21 instead of daily for medallion-only leases,
22 which must be for at least a week.
23 Copies of the proposed rules,
24 including the staff's recommended revisions,
25 have been given to the Commissioners and are

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1 available to the public in the back of the
2 room.

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

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

10 Good morning.

11 MR. HIDARY: Thank you, Mr.
12 Chairman. Great to be here today.

13 My name is Jack Hitary, chairman
14 of SmartTransportation.org.

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

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

24 I come in support of it today.
25 We are an organization who works with the

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1 business community, the entrepreneurial
2 community, with the environmental community,
3 with the health community, with American Lung
4 Association, who will also be speaking today,
5 and others as well.

6 Before I address the actual
7 issue, I want to give some context to the
8 federal issue around this.

9 That is, the Obama
10 administration has now come in and has made it
11 clear that one of their highest priorities is
12 higher mileage standards and tighter
13 greenhouse gas standards for all cars,
14 vehicles, in the United States.

15 On January 26, six days after
16 taking office, Obama signed a memorandum to
17 the EPA asking the EPA to rethink its decision

18 on the California waiver.
19 And he made it very clear, and I
20 want to quote from the president. He said,
21 "Increasing fuel efficiency in our cars and
22 trucks is one of the most important steps that
23 we can take to break our cycle of dependence
24 on foreign oil. It will also help spark the
25 innovation needed to ensure that our auto

0032

1 industry keeps pace with competitors around
2 the world."

3 Those are the words of our
4 president.

5 So the federal government has
6 made it absolutely clear that no matter what
7 happens here in New York or other places, the
8 federal government is moving towards higher
9 mileage standards. That is where this country
10 is moving.

11 We are moving from the current
12 CAFE standard that we have today to a much
13 higher mileage standard program that will take
14 place over the next three, four, five years.

15 Basically, this ruling is really
16 in tune with where the federal government is
17 going, is in tune with where the president is
18 going, and so I just wanted to give that
19 context there.

20 Second, on the actual ruling
21 itself, it calls for an increase of \$3 for
22 fuel efficient vehicles, and it calls for a
23 lowering of the cap of \$12 for less efficient
24 vehicles. That makes a lot of sense. It is
25 pure economics.

0033

1 So the ruling itself on its own
2 really makes a lot of sense, because it just
3 sends a very simple economic message as to how
4 to -- what kind of cars we want on the road
5 today.

6 I would also say the following:
7 That I think we are all concerned in this
8 room, everyone here is concerned, about the
9 economy, everyone is concerned about their
10 income, and the Chair already addressed that
11 thank goodness taxi rides are up, people are
12 doing well relatively to a lot of other parts
13 of society, but we are concerned, right?
14 Airport arrivals are down, hotel vacancies are
15 down. We are concerned about this economy.

16 The fact is, you have to look at
17 the larger context of where livery and taxis
18 fit, which is that in general in the City, in
19 New York City, we would like to see fewer
20 personal cars on the road and more use of
21 shared types of services: Taxis, black cars,
22 and the public transport system.

23 Look at the public transport
24 system. The ridership is down there, and that
25 is a big concern.

0034

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

7 Congestion pricing did not pass
8 the first time. It will come up again.

9 I urge the livery and taxi
10 community to support that wholeheartedly. I
11 urge the livery and taxi community to support
12 other initiatives of the city to say let's
13 have fewer personal cars in the city, and
14 let's use the shared services of yellow cabs,
15 black cars and the public transport system.

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

20 Thank you very much,
21 Mr. Chairman.

22 CHAIRMAN DAUS: Thank you,
23 Mr. Hidary.

24 Amy Henes?
25 And the next speaker after Ms.

0035

1 Henes is Peter Mazer from MTBOT.

2 Good morning.

3 MS. HENES: Good morning.

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

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

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

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

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

25 Decreased emissions will serve

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1 to decrease the amount of triggers in our air,

2 which exacerbate conditions for individuals
3 who have lung disease.

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

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

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

22 The reality is that our lungs
23 weren't made to breathe the levels of
24 pollution here in New York City.

25 The association works on behalf
0037

1 of more than 2 million residents who struggle
2 with diseases like asthma, chronic obstructive
3 pulmonary disease and emphysema.

4 In particular, there are
5 1 million residents who have been diagnosed
6 with asthma, and 320,000 of them are children.

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

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

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

20 Thank you.

21 CHAIRMAN DAUS: Thank you.

22 Mr. Mazer, and then Mr. Sherman.

23 MR. MAZER: Good morning,

24 Commissioner Daus and other Commissioners.

25 My name is Peter Mazer, and I am
0038

1 general counsel to the Metropolitan Taxicab
2 Board of Trade.

3 This morning I wish to address
4 some elements of the proposed rule amendments
5 concerning taxicab leasing that are under
6 consideration.

7 In the interest of brevity, my
8 remarks will be limited to three of the
9 proposed changes.

10 First, the reduction of the
11 maximum lease cap rules proposed in Rule
12 1-78(a)(3)(ii); second, certain language
13 contained in proposed Rule 1-78(b) relating to
14 allowable extra charges; and, third, the
15 proposed repeal of existing Rule 1-78(e).

