

1 BEFORE THE STATE OF NEVADA TAXICAB AUTHORITY

2 IN THE MATTER OF THE APPLICATION
3 OF DESERT CAB CO. TO ADJUST
4 TAXICAB CHARGES TO INCLUDE A PASS-
5 THROUGH SOFTWARE LICENSE
6 CHARGE.FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND ORDER7 THIS MATTER came before the STATE OF NEVADA TAXICAB AUTHORITY BOARD
8 (the "Board"), on December 4, 2025, for hearing, deliberations and action at the Nevada State
9 Business Center, 3300 W. Sahara Avenue, Las Vegas, NV 89102, upon the Second
10 Amended Application To Adjust Taxicab Charges To Include A Pass-Through Software
11 License Charge filed by Desert Cab Co.12 PRESENT: Dan R. Reaser, Chair
13 Rusty Graf, Vice Chair
14 J.D. Decker, Member
15 Pedro Alejandro Vazquez, Member
16 Dr. Lawrence Weekly, Member17 The Taxicab Authority makes the following Findings of Fact, Conclusions of Law, and
18 Order.FINDINGS OF FACT19 1. On December 18, 2024, Desert Cab Co. (the "Applicant") and A-Cab Co. filed
20 with Nevada Taxicab Authority (the "Authority") a joint application ("Application") for
21 approval of an increase in taxicab rates for the purpose of collecting a software license charge
22 in the amount of \$0.50 for each taxicab trip. The Application failed to include financial
23 statements required of the Applicant. See Hearing Exhibit 42.

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1 2. At a hearing before the Board conducted on February 19, 2025,¹ the Board
2 granted the Applicant leave to amend the Application to correct its deficiencies, and Chair
3 Reaser disclosed that on January 16, 2025, he had a meeting with a representative of Kaptyn
4 Technology, Inc. ("Kaptyn"), regarding application procedures and timing for processing a
5 rate case.

6 3. On March 5, 2025, the Applicant filed with the Authority an Amended Application
7 in which A-Cab Co. had withdrawn as a joint applicant (the "Amended Application"). See
8 Hearing Exhibit 43. The Amended Application included the Applicant's income statement and
9 balance sheet for the twelve-month period ending December 31, 2024 (the "Applicant's
10 Financial Statements"). See Hearing Exhibit 44. The Applicant was represented by Puoy
11 Premsrirut of Brown Brown & Premsrirut.

12 4. At the Applicant's request, the Board designated the Applicant's Financial
13 Statements as confidential exhibits. The Applicant's Financial Statements demonstrate that in
14 2024 the Applicant earned a return on invested capital ("ROIC"), of 2.0 (rounded),² and a net
15 profit exceeding 20 percent of total revenues. See *id.*

16 5. Subsequently, on August 15, 2025, the Applicant filed with the Authority a
17 Second Amended Application. The Second Amended Application incorporated certain pre-
18 filed testimony, discovery information and exhibits and modified the relief requested. See
19 Hearing Exhibit 45.

20 6. Pursuant to Section 706.894 of the Nevada Administrative Code (the "NAC"),
21 the Authority granted the intervention of the following entities who appeared and participated
22 in the proceedings in this matter, namely (a) Kaptyn, represented by Robert Yorio of Carr &
23 Ferrell LLP; (b) IVSC IP LLC ("IVSC"), represented by D. Neal Tommlinson; (c) Curb Mobility,

24 ¹ See Minutes of February 19, 2025, Board Meeting ¶ 8 (Nev. Taxicab Auth. Bd. Feb. 19, 2025),
25 available at https://taxi.nv.gov/uploadedFiles/taxinvgov/content/About_Us/ALL/BoardMeetings/2025/February-2025-Board-Meeting-Minutes.pdf.

26 ² A ROIC of 2.0 is at the lower end expected for utilities. See FullRatio Investing Research, *Return on Invested Capital (ROIC) by industry* (2025), available at <https://fullratio.com/roic-by-industry> (Last Visited Nov. 24, 2025).

