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State of Rhode Island
Division of Public Utilities and Carriers
Docket 05 MC 06
Testimony
Of
Terrence E. Mercer
Associate Administrator For Motor Carriers
Division of Public Utilities and Carriers

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2

3 A. My name is Terrence Mercer and my business address is:
4 Associate Administrator, Division of Public Utilities and Carriers
5 (“Division”), 89 Jefferson Boulevard, Warwick, RI 02888.

6

7 Q. WHAT IS YOUR POSITION AT THE DIVISION?

8

9 A. I am the Associate Administrator in charge of the Motor Carriers
10 Section.

11

12 Q. HOW LONG HAVE YOU WORKED FOR THE DIVISION?

13

14 A. I have been with the Division for four and a half (4 ½) years, the
15 past two and a half (2 ½) overseeing the Motor Carriers Section.

16

17 Q. HAVE YOU PREVIOUSLY TESTIFIED IN DIVISION HEARINGS?

18

19 A. Yes, I have testified in numerous Division hearings regarding
20 Motor Carrier issues.

21

22 Q. ARE YOU AWARE OF THE RATIONALE BEHIND THE RULE
23 CHANGES PROPOSED IN THIS DOCKET?

24

25 A. Yes. The Motor Carriers Section initiated this rule-making
26 proceeding to address some technical inconsistencies in the existing rules,
27 including terminology, statutory cites, formatting inconsistencies, changes
28 in regulatory responsibility and other minor changes that have arisen as a
29 result of recent Division decisions. Additionally, there were a few other
30 sections that needed more substantive clarifications, such as the provisions
31 dealing with “call and demand” services.

1 Q. LET’S FIRST DISCUSS WHAT YOU REFERRED TO AS THE
2 “TECHNICAL CORRECTIONS” or “MINOR’ CHANGES.” WE’LL
3 GET TO THE MORE SUBSTANTIVE CHANGES LATER ON. ARE
4 THERE ANY TECHNICAL CORRECTIONS OR MINOR CHANGES
5 IN SECTION ‘A’ – DEFINITIONS.
6

7 A. First of all, we’re proposing some minor formatting corrections
8 throughout the rules to improve consistency within each section. The first
9 of these shows up in the “Definitions” section, where we now number
10 each definition. Additionally, the proposed changes seek to more
11 accurately reflect the terminology used throughout the rules. For example,
12 on Page 2, Line 10 in the redacted copy of the rules, we have further
13 defined the term “Driver” to indicate cab operators who are transporting
14 passengers for hire. The previous definition technically could have
15 included a mechanic road-testing a cab.

16 The next minor correction shows up on Page 2, Line 27 where we
17 have defined “Motor Carriers Section.” That language was added to
18 replace what has been numbered as Paragraph 23 on Page 4 of the
19 redacted rules, the definition of “Weights and Measures.” Those changes
20 were required by recent changes that transferred the physical task of
21 testing and sealing taximeters from the Department of Labor’s Weights
22 and Measures Unit to this Division. The result is that we are deleting the
23 definition of “Weights and Measures” and adding in its place Paragraph A.
24 13, a definition of “Motor Carriers Section.” The Motor Carriers Section
25 now has all such responsibilities formally assigned to Weights and
26 Measures.

27 The next technical correction we propose is the elimination of the
28 words “Memorandum Certificate” from the definition of a Rate Card on
29 Page 3, Line 17 of the redacted rules, because, simply, the Division – and
30 the industry – only refers to them as a Rate Card.

1 These amended or new definitions are reflected throughout the
2 body of the redacted rules, but have no impact on the existing
3 requirements.

4 I intend to discuss Paragraphs A. 5 (Call and Demand), A. 11
5 (Hackney Operator’s License), A.15 (Paratransit Services) and A. 21
6 (Taxicab Stand) later in this testimony when I turn to the more substantive
7 amendments.

8
9 Q. LET’S TURN TO SECTION ‘B’ ON RATE CARDS. ARE THERE ANY
10 ‘MINOR’ CHANGES THERE?

11
12 A. Yes. We have proposed deleting the words “Memorandum
13 Certificate” from the heading of Section B to more accurately reflect the
14 terminology used in the industry. In addition, we have deleted the final
15 two sentences of that rule and replaced them with two new sentences that
16 more clearly set out the requirements governing rate cards. Again, this
17 does not alter current practice or requirements in the industry.