16 On the first point, today the
17 TLC is proposing downward adjustments to the
18 basic lease cap as set forth in proposed Rule
19 1-78(a)(3)(ii). This section will reduce the
20 maximum lease cap initially by \$4 a shift or
21 \$28 per week for any vehicle on the road that
22 is not a hybrid or a clean diesel vehicle.
23 Further reductions will occur later.

24 I submit to you that the
25 Commission can neither consider nor act upon

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1 this proposed rule today, as such a reduction
2 will violate the TLC's own rules and would be
3 unlawful.

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

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

23 In its Statement of Basis and
24 Purpose, the Commission acknowledges that the
25 reason it is proposing a reduction in maximum

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1 lease rate is to "Create incentives for
2 taxicab owners to buy cleaner vehicles." This
3 has nothing to do with owner operating
4 expenses.

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

12 repealed today.

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

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

22 Without a showing of medallion
23 owners' operating costs have declined, as
24 required by existing TLC rules, the
25 disincentive proposal cannot be considered by

0041

1 the Commission. To do so would violate the
2 Commission's own rules and would be unlawful;
3 therefore, any public hearing in consideration
4 of the proposed lease cap reductions should
5 not go forward.

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

14 New York State mandates that a
15 5 percent rental tax be collected from all
16 drivers on that portion of the lease. This
17 tax is not retained by the owner but is merely
18 collected and remitted to the state. The
19 owner acts under state law as a trustee of the
20 state. The taxi owner is just like any other
21 merchant in the state who collects sales tax
22 from its customers. The collection of this
23 tax from the consumer is authorized by state
24 law, and to the extent that the TLC is
25 attempting to prohibit the owner from

0042

1 collecting sales tax on the portion of the
2 lease fee subject to such tax, the proposed
3 rule violates state law.

4 I call your attention to Section
5 1132(a)(1) of the New York State Tax Law,
6 which states, in part, "Every person required
7 to collect a sales tax shall collect the tax
8 from the customer when collecting the price."

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

14 The Commission proposes that
15 setting of maximum lease rates no longer be
16 based upon factors set forth in the law such

17 as owners' expenses, driver earnings and
18 retention of experienced drivers. Instead,
19 the Commission seeks the power to either raise
20 or lower lease rates at will at any time based
21 upon what it calls, quote, appropriate policy
22 consideration.

23 To understand the effect of this
24 proposed change, it is necessary to look back
25 at a time when lease rates were first

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1 regulated by the TLC. That goes back to 1996
2 when the Commission first proposed and enacted
3 a lease cap in conjunction with a fare
4 increase to ensure that a portion of a fare
5 increase approved at that time would remain in
6 the hands of the drivers.

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

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

16 In 1998, the New York State
17 Supreme Court had an opportunity to look at
18 the TLC's regulation of maximum lease rates.
19 Judge Kahn noted that the TLC had a legitimate
20 public purpose in ensuring that drivers
21 operate their vehicles slowly and safely. He
22 stated that the lease cap should be considered
23 in conjunction with charter provisions
24 governing rates of fare, and its purpose was
25 to ensure an equitable distribution of fare

0044

1 revenues between drivers and owners;
2 therefore, the lease cap provisions cannot be
3 read apart from the City Charter provisions
4 relating to the consideration of taxicab rates
5 of fare. To do so would render the Charter
6 provisions meaningless.

7 The standards --

8 CHAIRMAN DAUS: Can you try to
9 sum up?

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

18 There is stability in the
19 taxicab industry because all parties can rely
20 upon rules, standards and procedures which
21 have been in place for many years and have

22 worked well.

23 The industry is healthier today
24 for both drivers and owners because we have
25 come to rely upon the rule of law and set

0045

1 procedures rather than the amorphous policy
2 considerations that have not withstood the
3 test of time and can be changed at will.

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

7 CHAIRMAN DAUS: You have a
8 question?

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

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

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

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

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

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

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

23 What we are saying is they have
24 to price their lease such that the sales tax
25 on top of it does not exceed the lease cap.

0047

1 The notion that a price would
2 include taxes is not exactly alien. When you
3 think about it, gas prices all include sales
4 taxes. When you go to the pump, you are
5 paying not just the gas plus tax; you are
6 paying the whole deal is in one price.
7 Nothing startling here.

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

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

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

23 COMM. GIANNOULIS: Maybe -- we
24 have had this conversation prior, but one of
25 my concerns on this issue is the issue that

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1 Peter brings up regarding that voting on the
2 rule today would be a violation, given that
3 the rules are clear in terms of we can only
4 lower lease caps if expenses are shown to be
5 lowered, and do you had an explanation for
6 that? I think it is good for the public to at
7 least know what our position is.

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

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

19 Neither one becomes effective
20 before the other. They both become effective
21 simultaneously because it is all part of one
22 rules package so there is no violation.

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

0049

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

3 The Commission has the right to
4 pass a rule that it feels like passing. It
5 always has that right, no matter what its

6 rules say, and so this is not a violation of
7 anything. It is not illegal in any respect
8 regardless of the order we do them.