1 LLC ("Curb Mobility"), Nevada Yellow, Checker, Star Corporations, Newcab and Taxi
2 Management, LLC (collectively "Taxi Management", and collectively with Kaptyn, IVSC, Curb
3 Mobility, hereinafter the "Intervenors"), represented by Scott Scherer of Brownstein Hyatt
4 Farber Schreck LLP. Pursuant to NAC 706.885(2), the Authority's Administrator Todd Park
5 (the "Administrator" and collectively with the Applicant and Intervenors, hereinafter the
6 "Parties"), participated as a matter of right and was represented by Jessica Guerra, Nevada
7 Deputy Attorney General.

8 7. By and through the Authority's appointed hearing officer, a series of prehearing
9 conferences were scheduled and conducted. Extensive discovery was had and completed,
10 see, e.g., Hearing Exhibits 28-37 & Hearing Exhibits 46-54. Prehearing motions were
11 considered, ruled upon and concluded in this matter by the hearing officer.

12 8. The Application was set for a contested case evidentiary hearing which was
13 conducted on September 17-19, 2025 (the "Hearings").

14 9. There were no pending discovery motions or other discovery matters at the time
15 of the Hearings.

16 10. Either or both, prefilled written direct testimony and oral hearing testimony, was
17 received by the Board from the following witnesses:

18 (a) George Balaban ("Balaban") on behalf of the Applicant, Hearing Exhibits 1-2;

19 (b) On behalf of the Intervenors:

20 (i) Noah D. Messel ("Messel"), Hearing Exhibits 7-8;

21 (ii) Gerald "JJ" Bell ("Bell");

22 (iii) Christopher Bordonaro ("Bordonaro"), Hearing Exhibits 23-24;

23 (iv) Andrew Meyers ("Meyers"), Hearing Exhibits 21-22;

24 (v) Jonathan Schwartz ("Schwartz"), Hearing Exhibit 38;

25 (vi) Michael Bailin ("Bailin"), Hearing Exhibit 40;

26 (vii) William M. George ("George"), Hearing Exhibit 25;

- (viii) Cheryl Gibbons (“Gibbons”), Hearing Exhibit 39;
- (ix) Vishal Dhawan (“Dhawan”), Hearing Exhibit 26; and

(c) The Administrator on behalf of the Authority, Hearing Exhibit 41.

4 11. A record of the proceedings in this matter was preserved by a verbatim
5 videotape record,³ and stenographical prepared transcript made available to the Board
6 members, parties and public. See In the Matter of Desert Cab, Day 1 Hearing: Transcript of
7 Proceedings (Nev. Taxicab Auth. Sep. 17, 2025)(hereinafter “Transcript I”); In the Matter of
8 Desert Cab, Day 2 Hearing: Transcript of Proceedings (Nev. Taxicab Auth. Sep. 18,
9 2025)(hereinafter “Transcript II”); In the Matter of Desert Cab, Day 3 Hearing: Transcript of
10 Proceedings (Nev. Taxicab Auth. Sep. 19, 2025)(hereinafter “Transcript III” and collectively
11 with Transcript I and Transcript II, hereinafter the “Record of Proceedings”).

12 12. In addition to all pleadings and papers submitted by the Parties to the hearing
13 officer and the decisions and orders of the hearing officer, the record in this matter is
14 comprised of Hearing Exhibit 1 through Hearing Exhibit 56, Hearing Exhibits 16-17 & 55-56,
15 which were officially noticed on the record pursuant to Section 233B.123(5) of the Nevada
16 Revised Statutes (the “NRS”), and NAC 706.957 and the oral testimony of witnesses recorded
17 in the Record of Proceedings (the “**Administrative Record**”).

18 13. Board members Decker, Graf and Reaser were present and participated in the
19 contested case hearing on September 17, 2025. Board Members Decker and Graf were
20 present and participated in such hearings on September 18-19, 2025. Board members
21 Reaser, Vasquez and Weekly each certified that they reviewed the Administrative Record.