18
19 Q. LET’S TURN TO SECTION ‘C’ ON MANIFESTS. ANY ‘MINOR’
20 CHANGES THERE?

21
22 A. Yes. We have changed the word “provided” to “approved” to
23 better reflect the current practice. The Division simply approves manifest
24 layouts but does not actually distribute such forms. In addition, we’ve
25 corrected one or two typographical errors in subsections C.1.d. and C.1.f.

26
27 Q. DID YOU MAKE ANY ‘MINOR’ CHANGES IN SECTION ‘D’ ON
28 RATES AND CHARGES?

29
30 A. Yes. We simply changed the tariff language in Appendix ‘B’
31 which is referred to in Rule D.2. Essentially it changes the charge for large

1 luggage items to reflect the current tariff. Similarly, Rule D.3 makes
2 reference to Appendix ‘A,’ which has also been modified. Additionally,
3 we added a new Paragraph 4 on Gasoline Price Emergency Surcharge.
4 That’s a substantive change I will discuss later.

5
6 Q. HOW ABOUT SECTION ‘E,’ TAXIMETER REQUIREMENTS? ANY
7 ‘MINOR’ CHANGES THERE?

8
9 A. Yes, and those changes are the result of recent changes regarding
10 the policy for inspecting and sealing taximeters. Essentially, the Division
11 has assumed from the Department of Labor’s Weights and Measures unit
12 the physical task of testing and sealing taximeters. Therefore, we have
13 replaced “Weights and Measures” throughout this rule with “the Motor
14 Carriers Section” of this Division.

15
16 Q. DID YOU DO THE SAME THING IN SECTION ‘F’ DEALING WITH
17 DEFECTIVE TAXIMETERS?

18
19 A. Yes. For the same reason set out in the previous answer.

20
21 Q. ARE THERE ‘MINOR’ CHANGES THAT YOU PROPOSE FOR RULE
22 ‘G’ WHICH ARE THE RULES REGARDING THE CONDUCT OF
23 BUSINESS?

24
25 A. Yes, indeed. If you turn to Rules G.14, G.15 and G.17 on Page 11
26 and 12 of the redacted rules, you’ll see that we have proposed replacing
27 the term “taxicab(s)” to simply “cab(s)” to better reflect that “Cab” refers
28 to both taxicabs and limited public motor vehicles. This better reflects the
29 true regulatory intent that both types of vehicles are regulated under these
30 paragraphs. We’ve also proved Rule G.18 concerning training, but I’ll
31 address that proposal later.

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Q. ARE THERE ANY ‘MINOR’ CHANGES IN SECTION ‘H’ WHICH DEALS WITH RULES REGARDING DRIVERS AND THE OPERATION OF CABS?

A. Yes, there are several.

Rule H.1 has been amended as a result of recent legislation to make it clear that a cab operator must obtain a Hackney Operator’s License from the Division.

Rule H.2 has been similarly amended for the same reason and to make it clear that Limited Public Motor Vehicles are covered as well as taxis.

There are a number of minor changes proposed to Rule H.4. For example paragraph ‘b’ has been amended to advise applicants that the law requires they be at least 21 years old to transport passengers for hire and paragraph ‘g’ has been amended to reflect that the Division of Motor Vehicles is now the appropriate agency from which to obtain the requisite copy of an applicant’s driving record. We’ve also added paragraphs ‘h’ and ‘i’ to more appropriately reflect what is currently being asked on the license application in support of heightened requirements by the Office of Homeland Security. However, we have supplied a new Appendix ‘C’ to correspond with H.4.h to indicate that an applicant may refuse to provide the SSN. Therefore, we propose a new Appendix ‘C’ which is a privacy disclosure statement.

We’ve also amended the final paragraph of Rule H.4 to reflect that it refers to “cabs” as opposed to just “taxis.” Also, Rules H.10, H.11, H.17 and H.18 have been similarly amended.

We have also deleted the former Rule H.15 because the Bill of Rights is no longer part and parcel of Appendix ‘A’. Rather, a separate decal is now utilized. Once we deleted that rule, we proceeded to renumber the remaining paragraphs.

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Q. ARE THERE ANY MINOR CHANGES IN SECTION ‘I’?

A. No. However, there are two substantive changes in Rule I that I will discuss later. Those deal with taxi stands and “paratransit” services.

Q. ARE THERE ANY ‘MINOR’ CHANGES IN SECTION J?

A. No. However, this is one more substantive change in J.2 that I will discuss later. There are no more “minor” changes until we turn to a minor change in Rule N.