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

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

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

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

23 CHAIRMAN DAUS: Just to clarify,
24 it is adding a provision, saying that -- like
25 we did with vehicle retirement, we can look at

0050

1 policy considerations in raising and lowering
2 the lease cap, but it is also retaining the
3 provisions saying that the industry or anyone
4 can really petition us if they want to change
5 the cap in the future because of an increase
6 or decrease in operating expenses, correct?

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

12 CHAIRMAN DAUS: Does that answer
13 your question?

14 Thank you, Mr. Mazer.

15 Is Mr. Sherman coming today?

16 Michael Woloz will be

17 substituting for Ron Sherman from MTBOT, and
18 the next speaker after him is Eddie Burgess
19 from Environmental Defense.

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

24 Good morning, Mr. Chair. Good
25 morning Commissioners.

0051

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

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

7 MTBOT supported the Mayor's
8 original 2012 hybrid taxi plan published in
9 PlaNYC and has demonstrated a major commitment
10 to testing alternative fuel taxes.

11 Today, 10 percent of our fleet
12 is hybrid or clean diesel; however, in our
13 experience, they have not held up in 24/7
14 operation, and they spend too much time with
15 our mechanics, not enough time servicing the
16 riding public.

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

25 Commissioners, today you are

0052

1 being asked to pass what is effectively the
2 same hybrid mandate that was struck down by a
3 federal court, except this mandate also
4 immediately punishes the MTBOT fleets that
5 challenged the prior mandate.

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

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

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

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

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

25 The TLC staff has stated that a

0053

1 differential in gas cost between hybrids and
2 non-hybrids justifies the new \$15 gap between
3 incentivized hybrids and disincentivized
4 hybrids, but a closer look at gas prices today
5 reveal a much narrower differential, as gas,
6 prices, as we all know, have plummeted
7 50 percent from a year ago.

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

14 We need to start replacing Crown
15 Vics with more fuel efficient commercially

16 designed vehicles such as the Ford Transit
17 Connect, which will be available in six to
18 eight months.

19 The Transit Connect, it is an
20 ultra low emissions vehicle. It is rated ULEV
21 II by the EPA. It gets 22 miles per gallon in
22 the city, 25 miles per gallon on the highway.
23 It has a proven safety record in Europe for
24 the last two decades. It is 50 percent more
25 fuel efficient than the Crown Vic. It is

0054

1 70 percent cleaner on the tailpipe than Crown
2 Vics on the road today. Replacing Crown Vics
3 with Connects would be the carbon equivalent
4 of taking 2,577 taxis off the road.

5 2010, Ford will make an electric
6 plug-in version, which we are prepared to
7 pilot.

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

13 In addition, MTBOT proposes
14 outfitting existing Crown Vics with advanced
15 catalytic converters that have been proven to
16 reduce overall emissions by at least
17 35 percent.

18 The rules you are being asked to
19 vote on today will prevent the Transit Connect
20 from ever being hacked up as a taxicab simply
21 because it is not a hybrid.

22 This kind of technology-specific
23 rule making is bad policy. How can you deny
24 passengers a vehicle that is green, that is
25 fuel efficient, that has the potential to

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1 become greener and more fuel efficient, has
2 the leg room, cargo space to keep passengers
3 safe and comfortable? Because it isn't a
4 hybrid?

5 Under the proposed rules, a
6 20 miles per gallon Chevy Tahoe hybrid is
7 incentivized, but not a 22/25 miles per gallon
8 Ford Transit Connect. It doesn't make any
9 sense.

10 When it comes to its own fleet,
11 the city is much more cautious about its
12 vehicle purchases.

13 For example, in justifying the
14 NYPD's purchase of a small amount of Nissan
15 Ultima hybrids, an NYPD spokesperson remarked,
16 We won't know whether they are suitable for
17 the NYPD's demanding environment, which
18 includes virtual 24-hour a day operation by
19 multiple drivers." Sounds like a yellow
20 taxicab.

21 Even within the TLC's own
22 jurisdiction, a double standard applies.
23 Black cars, which compete with yellow taxis
24 for business, will continue to purchase roomy,
25 comfortable and luxurious Lincoln Town Cars

0056

1 for at least another year, and there is no
2 hybrid mandate that exists for liveries.
3 MTBOT wants nothing more than to
4 work with the TLC in creating a green and
5 sustainable taxi policy. All we have asked
6 for is a chance to operate the Transit
7 Connect, which is available in just a few
8 months, and other commercial vehicles that
9 offer safety, durability, comfort and fuel
10 efficiency.

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

17 Thank you.

18 CHAIRMAN DAUS: Thank you,
19 Mr. Woloz.

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

23 MR. BURGESS: Good morning. My
24 name is Eddie Burgess. I am with the
25 Environmental Defense Fund, and thanks for the

0057

1 opportunity to testify here today.
2 Environmental Defense Fund is a
3 non-profit group based here in New York
4 representing over 500,000 members, and we also
5 have a long history of working with businesses
6 and industries on environmental issues.

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

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

22 We are disappointed to see that
23 some of our colleagues in the business
24 community found the requirements to be an
25 insurmountable challenge, but we applaud the

0058

1 city for working to devise an alternative
2 market-based solution that still gives owners
3 a choice of which car to purchase without any
4 mandates. We hope fleet owners can join us in
5 embracing this compromise solution.

