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NEW YORK CITY TAXI & LIMOUSINE COMMISSION
PUBLIC MEETING
40 RECTOR STREET, 5TH FLOOR
NEW YORK, NEW YORK 10006
FRIDAY, JANUARY 23, 2009
2:30 P.M.

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P R E S E N T

CHARLES FRASER
DAVID KLAHR, Chief of Staff to 1st Deputy Cmsr.
CHRISTOPHER WILSON, Ass't General Counsel

Also Present:

Peter Mazer

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P R O C E E D I N G S
(Time noted: 2:30 p.m.)
MR. FRASER: We will get started. My

5 name is Charles Fraser; I'm the general counsel at
6 TLC. To my left is Christopher Wilson, who's an
7 assistant general counsel, who is coordinating our
8 rules revision project for legally. And to my
9 right is David Klahr, who's the chief of staff to
10 the first deputy commissioner, who is coordinating
11 the project operationally.

12 I understand we have just one speaker
13 today, and we went over what we are doing in these
14 hearings last time, so I won't repeat it.

15 Mr. Mazer, you have comments either to
16 hand up or read?

17 MR. MAZER: I'll read them. I'll hand
18 them up also so you'll have copies.

19 This is comments regarding Chapter 14
20 of the rules of the City of New York Taximeter
21 Business Rules.

22 Good afternoon, Commissioner Fraser.
23 My name is Peter Mazer, and I am general counsel to
24 the Metropolitan Taxicab Board of Trade, a 55-year
25 old trade organization representing 27 fleet owners

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2 who own or operate more than 3,500 medallion
3 taxicabs.

4 MTBOT members serve as licensed agents
5 and brokers; several also operate licensed
6 taximeter businesses. I have previously served as
7 general counsel to the Taxi and Limousine
8 Commission from 2001 through 2004; and as an
9 administrative law judge and chief judge at the
10 commission's tribunal.

11 MTBOT has previously submitted comments
12 and has provided testimony to reiterate its
13 continued support for the ongoing TLC project to
14 revise TLC rules in an effort to make them clearer
15 and more consistent.

16 MTBOT has met with TLC's consultant,
17 TATC, to provide input into the rulemaking process,
18 and we continue to be available to furnish advice
19 and assistance to your consultant.

20 Nonetheless, the commission is reminded
21 that rulemaking is a complex and deliberative
22 process, subject to the provisions of the Citywide
23 Administrative Procedure Act, CAPA; and further
24 specifically limited by the powers conferred upon
25 the TLC in both the New York City Charter and the

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2 Administrative Code.

3 Each rule promulgated by the commission
4 must be considered both in light of CAPA procedural
5 requirements as well as Charter and Code provisions
6 setting forth limitations on the powers of the
7 commission.

8 Rulemaking relating to taximeter
9 businesses must also be read in conjunction with

10 the Administrative Code provision, Section 19-509.
11 This section authorizes the TLC to license and
12 regulate businesses that manufacturer, sell, repair
13 adjust or calibrate taximeters for use in licensed
14 New York City taxicabs.

15 Any proposed rulemaking must also be
16 read in conjunction with the other chapters of the
17 commission's rules which are applicable to all
18 licensees of the TLC.

19 The commission has stated that prior to
20 any final rulemaking, there would be further
21 opportunity for public comment. At that time,
22 MTBOT may submit further comments regarding
23 substantive rules, policies and procedures,
24 including such rules, policies and procedures that
25 the commission is not proposing to amend at this

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2 time.

3 Inasmuch as the purpose of today's
4 hearing is not to address any such substantive
5 concerns with the rules, we have generally not
6 provided such comments today.

7 We do note that the commission had
8 previously indicated that it would not enact final
9 rulemaking until the TATC review process had been
10 completed. However, the TLC is now presenting to
11 the commissioners, for final approval, rulemaking
12 on two chapters for which comments were previously
13 received.

14 The promulgation of final rules by the
15 commission before a comprehensive review of all
16 chapters of the TLC is completed is inconsistent
17 with the Commission's previous statements regarding
18 the procedures to be followed throughout this rules
19 revision initiative.