Q. AND WHAT IS THAT CHANGE?

A. There was a minor typographical error in that the language currently refers to Chapter 12 of Title 39. It should be Chapter 14 of Title 39 and we have made that correction.

Q. ANY ‘MINOR’ CHANGES IN SECTION ‘O’?

A. Yes. We have deleted the first sentence and the first few words of the second sentence Rule O.1. Simply, because we didn’t think the language added value to the rule..

Q. HOW ABOUT SECTION ‘P’?

A. Yes, the final ‘minor’ change occurs in Section P – Effective Date(s). We’ve changed the section to simply state that these rules became effective September 2000 and that any amendment to them, including these amendments, shall be effective 20 days from the date of their filing with the Secretary of State’s Office.

1 That takes care of what I would consider “minor” changes or
2 technical corrections.

3
4 Q. IF THAT COMPLETES THE ‘MINOR’ CORRECTIONS AND
5 CHANGES, WHAT IS THE FIRST SUBSTANTIVE CHANGE YOU
6 WOULD LIKE TO TALK ABOUT?

7
8 A. The first substantive change I’d like to discuss occurs in Section A,
9 Paragraph 5, the definition of “Call and Demand.”

10 For at least the past four of five years, the Motor Carriers Section
11 has consistently interpreted “Call and Demand” to allow “round trips” to
12 destinations outside an authorized territory, including intermediate stops,
13 so long as the taximeter operates continuously. Recently, we’ve learned
14 that at least a small number of certificate holders have been reading the
15 current rule in a way that would allow a “round trip” under circumstances
16 where the taximeter is not operated continuously.

17 It’s obvious that it’s important to have everyone in the industry
18 have the same understanding of what “Call and Demand” services mean
19 and what is and is not allowed under the statute and our rules, relative to
20 picking up passengers outside an authorized territory.

21 For that reason, the first thing we’ve done in the redacted version
22 of the rules is add a clause to the first sentence of the definition that
23 restates the statutory language that spells out the one circumstance in
24 which a cab may pick up outside the territory authorized by that
25 company’s certificate.

26 Additionally, we have consistently interpreted the statute and our
27 current rule to allow “round trips” where the trip begins and ends inside
28 the authorized territory. In order to make it clear to everyone that it is only
29 a “round trip” when the meter runs continuously, we have added a final
30 sentence to the definition of “Call and Demand” that clearly spells out that
31 requirement.

1 This should eliminate any inconsistency in the way “Call and
2 Demand” and “Round Trip” are understood by the industry.

3
4 Q. DID YOU HAVE TO MAKE ANY OTHER CHANGES TO THE
5 RULES TO EFFECTUATE THE ‘CLARIFICATION’ YOU ARE
6 DISCUSSING?

7
8 A. Yes. We had to amend Rule H.14, which spells out the
9 circumstances in which the driver of a cab can accept a passenger for hire.
10 We made virtually the same changes to Rule H.14 as we did to Rule A.5
11 and for the same reasons.

12
13 Q. DID YOU CONSIDER AMENDING RULES A.5 AND H.14 TO
14 ADOPT THE MINORITY INTERPRETATION YOU INDICATED
15 THAT SOME COMPANIES HAVE BEEN FOLLOWING?

16
17 A. I looked into the propriety of such an interpretation.

18
19 Q. WHAT ARE SOME OF THE PROS AND CONS OF THAT
20 ALTERNATIVE APPROACH?

21
22 A. First, let me reiterate what we are talking about here. Rhode Island
23 General Laws § 39-14-1(7) says, in relevant part, that a taxicab (and this
24 language applies only to taxicabs, not necessarily to limited public motor
25 vehicles – because LPMVs cannot solicit on the street at all; they must
26 return to and be dispatched from their home base) can transport members
27 of the general public to any place within Rhode Island “as may be directed
28 by a passenger on a call and demand basis, when the solicitation or
29 acceptance of the passenger occurs within the location named in the
30 certificate [of operating authority for that particular taxicab].” Some of
31 the companies apparently have interpreted that language to mean that, if

1 they pick up a passenger in their territory for a trip to some destination
2 outside the territory, and that passenger asks the taxicab to come back and
3 pick them up at some later time, the taxi can do so because the
4 “solicitation or acceptance” actually occurred within the taxicab’s
5 authorized territory.