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

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

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

20 The proposal is also much fairer
21 to taxi drivers who have no control over the
22 purchasing decisions of their fleet owners.

23 Right now, Crown Victoria
24 drivers pay enormous fuel costs and are
25 susceptible to gas price spikes like we saw

0059

1 last summer, but under this proposal, taxi
2 drivers will pay less than the status quo no
3 matter which kind of car they drive.

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

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

20 Thank you very much.

21 I have copies of my testimony.

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

0060

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

3 CHAIRMAN DAUS: I mean, you
4 know, it is certainly something that was

5 thought about, there is no question about
6 that, but I think with the changes that we are
7 proposing, one could argue that that is
8 somewhat of a grandfathering in some respects.
9 We are breaking in down.

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

22 I view that as kind of a de
23 facto grandfathering.

24 The next speaker, Mr. Dave
25 Pollack, are you here?

0061

1 No.
2 Bhairavi Desai?
3 Michael Levine?
4 MR. LEVINE: My name is Michael
5 Levine. I am president of Ronart Leasing
6 Corporation, a taxicab fleet in New York City.
7 Most of you know me and have
8 seen me speak here before, and when the TLC
9 does things right, I am happy to applaud it.

10 As a matter of fact, we have
11 been a very innovative fleet over the past
12 decade or two, being responsible for many of
13 the innovations that went into the rear seat
14 screens, as well as a lot of other things that
15 are going on.

16 Along those lines, we have been
17 testing hybrid vehicles for over two years
18 now. We have a large number of Ford Escape
19 hybrids and Nissan Ultima hybrids in our
20 fleet, and we have found, as expected, that
21 the vehicles are not only unsafe, as two of
22 our Escapes have flipped over in minor traffic
23 accidents, and the Ultimas tend to shut off
24 completely while driving, leaving no power
25 steering or brakes, but they are also

0062

1 uncomfortably small.

2 The Ultimas can't even take two
3 people to the airport with luggage, and do not
4 hold up under the stress of a taxicab cycle.

5 The Escape has transmission and
6 steering column issues, and the Ultima has
7 electrical issues.

8 I have had -- I have reduced my
9 taxicab fleet this year by 10 percent.

10 I have had four standby vehicles
11 for the past decade, and this year I have
12 added two standby vehicles only to cover for
13 the down time on the hybrid vehicles that I
14 have on the road.

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

20 On the way to work this morning,
21 I heard on Bloomberg Radio, no plug intended,
22 that computer screens running after hours cost
23 \$3 billion in energy per year and create
24 carbon emissions equal to 4 million cars so I
25 thought well, Bloomberg created this great

0063

1 device which everyone uses to communicate
2 financial data, but it is not green so I
3 developed a device which serves the same
4 purpose but is green. It is made from
5 completely recycled materials, has zero carbon
6 emissions and uses no fossil fuels.

7 I have it right here
8 (indicating).

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

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

22 Thank you very much for your
23 time.

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

0064

1 MR. GERBER: I have no props.
2 Good morning. My name is Ethan
3 Gerber. I am the Executive Director of the
4 Greater New York City Taxi Association.

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

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

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

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

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

0065

1 Using the same criteria as the
2 retaliation provision before you, no
3 fair-minded person could conclude otherwise.

4 During the worst economic crisis
5 since the Great Depression, the TLC is trying
6 to lower the income for small businesses for
7 having the temerity to bring its law violation
8 to the federal court.

9 Remember, the federal court
10 agreed with MTBOT. Again, please soak up the
11 irony.

12 The lowering of the lease cap is
13 transparent retaliation. You have given a \$3
14 incentive, and then what ultimately becomes a
15 \$12 penalty. This 300 percent difference
16 between incentive and penalty is obvious on
17 its face.

18 Moreover, you have to change
19 your own rules in assessing lease cap raises
20 and decreasing just to pass these changes.
21 Again, it is retaliatory in nature and is
22 transparent. It is also bad policy for many
23 reasons.

24 One, it punishes the wrong
25 people. My organization represents owners who

0066

1 fully embrace hybrid technology. We did not
2 sue the city. Indeed, one of our owners was
3 the principal purchaser of hybrids in the
4 first hybrid auction.

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

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

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

18 These owners have done
19 everything to advance the hybrid agenda.

20 Indeed, the Mayor used one of our member's
21 garages as a backdrop for his hybrid speech.

22 We even had to fight with staff
23 just to get these vehicles on the road, and
24 now they are being punished. Again, please
25 soak up the irony.

0067

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

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

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

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

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

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

24 Good government rewards the
25 innovative, does not punish the timid; the

0068

1 market will take care of that. You
2 Commissioners are better than that.

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

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

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

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

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

24 Your rules may very well end the

25 DOV operator and may very well end the weekly
0069 lease.

1
2 Your rules make every fleet
3 essentially the same. When every lease is
4 exactly the same, no fleet has any incentive
5 whatsoever to write any amenities not covered
6 by the lease.