22 14. IVSC has been issued five patents (the "Patents"), see Hearing Exhibit 19, and
23 is the applicant for five pending patent applications (the "Pending Patents" and collectively
24 with the Patents, hereinafter the "Claimed Patent Portfolio"), related to real-time data
25 systems and smart metering technology that based on Mesel's testimony complies with the

³ See https://taxi.nv.gov/About_Us/ALL/BoardMeetings/2025/Board_Meetings/.

1 statutory criteria delineated in NRS 706.1516(3).⁴ See Hearing Exhibit 3; Hearing Exhibit 8 at
2 1; Transcript II at 93.

3 15. Mesel stated that IVSC expended \$36 million to develop the Claimed Patent
4 Portfolio. *Id.* at 134.

5 16. On or about September 20, 2021, IVSC transmitted to Kaptyn a written claim
6 and demand asserting that Kaptyn used "real-time data and metering systems" (the
7 Technology Systems"), in providing services to taxicabs certificated by the Authority that
8 infringed on IVSC's Patent No. 9,037,852, and demanding that Kaptyn cease and desist such
9 conduct. See Hearing Exhibit 18 (the "Claim Letter").

10 17. Kaptyn has not complied with that demand. Transcript I at 111-112.

11 18. IVSC did not present evidence establishing the basis of its patent infringement
12 asserting the information was protected by the attorney and client communication privilege.
13 See Hearing Exhibit 7 at 5.

14 19. Although IVSC asserts that the Claimed Patent Portfolio has potential
15 applicability elsewhere in the United States, see Transcript II at 160, no similar Claim Letter
16 has been issued as to the taxicab business in any other jurisdiction. Hearing Exhibit 51, at 40.

17 20. Meyers testified that IVSC asserted that if a patent infringement case against
18 Kaptyn and the certificate holders was successfully litigated by IVSC the retrospective civil
19 damages liability would be approximately \$40 million. See Transcript I at 36; see also Hearing
20 Exhibit 8 at 3; Hearing Exhibit 15. Mesel explained the general methodology by which the civil
21 damage claim would be determined. Hearing Exhibit 7, at 2-4; Hearing Exhibit 27.

22 21. Balaban testified that the litigation defense costs to the Applicant were estimated
23 to exceed \$3,000,000.00 were IVSC to pursue enforcement of its Claimed Patent Portfolio

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26 ⁴ During the Hearings the Board was informed that IVSC had received notice from the United States
Patent and Trademark Office that one of the Pending Patents would be issued.

1 against the Applicant. He also testified that the Applicant did not have the "financial capacity
2 to absorb litigation costs of that magnitude." See Hearing Exhibit 1 at 2.

3 22. The Applicant's Financial Statements do not support that assertion. See
4 Hearing Exhibit 44.

5 23. Meyers testified that Kaptyn estimated such patent infringement defense costs
6 could range between \$3.6 million and 4.4 million. See Hearing Exhibit 21 at 3.

7 24. Mesel's testimony was that the cost of litigation would be between \$3 million and
8 \$4 million for each party to such litigation and that the litigation would require about three
9 years to resolve in federal court which was the forum with exclusive jurisdiction for such
10 cases. Transcript II at 137-138.

11 25. By comparison, Meyer indicated that the median cost to challenge each patent
12 through *inter partes review* ("IPR") before the United States Patent Trial and Appeal Board
13 was \$350,000. See Hearing Exhibit 21, at 3.

14 26. No evidence was submitted establishing that IVSC has either commenced any
15 litigation against any potential infringing entity, in Nevada or any other State, in the four years
16 that have lapsed since the Claim Letter was sent to Kaptyn, or that IVSC is capable of funding
17 at least \$3 million for each case it might commence against Kaptyn or alternatively against
18 each certificate holder. IVSC declined to discuss its intentions citing the attorney and client
19 communications privilege. See Hearing Exhibit 7 at 5.