6 For example, let’s say a taxicab with Providence authority only
7 picks up Mr. Smith at the Biltmore at 4:30 one afternoon. Mr. Smith tells
8 the driver he would like to go to the dog track in Lincoln. On the way to
9 the track, Mr. Smith asks the driver to come back to Lincoln to pick him
10 up at the track at closing, say 1 a.m. and take him to his residence on the
11 East Side. Over at least the last several years, and certainly since the
12 current rules went into effect, the Motor Carrier Section has consistently
13 said that such a return trip would violate the territory restriction in the
14 Providence taxi’s certificate, unless the taxi remained at the track in
15 Lincoln with the meter running; that is, the pick up at closing would be
16 viewed as out of territory and a violation of the rules. A few companies,
17 however, claim to have believed that, so long as the arrangement was
18 made during the first half of the trip, it would be legal under the statute
19 and under our rules. I believe it is this latter interpretation you would like
20 me to address?

21
22 Q. THAT IS RIGHT. WHAT DO YOU SEE AS THE PROS AND CONS
23 OF THAT PARTICULAR INTERPRETATION?

24
25 A. Let me talk about the advantages first. Clearly it would be a
26 significant benefit to the taxi passenger to be able to arrange for his or her
27 return trip at the same time the initial trip was made. The passenger would
28 not have to worry about whether or not he or she could find a taxi at a taxi
29 stand when they were ready to return, would not have to worry about
30 finding a phone they could use to call for a cab, and would not have to
31 worry about whether or not they could find a phone book that would allow

1 them to identify a taxi that could come pick them up that actually had
2 authority for the area they were in. The same types of benefits would
3 apply to a passenger using a taxi to go to a doctor's appointment and back
4 home again. He or she wouldn't have to pay the current \$25-per-hour
5 waiting time as required under the current interpretation.

6 That is a significant group of benefits to members of the public and
7 should not be dismissed lightly.

8 In addition, there is clearly a significant benefit to that particular
9 taxi company. Many taxi operations, perhaps particularly the independent
10 operators, rely on repeat business and work very hard to cultivate a group
11 of regular customers. Allowing the taxi company that provides a good
12 service to the public to benefit by locking in the return trip as well is also
13 clearly nothing to sneeze at. And in all honesty, I could understand the
14 Hearing Officer being persuaded that this would be the way to go, that the
15 Motor Carrier Section should change the way it has interpreted the statute
16 and applied the rules.

17 However, there are significant disadvantages to this interpretation
18 as well. The first concern that I would list, from a regulatory standpoint,
19 is that some of the larger companies could be given an unfair competitive
20 advantage by this interpretation. As the Hearing Officer knows, Rhode
21 Island General Laws § 39-14-2 requires the Division to "prescribe such
22 rules and regulations as it shall deem proper to assure adequate,
23 economical, safe, and efficient service at reasonable charges without
24 unjust discrimination, undue preferences or advantages, or unfair or
25 destructive competitive practices." I believe that allowing companies to
26 make return reservations that allow them to pick up outside their territories
27 could run afoul of these provisions.

28 Actually, I understand this very point came up a number of times
29 during the pre-litigation portions of the legal challenge to the current rules
30 back from 2000 to 2002. The example cited most often by Providence
31 companies involved Airport Taxi. The smaller Providence companies

1 were afraid that Airport would be able to monopolize most of the lucrative
2 Providence-Airport business travel if Airport was allowed to arrange
3 return trips.

4 The concern was that Airport would pick up a business traveler at
5 the airport who needed to get downtown for meetings and wanted to be
6 picked up in Providence later that day, or even the next day, for the trip
7 back to the airport. The Providence companies were afraid they would
8 find themselves waiting in the Biltmore taxi stand all day long while
9 Airport Taxi came in to pick up return-trip passengers and that the
10 Providence taxis would be squeezed completely out of those relatively
11 large fare/large tip trips to the Airport. Some of the Providence companies
12 expressed reservations at that time about whether they would be able to
13 survive without the hotel-to-airport trips. And if they were forced out of
14 business, even if Airport Taxi could adequately service the business
15 travelers, the number of taxis downtown available for the short trips within
16 the city could be greatly reduced to the detriment of the riding public in
17 that city.