7 In short, your rules today
8 attempt to micromanage a complicated business.
9 Governments have tried such policies in the
10 past, and they always failed.

11 Much of what is here today is
12 simply retaliation against one sector of the
13 taxi industry.

14 Please create incentives and not
15 punishments.

16 Thank you.

17 CHAIRMAN DAUS: Mr. Ed Ott?

18 Mr. Haq?

19 We will defer you for that.

20 Does the same go for Mr. Simmons
21 and Mr. Lindauer and Mr. Chowdhery?

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

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

0070
1 MR. SIMMONS: No.

2 CHAIRMAN DAUS: We will defer
3 you.

4 Mr. Lindauer?

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

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

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

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

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

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

21 I am here supporting the
22 American Lung Association, the one who
23 testified, because I am the driver. The last
24 12 years I am driving the Crown Victoria cars.

25 After one half hours a year, the
0071

1 car is coming out of -- under the hood is the
2 carbon dioxide.

3 That's why I am supporting the

4 hybrid for the driver, because when I am
5 driving the Crown Victoria, I have serious
6 problems to my back. The seat is very low.

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

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

13 That is why even in the
14 summertime, we saved a lot of money from the
15 gas. Last summer we are dying for the gas,
16 \$4.50. The Crown Vic is killing the driver.
17 The 47,000 drivers now is affecting the hybrid
18 car.

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

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

0072

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

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

9 Thank you.

10 CHAIRMAN DAUS: Mr. Lindauer?

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

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

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

0073

1 disgrace.

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

7 I rest my case. Thank you.

8 CHAIRMAN DAUS: We actually have

9 one final speaker. She was here but was out
10 of the room so this will conclude the public
11 hearing.

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

15 MS. DESAI: Good morning.
16 Bhairavi Desai, New York Taxi Workers
17 Alliance.

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

20 First of all, I think, as Bill
21 just said, a lot of the rules that you are
22 proposing are really fantastic, and we are in
23 support of them. We need protection against
24 the overcharges that drivers have been
25 suffering from for several, several, several

0074

1 years now, which total thousand of dollars of
2 for individual drivers.

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

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

19 And it is only fair. I mean,
20 certainly if a taxi driver overcharges a
21 passenger by \$10, they lose their license.

22 You know, I mean, the fleet
23 should be happy that hey, the proposals are
24 not calling for a loss of their medallion if
25 they overcharge a driver by \$10.

0075

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

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

13 So our only concern, though, I

14 just want to state for the record, is that we
15 do believe that for the hybrids, the lease cap
16 should remain what the current lease caps are
17 now in existence for the non-hybrids, and then
18 lower them for the non-hybrids as you are
19 proposing them.

20 We feel that would be only fair;
21 that drivers should not have to bear any extra
22 cost for having the hybrid on the roads,
23 regardless of the fact that they are the ones
24 who would be saving from gas, because through
25 the years we have not gotten a surcharge, and

0076

1 the amount that drivers have already paid
2 over, we feel it is more than enough to cover
3 for any increase in the lease caps on the
4 hybrids.

5 Thank you.

6 CHAIRMAN DAUS: Thank you.

7 That concludes the public

8 hearing.

9 Do any Commissioners have any
10 questions or comments?

11 Commissioner Kay and then
12 Commissioner Arout.

13 COMM. AROUT: Thank you,
14 Mr. Chairman.

15 I just want to say I have given
16 this proposal a lot of thought. This has
17 always been a complicated issue in terms of
18 how it would affect drivers and owners, and
19 also how it potentially affects the people who
20 live and work in our city.

21 There has been a lot of material
22 to digest, and I have reviewed every bit of it
23 very carefully and very thoroughly.

24 I am aware of the concerns that
25 have been brought to our attention by some

0077

1 segments of the industry, and I am also aware
2 of the need to balance those concerns with the
3 advantages pointed out by environmental
4 advocates.

5 After careful consideration, I
6 have decided to support the proposal.

7 At the end of the day, I think
8 what impressed me the most was the opportunity
9 to do something that I personally believe is
10 fair to everyone involved and allows the Taxi
11 and Limousine Commission to set an example,
12 not only for New York City, but the taxi and
13 limousine commissions in other cities.

14 I think today is an important
15 day for the Taxi and Limousine Commission.
16 Thank you.

17 CHAIRMAN DAUS: Commissioner
18 Kay?

19 COMM. KAY: The issue of hybrid
20 taxis has been a very long road. As many of
21 our people testified today, has a long history
22 with the TLC. I think over the last two
23 years, year-and-a-half we spent a lot of time
24 on this particular issue.

25 We, of course, did pass a rule
0078
1 mandating hybrids, which, of course, as was
2 noted, the law prohibited us from doing that,
3 the federal law.

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

10 The law is the law, and we
11 understand that.

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

20 What we can do is look at
21 expenses of both the owners and the drivers,
22 and to make it pretty clear that we are not
23 going to allow drivers to -- we are not going
24 to allow drivers to be disadvantaged by the
25 choice that the owner makes from an economic

0079
1 perspective that provides money into the
2 driver's pockets. It also hopefully provides
3 incentives on the road to get more hybrids,
4 which we can all discuss about the effects of
5 that.