20 27. Dhawan testified that in his professional experience as someone who operates a
21 business in the intellectual property business arena, that litigation is the preferred strategy for
22 a solid patent portfolio. Transcript III at 37.

23 28. Kaptyn and IVSC negotiated a proposed arrangement to resolve IVSC patent
24 infringement claim. Transcript II at 39-88; see also Hearing Exhibit 4, 6 & 20. This
25 arrangement provides for a \$0.50 rate increase ***in the event the Application is approved*** by
26 the Board on every taxicab ride in Clark County, Nevada. Sometime after the Amended

1 Application was filed with the Authority, Kaptyn and IVSC negotiated a division of the \$0.50
2 rate increase, with \$0.37.5 to be distributed to IVSC and \$0.125 being distributed to Kaptyn
3 See *id.*

4 29. The Applicant was not party to these "settlement" negotiations and does not
5 know how the amount of the proposed rate was determined. The Applicant did not present
6 evidence that it evaluated other alternatives to the proposed arrangement to resolve IVSC
7 patent infringement claim negotiated by Kaptyn. See Hearing Exhibits 1 & 2.

8 30. Through certain common ownership between the two entities, the Applicant and
9 Kaptyn are affiliates. See Hearing Exhibit 46, at 10 & Hearing Exhibit 47, at 11-12. Balaban
10 testified that Kaptyn's Technology Systems are material to the Applicant's continued
11 operations. See Hearing Exhibit 1 at 2.

12 31. Based on current trip records of the Authority,⁵ this rate increase would generate
13 annually approximately \$6 million. See Hearing Exhibit 51, at 101; Hearing Exhibit 53, at 50.
14 Because this rate increase would be prospective, IVSC would not receive any compensation
15 through the proposed rate change for alleged patent infringement for the six (6) years of the
16 so-called "look-back" period. See Hearing Exhibit 7 at 3. The evidence presented to the
17 Board indicates that this rate increase would, depending on the Patent, extend prospectively
18 for between seven (7) and fourteen (14) years, see Hearing Exhibit 19, or for as many as
19 twenty (20) years into the future based on the "duration of the license period," see Transcript I
20 at 115; Transcript II at 137-138, thus generating as much as an estimated \$120 million.

21 32. The arrangement negotiated by Kaptyn and IVSC would divide the increased
22 rate revenue paid by ratepayers: 75 percent to IVSC and 25 percent to Kaptyn. See Hearing
23 Exhibit 2, at 1; Hearing Exhibit 21, at 3-4.

24 33. The \$90 million in rate revenue that could be paid to IVSC under this
25 arrangement would be a "license fee" for use of the Claimed Patent Portfolio in order for

26 ⁵ See https://taxi.nv.gov/About_Us/ALL/Statistics/2025_Monthly_Statistics/.

1 Kaptyn to continue to provide its existing Technology System under contracts with certificate
2 holders. See *id.*, at 3-5.

3 34. Kaptyn, and perhaps other technology providers, would directly receive as much
4 as \$30 million in rate revenue ostensibly to "administer" collection of the "pass-through" rate
5 and to fund research, development and deployment of new technology to support certificated
6 holders. See Hearing Exhibits 2, at 1; Hearing Exhibit 21, at 3-4; Transcript I at 76; Transcript
7 II at 52-54 & 120-121.

8 35. Balaban testified that future software improvements and enhancements
9 developed by his technology provider Kaptyn would be provided without additional fees to the
10 Applicant. See Hearing Exhibit 2. The Applicant did not produce any valid, binding and
11 enforceable agreement documenting that arrangement or establishing whether all certificated
12 carriers would enjoy the same treatment by Kaptyn or another technology provider.