18 I don't mean to pick on Airport Taxi here. And I certainly don't
19 mean to suggest that this would be Airport Taxi's business strategy.
20 Similar arguments could be made about some of the other larger taxi
21 companies that could so dominate certain routes (say, Newport-Westerly
22 or the Providence-Cranston Spanish neighborhoods), that smaller
23 companies would be forced out of business and local services in those
24 communities actually reduced. In any event, the end result might be a net
25 loss of service in certain communities and an increase in the anti-
26 competitive climate for the industry.

27 A second major area of concern for me involves the mechanics of
28 enforcing territories if the rule were modified to allow more or less open-
29 ended return trips. If my Compliance Inspectors were to see a Providence
30 taxi picking up in Lincoln, how would they to know whether the driver is
31 actually picking up out of territory (a violation) or simply doing a

1 legitimate return-trip pick-up? Perhaps more to the point, how could the
2 Lincoln taxis that have been waiting in the taxi stand for a fare know
3 whether or not the Providence cab is doing a legitimate pick-up? The
4 Division is charged with ensuring that the cab business is run in an orderly
5 manner, yet the potential for chaos here is obvious. It is important not
6 only that the rules we adopt be fair in fact, but that they appear to be fair to
7 those who are regulated, too.

8 On balance, I prefer to continue implementing this rule as we have
9 been, and as we have prepared the rule amendments. It draws a bright-line
10 distinction between what is permitted, and what is prohibited, a line that
11 everyone in the industry can see and understand. It is easy to enforce and
12 easy to enforce fairly and consistently. It ensures that the public continues
13 to be served, though perhaps not as conveniently as we might sometimes
14 like.

15 However, if the Hearing Officer chooses to adopt what I believe
16 has become the minority view – that is, an allowable pre-arranged return
17 trip – I would ask that he do so by giving us all some language that can be
18 easily understood and fairly enforced, without running the risk of allowing
19 a few large companies to dominate the market to the exclusion of the
20 smaller and independent operators. I would suggest that he consider
21 language something like the following:

22
23 CHANGE TO RULE A.5:

24 CALL AND DEMAND: Means the solicitation or acceptance of
25 a fare occurring only within the location specified in the
26 certificate; provided, that the vehicle's driver may, if and when
27 solicited on the public highway at any location at which he or she
28 is discharging a passenger, which location is not shown in the
29 certificate, provide transportation from the location only to a
30 place named in the certificate. This ~~section~~ definition shall not
31 ~~prohibit~~ exclude a ~~round-trip~~ pre-arranged return trip requested

1 by the passenger so long as the solicitation or acceptance of said
2 pre-requested round trip occurs in the location identified in the
3 certificate.

4
5 CHANGE TO RULE H.14:

6 Solicitation and acceptance of a passenger must occur within the
7 location named in the certificate; provided, that the vehicle's
8 driver may, if and when solicited on the public highway at any
9 location at which he or she is discharging a passenger, which
10 location is not shown in the certificate, provide transportation
11 from the location only to a place named in the certificate. The
12 vehicle's driver may, however, provide transportation from a
13 location not shown in the certificate only if he or she is solicited
14 on a roadway while discharging a passenger and may then only
15 provide transportation to a place named in the certificate.

16 a. This section shall not prohibit a ~~round trip~~ pre-
17 arranged return trip requested by the passenger so long as the
18 solicitation or acceptance of said pre-requested ~~round trip~~
19 return trip occurs in the location identified in the certificate.

20 b. When a passenger requests a pre-arranged return trip,
21 the driver shall make a notation on his log sheet next to the
22 record of that initial trip, indicating the passenger's name and
23 the time at which the driver is to return to retrieve the
24 passenger for the pre-arranged return trip. The driver may
25 only retrieve the passenger for such pre-arranged return trip
26 at the location at which the passenger was originally
27 discharged.

28 c. In the event that the original driver in such a pre-
29 arranged return trip is unavailable to retrieve the passenger as
30 arranged, the taxi certificate holder may dispatch a different
31 driver/cab, but the subsequent driver/cab must carry, attached

1 to the driver log, a written appointment slip containing the
2 following: passenger name, time and location of pre-arranged
3 retrieval, name of original driver as well as time, date and cab
4 number of original pick-up.

5 d. Failure to comply with subsections b. and c. above
6 will be viewed as evidence that a pick-up occurred outside of
7 the authorized territory, was not properly pre-arranged and,
8 therefore, is a violation of this rule.

9 e. Nothing in this section shall prohibit any trip in which
10 the beginning point occurs within the location named in the
11 certificate, regardless of location of any intermediate stops,
12 so long as the taxi meter is operated continuously throughout
13 the trip.