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

11 These are to provide the
12 incentives and to make it clear that drivers
13 will not be harmed by those choices.

14 This has been -- as I said, this
15 has been a really long road.

16 We have had many discussions
17 with many of you, with many of the fleet
18 owners as early as three days ago, and I think
19 the TLC, I know the Mayor's Office, want to
20 get -- always want to do things in a way that
21 protects the industry, that protects the
22 drivers, that protects the owners, protects
23 the environment and is good for our

24 passengers.
25 We believe that this is the fair

0080

1 way to do that.

2 I think we have made the case
3 here that we have done the best that we can to
4 achieve a multiple of goals, and I really do
5 look forward to passing these today.

6 CHAIRMAN DAUS: Thank you,
7 Commissioner.

8 Do we have any other comments
9 from anyone?

10 Do we have a motion on the
11 rules?

12 COMM. AROUT: Make a motion.

13 CHAIRMAN DAUS: We have a motion
14 to adopt with Mr. Fraser's changes, correct?
15 Second?

16 COMM. KAYE: Second.

17 CHAIRMAN DAUS: All in favor?
18 Opposed?

19 COMM. GIANNOULIS: I abstain.

20 CHAIRMAN DAUS: So the motion
21 passes with every Commissioner voting except
22 for Commissioner Giannoulis abstaining.

23 Thank you. Thank you,
24 Commissioners.

25 Actually, I would like to jump
0081

1 out of order on the agenda real quick. I
2 would like to defer item 5(c) and go to item 6
3 (a) and (b).

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

11 Any questions or comments? I
12 think we sent some materials out.

13 Do we have a motion to deny the
14 pilot?

15 COMM. WEINSHALL: So moved.

16 CHAIRMAN DAUS: Second?
17 All in favor?

18 (Chorus of "Ayes.")

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

22 If you remember, the Commission
23 approved a pilot, which is currently under
24 way, but is about to expire within the next
25 day or two, I believe, involving the testing

0082

1 of hearing loop technology for people who have
2 hearing impairment.

3 I am proposing to the Commission
4 that we extend that pilot to July 31, 2009.
5 There are about 18 vehicles on the road. The
6 problem that we are facing right now is
7 Assistive Audio has not completed the reports
8 that they have been required to do and have
9 not completed the testing so I would like to
10 give them a little bit more time so if
11 everybody is okay with that, we have a motion
12 to extend the pilot to July 31, 2009.

13 Do we have a second?

14 COMM. GIANNOULIS: Second.

15 CHAIRMAN DAUS: All in favor?

16 (Chorus of "Ayes.")

17 CHAIRMAN DAUS: It is unanimous.

18 Thank you.

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

23 (A recess was taken.)

24 CHAIRMAN DAUS: Back on the

25 record. I apologize for the delay.

0083

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

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

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

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

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

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

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

0084

1 In return, the proposed rules
2 would give long-term lease drivers several
3 benefits. First and foremost, the proposed
4 posed rules would prohibit owners and agents
5 from adding charges to leases that extend the
6 total cost to drivers above the long-term
7 lease caps.

8 The proposed rules would also
9 provide that at the end of the long-term
10 lease, the driver would be given title to the
11 vehicle.

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

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

23 Following publication of the
24 proposed rules, we engaged in extensive and
25 very productive discussions with interested

0085
1 industry groups.

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

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

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

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

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

0086
1 Add that in addition to the
2 weekly lease rate, a long-term lease may
3 include a refundable deposit up to \$5,000,
4 which can be payable either at the beginning
5 of the lease or over time. The deposit is
6 refunded to the driver at the end of the lease
7 term unless the driver breaks or terminates
8 the lease.

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

12 Add that a long-term lease

13 driver can assign a lease to another
14 TLC-licensed driver, and that the owner or
15 agent may not unreasonably reject such an
16 assignment.

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

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

0087

1 where the driver does not ordinarily report
2 into the owner or agent on a delay basis.

3 Delete allowance of a lease
4 cancellation charge for the long-term lease.

5 Prohibit an agent or owner from
6 charging drivers for parking ticket and red
7 light violations where the agent or owner
8 pleads guilty to the violation without
9 allowing the driver the opportunity to defend
10 the violation.

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

16 CHAIRMAN DAUS: Thank you,
17 Chuck.

18 First speaker is Mr. David
19 Pollack from the Committee for Taxi Safety.

20 COMM. POLANCO: Good morning,
21 Commissioners, Mr. Chairman.

22 My name is David Pollack,
23 Executive Director of The Committee for Taxi
24 Safety, an association representing
25 approximately 2500 medallions, and the men and

0088

1 women that drive those taxis.

2 It has been repeatedly found
3 that driver-owned vehicles, known as DOVs, and
4 owner-drivers are the safest in the industry.

5 The DOV driver is also the
6 long-term driver, and that is a professional
7 driver; the type of driver that stays in the
8 industry and that the TLC has always sought.