13 36. To implement the arrangement negotiated by Kaptyn and IVSC, the Board was
14 presented with four different, yet apparently inter-related draft "hypothetical" agreements.
15 None of these agreements have been executed and they are "all a bit of a work in progress"
16 see Transcript II at 152, and only a reflection of the "current state of negotiations" in an
17 admittedly evolving process. See Transcript I at 105-106; Hearing Exhibits 4, 6 &20.

18 37. These proposed draft agreements are (i) a settlement agreement between
19 Kaptyn and IVSC; (ii) a master service agreement between IVSC and Kaptyn; (iii) a form of
20 license agreement between IVSC and each certificate holder that agrees to the negotiated
21 arrangement; and (iv) a global settlement agreement. See Hearing Exhibits 4, 6 & 20;
22 Transcript II at 116-117.

23 38. Under these proposed agreements, IVSC intends to reserve its right to pursue
24 patent infringement claims against any certificate holder who does not execute a license
25 agreement and global settlement agreement even if the Board approves the Application.
26 Transcript II at 120-121 & 153. Moreover, the agreements do not include a warranty of non-

1 infringement by IVSC and IVSC does not agree to indemnify Kaptyn or the certificate holders
2 against claims that IVSC's Claimed Patent Portfolio violates any third-party intellectual
3 property rights. Transcript I at 89-90; Hearing Exhibits 4 & 6.

4 39. Under a so-called "claim-exhaustion" theory, IVSC must elect to pursue its
5 patent infringement claims against either Kaptyn or each individual certificate holder using
6 Kaptyn's Technology System. See, e.g., Transcript II at 142.

7 40. Kaptyn and the Applicant are parties to a master service agreement pursuant to
8 which the Applicant has access and use of Kaptyn's Technology Systems. That master
9 service agreement provides in part that (i) Kaptyn represents and warrants that it has
10 ownership or use rights to all intellectual property necessary to provide the Applicant such
11 Technology Systems; (ii) that Kaptyn indemnifies the Applicant against third-party claims,
12 such as those of IVSC, that the provision and use of Technology Systems to the Applicant
13 infringes on any third-parties intellectual property; and (iii) that Kaptyn will at its expense
14 defend such third-party claims or acquire at Kaptyn's expense the rights to use another's
15 intellectual property to provide the Technology Systems to the Applicant. See Hearing
16 Exhibits 14.

17 41. Kaptyn's master service agreements with other certificate holders contain the
18 same or similar provisions. Meyers testified that such agreements exist and are applicable to
19 some or all of the Technology Systems used by a "supermajority" approximately two-thirds of
20 the taxicabs in service in Clark County, Nevada. See Hearing Exhibit 13; Hearing Exhibit 47
21 at 10-12 & 129; Transcript I at 105.

22 42. Meyers testified that Kaptyn did not have the financial capability to perform its
23 indemnification obligations under its master service agreement obligations with certificate
24 holders, and acknowledged that Kaptyn would be a major beneficiary were the arrangement
25 with IVSC approved by the Board. Transcript I at 108-113.

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1 43. Kaptyn's Technology System was developed using assets obtained through the
2 acquisition of other firms. See Hearing Exhibit 47 at 15. Although the terms upon which the
3 exchange was made was not explained, between approximately 2010 and 2013, Frias
4 Transportation Infrastructure, the predecessor's name of IVSC, see Hearing Exhibit 8 at 3;
5 Transcript II at 247, provided Kaptyn the software used in developing the ride Integrity and
6 RouteGenie products that are aspects of the Claimed Patent Portfolio. Transcript I at 156-
7 158. This is coincident in time to when Frias Transportation Infrastructure submitted to the
8 Authority information about the "invention that formed the basis of the . . . patents . . . issued
9 to . . . IVSC." See Hearing Exhibit 8 at 3-4.

10 44. Bondonaro, Kaptyn's Vice President of Engineering, testified regarding the
11 development and operational characteristics of Kaptyn's technology and stated he was not
12 aware that Kaptyn had copied or plagiarized any other person's work in developing the
13 technology it provides to the certificate holders. See Hearing Exhibit 23, at 1-5; Hearing
14 Exhibit 24, at 1-2; Transcript II at 32.