20 The commission has stated that it
21 intends to repeal all rules and replace them with a
22 full set of revised rules upon the completion of
23 this phase of the project. Adoption of revised
24 rules in stages will create confusion and
25 inconsistencies in the commission's rules.

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2 For the purpose of today's hearing, we
3 will simply note that the statement of basis and
4 purpose accompanying today's rulemaking proposals
5 indicates that "the rules are not intended to make
6 any changes to TLC's current policies, procedures
7 and operations."

8 Therefore, my specific comments will be
9 limited to providing examples of instances where
10 the proposed rulemaking appears to differ
11 significantly from existing rules.

12 With respect to the specific rule
13 revision before the commission today, I would like
14 to make the following observations:

15 My first objection deals with the
16 definition of taximeter. The rules fail to
17 distinguish between public and private taximeter
18 businesses. A public taximeter business is a
19 licensee that sells taximeters and provides
20 services to any licensed medallion owner.

21 A private taximeter business is also
22 licensed by the TLC, but does not provide services
23 to the general public. Rather, a private taximeter
24 shop is affiliated with a particular agent and only
25 services medallions affiliated with that agent.

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2 Some MTBOT fleet members operate
3 private taximeter businesses. The commission has
4 recognized the distinction between private and
5 public taximeter shops, and has provided separate
6 license designations for private and public meter
7 shops.

8 The commission has further recognized
9 that some of the rules in the present Chapter 15
10 would not apply to private taximeter businesses.
11 Some examples of such rules include requirements
12 that charges be approved and posted, and certain
13 space and amenity requirements available in public
14 waiting areas.

15 The proposed rules fail to distinguish
16 between public and private meter shops, and fail to
17 delineate those rules which are not applicable to
18 private taximeter businesses.

19 The second point is the definition of
20 "taximeter." The term "taximeter" is defined in
21 National Institute of Standards and Technology
22 Handbook Number 44, and any definition of taximeter
23 contained in the TLC rules should conform to this
24 standard definition.

25 A device that does not conform with

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2 Handbook Number 44 definitions cannot be classified
3 as a taximeter consistent with federal laws and
4 regulations governing measuring devices. See NIST
5 Handbook Number 44, Section 5.54.

6 In general, the technical rules of the
7 commission regarding taximeter businesses must also
8 be read in conjunction with NIST Handbook Number
9 44. Appendix D of Handbook Number 44 defines a
10 taximeter as "a device that automatically
11 calculates, at a predetermined rate or rates, and
12 indicates the charge for hire of a vehicle." This
13 definition should be adopted by the TLC.

14 The next comment deals with
15 inconsistencies with the administrative code and
16 adjudication rules. Proposed Rule 1402B provides
17 that a taximeter business owner who fails to pay an
18 assessed fine by the end of the day at which the
19 hearing occurred would be placed on suspension.

20 This section is inconsistent with
21 adjudication rules and applicable TLC penalty
22 provisions which provide that a licensee is placed
23 on suspension if a fine is not paid within 10 days,
24 not immediately. And the administrative code which
25 provides for the stay of a payment of any assessed

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2 fine if an appeal is filed in a timely manner.

3 MR. FRASER: We already caught that one.

4 MR. MAZER: Already published.

5 MR. FRASER: We caught it after we
6 published it. So that comment has been
7 addressed; that's good.

8 MR. MAZER: Other substantive changes.
9 Both the present and existing rules require a
10 licensed taximeter business to hold and maintain a
11 \$50,000 bond as a condition of licensure.

12 However, the proposed rules appear to
13 eliminate restrictions on the use of this bond and
14 appear to make a substantive change in the
15 regulations, making the bond available to satisfy
16 judgments between private litigants. This use of
17 the bond does not presently exist in the rules.

18 Section 1409B provides that no taxicab
19 can be used in a New York City taxicab unless the
20 manufacturer is licensed by the TLC. This rule
21 fails to recognize that such a manufacturer may be
22 located outside of New York City and would
23 therefore not be subject to many of the rules
24 applicable to TLC businesses operating in New York
25 City.