9 A DOV driver can and does earn
10 up to 40 percent more than shift drivers.

11 Overlooked, if the TLC does not
12 address the disparity in the lease cap between
13 the fleets' daily shift rate and the DOV
14 operators, you will force the DOV operators to
15 convert to shift leasing, resulting in a
16 dramatic decrease in the very drivers that the
17 TLC has repeatedly stated they want in the

18 industry. A safer, more professional driver
19 is who they want. This will take away the
20 opportunity for significant additional
21 earnings by the driver.

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

0089

1 Now it is the agents that
2 finance vehicles using the agent's credit.

3 If after banks or car
4 manufacturers finance the vehicle purchases,
5 title to the vehicle is then transferred to
6 the driver, the loans from the car
7 manufacturer or banks become due.

8 The driver fails to pay this
9 obligation; its much more difficult to
10 repossess a car that is titled to a third
11 party as compared with the entity paying the
12 loan; therefore, transfer of the title should
13 only occur when full payment is made.

14 Because it is the agent
15 purchasing the vehicle, the agent is able to
16 negotiate a better interest rate.

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

23 A simple solution to this issue
24 concerning title might be for the TLC to
25 change its definition of an owner of a vehicle

0090

1 to include equitable or beneficial interests,
2 or possibly to a driver who will be entitled
3 to receive the title upon request when the
4 vehicle is paid in full or at the end of the
5 contract.

6 The TLC should not micromanage
7 the taxi industry. Contractual terms are not
8 within TLC's jurisdiction.

9 If the TLC finds that an agent
10 is not conducting business properly, it has
11 the regulations in place by which to regulate
12 that specific agent.

13 The TLC disregards that there is
14 financial risk in financing vehicles.

15 The TLC should not be able to
16 mandate business terms with reference to
17 security deposits in terms of contract if it
18 is not its money at risk.

19 The marketplace keeps licensed
20 agents competitive. The TLC should not be
21 interfering with the marketplace.

22 There are sales tax implications

23 with reference to the length of the lease. If
24 you do not pay any sales tax at the time of
25 the purchase, you pay an advance based upon

0091

1 your lease. If your lease is six months with
2 a renewal option that is considered a 1-year
3 lease under the Tax Code, and the sales tax is
4 paid for that period of time, if the leases
5 are now five years, sales tax must be paid in
6 advance for the five year lease, adversely
7 impacting upon agents who pay the sales tax.

8 Lease cap changes should be
9 based on the economics of the industry, not
10 upon whims of TLC to be exercised at the time
11 based upon policy considerations.

12 Appropriate policy
13 considerations may be interpreted to mean
14 anything by the TLC, and the meaning of which
15 can obviously change from day-to-day. Lease
16 caps are all about and only about economics.

17 If the driver is the vehicle
18 owner, and the cost and benefits accrue only
19 where the title to the vehicle is held by the
20 driver, then it is the driver who should pay
21 for the cost to operate that vehicle,
22 including and not limited to premiums of
23 insurance, tax stamps, registrations, meter,
24 et cetera.

25 The TLC has repeatedly stated,

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1 both verbally and in print, that during the
2 first phase of the Rules Revision Project,
3 Rules Revision is intended to involve no
4 substantive changes to the rules, and that
5 public hearings are to be held separately
6 concerning substantive changes at later dates;
7 that after the first phase of its Rules
8 Revisions is completed, the TLC will move to
9 the second phase, which will involve the
10 assessment of its rules for more substantive
11 changes.

12 Detailed explanations and more
13 detailed comments you have before you and are
14 submitted comments that we submitted prior.

15 The Committee for Taxi Safety
16 believes that the idea to increase the number
17 of hybrid taxis is commendable. Rewarding
18 both drivers and owners is a win-win
19 situation.

20 \$3 is a minimal amount to pay as
21 drivers will save much more than that on
22 gasoline.

23 That said, we will also ask that
24 you do not reduce the lease amounts for the
25 Crown Victorias.

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1 Thank you very much.

2 CHAIRMAN DAUS: Thank you.
3 Mr. Pollack?

4 Next speaker is Manmunul Haq,
5 and then Mr. Berersford Simmons.

6 MR. HAQ: My name is Mammunul
7 Haq, the New York Taxi Workers Alliance.

8 Thank you so much for giving me
9 this opportunity to come here.

10 I just want to mention a few
11 things. I am driving a taxicab for a long
12 period of time. Actually the last few months
13 I don't drive, you know, the full time,
14 because I am trying to get out of this
15 business, looking for something else and
16 working for some other places.

17 I know as a DOV driver, I own
18 the car and lease the medallion from the
19 broker so I totally know what is going on the
20 whole lease and everything.

21 I just want to make sure that
22 you are taking action, which is make sure that
23 the lease increment which goes to the broker
24 and the driver, it should be your knowledge,
25 the TLC's knowledge what is going on, because

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1 there is a sudden loophole, a legal loophole
2 which is now the drivers are suffering and the
3 brokers are taking advantage.

4 Lots of things going on, they
5 overcharge the driver; drivers are being
6 overcharged for a long period of time.

7 In this economy, and we talk
8 about and also Yassky, Councilman, he
9 mentioned about how much of the cost to buying
10 a car from the broker. I mean, it is
11 overcharging from the buying from outside, and
12 a driver has no choice; they are going to have
13 to buy the car through the broker.