14
15 Q. YOU EXPRESSED RESERVATIONS EARLIER ABOUT THE
16 INDUSTRY IMPACT OF ALLOWING FLEET OPERATIONS
17 SUCH AS AIRPORT TAXI TO MAKE PRE-ARRANGED
18 RETURN TRIPS. DO YOU HAVE A RECOMMENDATION AS
19 TO WHETHER OR NOT SUCH FLEET OPERATIONS SHOULD
20 BE TREATED THE SAME AS SMALLER COMPANIES AND
21 INDEPENDENT OPERATORS?

22
23 A. I remain concerned about affording potential unfair
24 competitive advantages to fleet operations by authorizing pre-
25 arranged return trips, for the reasons I spelled out earlier. If the
26 hearing officer, after considering my testimony and any additional
27 testimony offered by the industry, shares this concern about pre-
28 arranged return trips, he may wish to distinguish between fleet
29 operations and other operations. By the way, a fleet operation is
30 defined under the rules as any operation containing six (6) or more
31 vehicles.

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Q. DOES THAT MEAN SIX OR MORE UNDER A SINGLE CERTIFICATE? OR DOES IT MEAN OPERATING SIX OR MORE VEHICLES TOTAL, REGARDLESS OF NUMBER OF CERTIFICATES?

A. The definition of “fleet” isn’t clear on that point. We have interpreted it to mean total number of vehicles under all certificates held or controlled by a particular certificate holder. Perhaps the hearing officer would like to consider whether or not the definition of “fleet” would also have to be amended if there is to be some distinction between fleets and other operations with regards to authorized pre-arranged trips.

Q. ONE FINAL QUESTION ABOUT PRE-ARRANGED RETURN TRIPS. IF THE HEARING OFFICER CHOOSES TO AUTHORIZE PRE-ARRANGED RETURN TRIPS, DO YOU THINK SOME SORT OF TIME LIMITATION WOULD BE APPROPRIATE?

A. I do. Again, it’s tough to come up with a specific time frame, but perhaps any potential competitive advantage or disadvantage could be mitigated by limiting the time period for such trips to, say, a 24-hour period. By that, I mean perhaps the passenger would have to be retrieved and returned to the original territory within a 24-hour period.

Q. WHAT IS THE NEXT SUBSTANTIVE CHANGE YOU WISH TO DISCUSS?

1 A. Rule A.11, the definition of Hackney Operator’s License is new.
2 The General Assembly recently amended the law to give the Division
3 clear statutory authority to issue Hackney Operator’s Licenses to drivers
4 transporting passengers for hire. We added Rule A.11 simply to define
5 what that license is.
6

7 Q. WERE THERE ANY OTHER SUBSTANTIVE CHANGES TO
8 SECTION ‘A’?
9

10 A. Yes. Two.

11 First, Rule A.15 spells out the statutory definition of “Paratransit
12 Services.” We included that definition to tie into a new proposed Rule I.5,
13 which makes it clear that cabs cannot provide paratransit services. While
14 this has always been the law, we have heard over the year that some cab
15 companies mistakenly believe they can do so. This proposed rule also
16 spells out that contract services are allowed, so long as meter requirements
17 and territory limitations are complied with. To put it another way,
18 someone else may actually pay the fare, at a later date even, but it must be
19 a metered fare and a vehicle must still abide by its territory restrictions.

20 Second, the final substantive change in the definitions sections is
21 that we added a definition of “Taxicab Stand.” While it was clear the
22 Division does not establish taxicab stands, it is equally clear that we have
23 the authority to regulate the conduct of drivers in and around such stands.
24 We’ve added the definition so that everyone would understand that a
25 “taxicab stand” is simply any area where taxicabs may wait for the
26 purposes of accepting passengers that has been established by the entity
27 that controls that area.
28

29 Q. DID YOU HAVE TO AMEND ANY OTHER SECTIONS OF THESE
30 RULES TO ADDRESS TAXICAB STANDS?
31

1 A. Yes, we amended Rule I.3. The first change to I.3 was that we
2 broke out each sentence in the current rule as a separate sub-paragraph to
3 make it easier for us to identify which particular provision in the rule a
4 taxi driver might have violated.

5 That is essentially a technical change. However, we also added two
6 new sub-paragraphs to that rule marked in the redacted version as I.3.c and
7 I.3.f.