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2 What I'm saying here is that, if you
3 have a manufacturer that has its manufacturing
4 facility outside of New York City, it has to have
5 the TLC license to sell its taximeter in New York
6 City. But many of the rules, like the waiting
7 area, the posting of the rates, you have no way to
8 enforce them against a meter manufacturer that was
9 located in another city or another part of the
10 world.

11 Just in conclusion, then, MTBOT
12 appreciates the opportunity to comment on the
13 rules, as well as the opportunity to address each
14 aspect of the current and proposed rules of the
15 commission; to insure that the charter mandates to
16 provide safe, reliable for hire transportation
17 industry are satisfied.

18 We look forward to working with the
19 commission and your consultant as further rule
20 revisions are considered.

21 MR. FRASER: Thank you for your
22 comments.

23 MR. MAZER: I request to know if there
24 are any other written comments received on these

25 rules?

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2 MR. FRASER: No, there were not.

3 MR. MAZER: At the last public hearing,
4 were there other comments received in addition to
5 the ones I submitted?

6 MR. FRASER: I don't remember. If there
7 were, we can certainly make copies and send them to
8 you. My recollection is there were two or three.
9 And either all or most were to the same effect. In
10 any event, we will send you copies of whatever
11 there was.

12 MR. MAZER: Thank you.

13 MR. FRASER: Thank you. I appreciate
14 your comments. I know your expertise has been
15 useful to us before. You saved us from a mistake
16 on the meter on the fare change last time around;
17 because we didn't understand the technicality of
18 the meter operation. It was your comment that
19 directed us to that. So I appreciate your
20 comments.

21 One thing I would like to address. You
22 referred to our doing final approvals in front of
23 the commission, and that's not correct. What we
24 put in front of the commission and what staff is
25 going to be recommending at the commission meetings

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2 is that they approve the rules in a sort of
3 conditional basis, chapter by chapter; subject to a
4 further vote to approve the entire package, and
5 simultaneously repeal all the existing rules.

6 Its a logical problem we really
7 wrestled with, how to put what will be 19 chapters
8 of rules in front of the commission in a way they
9 can actually deal with them, not all at once; yet
10 still, as you say, make intelligible use of the
11 different chapters with reference to each other.

12 Although the CAPA deadline for comments
13 was whatever it was, anyone who at any point has
14 any comment on the rules should feel free to submit
15 it. Obviously, anything that we missed or
16 overlooked or misunderstood, this is not the end of
17 the discussion.

18 We will ultimately, maybe July, have
19 the final vote repealing or finally approving each
20 of the chapters, all of the chapters collectively.
21 And then all at once repealing the existing rule
22 books so there will be a complete replacement.

23 Anything we missed by today does not
24 mean we can't still consider it thereafter. CAPA
25 permits changes to proposed rules, not just based

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2 on public comments within the comment period, but
3 also based on staff comments.

4 Obviously, if someone brings to our
5 attention something that requires a change, we
6 could and would still deal with that. So that's
7 the only thing I wanted to add.

8 I should have said at the beginning,
9 and hopefully it's obvious by now, that this
10 hearing is about the chapter that pertains to
11 taximeter businesses.

12 Next month, February 20, we have two
13 rules chapters -- agents -- and then the internal
14 chapter, which is internal agency matters like
15 pilot programs and stuff like that; what everyone's
16 been referring to as the plumbing chapter. That
17 will be next month. Then we have another one
18 coming up in March, on brokers. Brokers is
19 probably next.

20 Thank you very much.
21 (Time noted: 2:48 p.m.)

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2 C E R T I F I C A T I O N
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4 I, Jeffrey Shapiro, a
5 Shorthand Reporter and Notary Public, within and
6 for the State of New York, do hereby certify that I
7 reported the proceedings in the within-entitled
8 matter, on Friday, January 23, 2009, at the offices
9 of the NEW YORK CITY TAXI AND LIMOUSINE COMMISSION,
10 40 Rector Street, New York, New York, and that this
11 is an accurate transcription of these proceedings.
12 IN WITNESS WHEREOF, I have
13 hereunto set my hand this _____ day of
14 _____, 2008.
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17 _____
18 JEFFREY SHAPIRO
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