14 You have to make sure that it is
15 in your knowledge and also the driver not
16 being overcharged, and the lease increment
17 should be -- there is a contract which is a
18 driver should receive one contract.

19 A lot of brokers, a garage owner
20 who lease the medallion to the driver, the
21 driver don't receive a single document that he
22 own the car.

23 Obviously, it is still the title
24 in their name until the car paid, or even the
25 car gets repaired, they never get title.

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1 The duration of the car, and
2 loss of driver -- because I am an organizer.
3 I organize the cab drivers for several years
4 from my community. It is the largest
5 community in New York City, the cab drivers
6 are from Bangladesh.

7 They keep calling they are
8 losing their car before their retirement.
9 Once the car is paid off in a half-year or
10 more than a year, and they just took the
11 medallion -- the medallion from the car.

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

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

23 I mean, I am urging that you
24 make sure that the contract should be very
25 standard, which is that the driver not going

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1 to be entrapped, they are not going to lose
2 their car before their retirement.

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

6 Thank you so much.

7 CHAIRMAN DAUS: Thank you, sir.
8 Next speaker is Mr. Simmons.

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

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

24 Thank you very much.

25 CHAIRMAN DAUS: Thank you.

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1 Anybody else wish to be heard?

2 Ms. Desai, and you are the last
3 speaker, and then Mr. Ott.

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

6 First of all, I really commend
7 the TLC for considering the long-term lease
8 cap. I think it is a great proposal, because
9 there has been no standard contract for the
10 drivers, and the contracts that are negotiated
11 between the agents and the drivers, drivers

12 don't have any of the bargaining advantages,
13 and as a result there are no protections in
14 them, and so we see things like overcharges,
15 cost pass-alongs added on through the course
16 of five-year financing of the vehicle and the
17 medallion.

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

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1 extended to the agents through this process.
2 Secondly, I wanted to comment to
3 say that a lot of the proposals, again around
4 the requirements, around the receipts and the
5 signing of the leases, and getting a copy of
6 the lease agreement to the driver, we are in
7 full support of those proposals, and we also
8 commend you on those, because those are issues
9 that are brought to our office on a daily
10 basis where the driver has signed a contract
11 for even up to five years, or maybe it could
12 be six years -- six months or one year.

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

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

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

25 I don't want to comment at the

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

6 By having a long term lease cap,
7 you are really providing -- and being able to
8 extend the payments for a longer period of
9 time, you are really providing drivers not
10 only security to be able to keep that vehicle
11 and that medallion, which they are investing
12 into, but you are also safe-guarding them from
13 any financial losses in cases of repossessions
14 or medallion removal and so we are in full
15 support of the concept of the long-term lease
16 cap.

17 CHAIRMAN DAUS: Thank you,
18 Ms. Desai.

19 Mr. Ott, and that is it.

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

23 First off, I just want to
24 commend the TLC for the process.

25 I would agree with the brother
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1 who spoke. It was kind of a historic moment.
2 The level of respect involved in this process,
3 the efforts of the Commission and the staff
4 were unbelievable, and hopefully we in the
5 future will continue this process and try to
6 make improvements in the industry for
7 everybody involved.

8 I realize there is a lot of
9 stakeholders here with very different needs
10 and interests, but I really thought at this
11 point the TLC played a really strong role, and
12 we expect to make more progress going forward.

13 The concept as proposed I fully
14 support, and for the record, I just want to
15 say that we hope as we go forward that we can
16 continue to knock down problems in the
17 industry by this level of collaboration.

18 Thank you for your time.

19 CHAIRMAN DAUS: Thank you.
20 That concludes the public
21 hearing.

22 I would echo those comments.
23 Certainly a new day is dawning here at the
24 TLC. I have been working here for 13 years.
25 I have never actually seen the groups

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1 involved, who I must commend, such productive,
2 professional discussions as part of the
3 comment period.

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

10 Most importantly, I want to
11 thank the staff and the people that were
12 involved, not only with this proposal, but
13 everything that we heard today, because they
14 have been working around the clock, and it has
15 been very complicated and very tiring going
16 through a lot of the minutiae on all these
17 proposals, and in particular driving Chuck
18 crazy the last day or two with a lot of
19 changes, and Chris Wilson of the staff, also
20 Andy Salkin and Samara Epstein, who spent
21 countless hours dealing with all stakeholders

22 on all these rules, as well as, of course, I
23 want to thank Commissioner Kay and his staff,
24 Emily Gauyo, for assisting specifically with
25 all of our -- the last two rules on the agenda

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1 as well.

2 That is basically it.

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

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

18 In the interest of appropriately
19 digesting all of these comments, and in the
20 interest of the continued discussions between
21 the major stakeholders in the industry between
22 each other as well as with us, I am
23 recommending to the board that we study this
24 issue over the next couple of weeks, let them
25 continue talking, and that we take it up for

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1 further potential action and debate at the
2 next meeting or meeting thereafter.

3 Any comments?

4 So that concludes the public
5 hearing.

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

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

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

17 All in favor?

18 (Chorus of "Ayes.")

19 CHAIRMAN DAUS: Thank you.

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

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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