8 Rule I.3.c was added to make it clear that a passenger is free to
9 select any taxi they wish regardless of its position in the queue. We felt
10 that was necessary because we've had many instances of drivers
11 complaining that another taxicab behind them "stole" a fare because that
12 particular passenger chose some taxi other than the one at the head of the
13 queue. Drivers must understand that while we regulate their behavior at
14 taxicab stands, passengers always have the right to freely choose which
15 taxi they prefer to use.

16 Finally, we added Rule I.3.f to make it clear to the industry that we
17 will regulate the behavior of taxi drivers at a taxi stand regardless of
18 whether or not the entity that established that taxi stand has any
19 independent authority to also regulate their behavior. For example, it's
20 irrelevant to us whether or not a city established a taxicab stand in
21 accordance with its own ordinances. As long as an area is held out to the
22 public and to the taxi industry as being a taxi stand and there is no reason
23 for an ordinary member of the public or the industry to doubt that it's a
24 taxi stand, we are going to enforce OUR rules governing conduct of taxi
25 drivers at such stands. If a driver sees a permanent sign designating an
26 area as a taxi stand, he/she should expect to have to comply with our rules
27 governing taxicab stands.

28
29 Q. ARE THERE ANY MORE SUBSTANTIVE CHANGES YOU WISH TO
30 ADDRESS?

31

1 A. We've added a new Rule D.4, concerning the Gasoline Price
2 Surcharge. Essentially, the current rules pre-dated the General Assembly's
3 creation of this surcharge. We simply wished to included now since we are
4 undertaking this rule-making proceeding.

5
6 Q. WHAT'S THE NEXT SUBSTANTIVE CHANGE?
7

8 A. Rule G.18. Simply, it provides the Division the ability to conduct
9 training sessions to helps certificate holders and/or "blue card" holders
10 familiarize or re-familiarize themselves with our rules. In addition, the
11 new rule would allow the requirement of such training in lieu of or in
12 addition other sanctions for any rules violations. The idea is that if
13 someone violates a rule out of ignorance, we want to be sure it won't
14 happen again. Also, it give us the ability to set up and conduct informative
15 session that certificate holders and/or blue card holders might find
16 beneficial.

17
18 Q. ANY MORE SUBSTANTIVE CHANGES YOU WISH TO ADDRESS?
19

20 A. Yes. The final substantive amendment would be found in Rule J.2. This
21 change merely makes explicit a long-standing interpretation by the
22 Division of the statute governing the leasing of cabs. We have long held
23 the position that a replacement vehicle may be leased out at once so long
24 as the vehicle it is replacing was already eligible to be leased out. The
25 language we've added to J.2 finally makes this clear in our rules.

26
27 Q. MR. MERCER, HAVE YOU CONSIDERED THE IMPACT OF ANY
28 OF THESE AMENDMENTS ON SMALL BUSINESSES?
29

30 A. First of all, as I am sure the Hearing Officer and parties know,
31 under Rhode Island General Statutes §42-35-3.3, "all utilities, water

1 companies, and power transmission companies, except electrical power
2 generating companies providing less than four and one-half kilowatts” are
3 exempt from being treated as small businesses for regulatory purposes.
4 Utilities are defined under Rhode Island General Statutes § 39-1-2(20) to
5 include common carriers. And, under Rhode Island General Statutes § 39-
6 14-1(2), taxicabs and limited public motor vehicles are defined as
7 common carriers. Therefore, taxicab and limited public motor vehicle
8 companies are not considered small businesses for the purpose of
9 promulgating regulations under Title 42, and I need not consider the
10 financial impact on them of any such regulations.

11 However, having said that, I would like to point out that the
12 proposed amendments do not change the way these companies are being
13 regulated, at least on a day-to-day basis. All that the proposed
14 amendments do is clarify and reduce to writing the existing regulatory
15 policy of the Division. Since they do not represent a change in the way
16 any of these businesses have, in fact, been regulated, there should be no
17 adverse financial impact whatsoever. On the other hand, by eliminating
18 ambiguity, the rules should reduce the number of times a company or
19 driver has to come before the Division for a fitness hearing and find
20 themselves subject to potential fines. This would certainly represent a
21 positive financial impact from these rules.

22
23 Q. MR. MERCER, DOES THIS CONCLUDE YOUR TESTIMONY IN
24 THIS MATTER?

25
26 A. Yes, it does.