15 George testified that WHC Worldwide, LLC d/b/a zTrip ("zTrip"), which acquired Whittlesea
16 Blue Cab and Henderson Taxi effective in January 2025, had terminated use of Kaptyn's
17 Technology Systems after learning of the Application and transitioned to a new technology
18 provider in July 2025. He further testified that Kaptyn's Technology Systems do not provide
19 technology that its competitors cannot also provided, and in zTrip's experience the other
20 technology used by it outside Nevada is superior to that provided by Kaptyn. The alternative
21 technology used by zTrip is operated in comparable situations to Clark County, Nevada by
22 approximately 4,000 taxicabs in 39 cities, including Houston, Dallas, Kansas City Indianapolis,
23 Pittsburg, Baltimore and San Antonio. During cross-examination, George declined to disclose
24 certain commercial information of other technology providers citing his obligations under a
25 confidentiality and nondisclosure agreement. See Hearing Exhibit 25; Transcript II at 179-180
26 & 190.

1 45. Although George did not testify to the costs associated with transitioning from
2 Kaptyn's Technology System, zTrip's annual nationwide expense for technology is \$730,000.
3 See Transcript II at 195.

4 46. Balin identified deficiencies in the quality of service provided by Kaptyn.
5 Transcript III at 58-65.

6 47. A competitor of Kaptyn, Curb Mobility's technology is also used by certificate
7 holders in Clark County Nevada. See Hearing Exhibit 26, at 1.

8 48. Dhwan, Curb Mobility's Chief Technology Officer, testified that he evaluated the
9 Patents and based on his personal knowledge of Curb Mobility's technology, he concluded
10 that the technology used by Curb Mobility does not infringe on IVSC's Patents. Dhwan's
11 analysis included consulting patent counsel, although Dhwan asserted attorney and client
12 communication privilege related to his counsel's evaluation. Dhwan also asserted privilege
13 when asked to provide information regarding certain aspects of the intellectual property of a
14 firm that was not party to these proceedings. See *id*; Transcript III at 6-47. Curb
15 communicated this conclusion to George. See Transcript II at 193.

16 49. Other competitors of Kaptyn and Curb Mobility likewise informed George that in
17 their evaluation their technology did not infringe the Patents, and these firms were prepared to
18 indemnify zTrip for any patent infringement claims. Transcript II at 193-194.

19 50. Meyers testified that the cost would be \$3 million to \$7 million for Kaptyn to
20 transition to other technologies than those IVSC claimed infringing the Patents and that this
21 transition would require three to five years to complete. Transcript I at 119-120.

22 51. Kaptyn did review whether its indemnity obligations to Nevada certificate holders
23 could be addressed through its insurance provider and was informed by its current carrier that
24 it would deny a claim under any existing policy or underwrite such a policy, and by Kaptyn's
25 legal counsel that such insurance coverage was unavailable. Transcript 120-121.

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52. If any of the foregoing findings of fact is more appropriately construed as a conclusion of law, it may be so construed.

CONCLUSIONS OF LAW

GENERALLY APPLICABLE LAW

5 (a) The Taxicab Authority is duly constituted and is mandated by NRS
6 706.8819(1)(a) to conduct hearings and make final decisions regarding applications "to adjust,
7 alter or change the rates, charges or fares for taxicab service" in the county of Clark, state of
8 Nevada. NEV. REV. STAT. § 706.881(1)(a). At least annually, the Taxicab Authority is required
9 to review the "rates, charges or fares of the certificate holders in its jurisdiction." NEV. REV.
10 STAT. § 706.8824(6)(b).

11 (b) In performing its obligations under NRS 706.8819(1), the Board has been
12 instructed by the Nevada Legislature, in the context of rate-making, to (i) provide for fair and
13 impartial regulation, to promote safe, adequate, economical and efficient service and to foster
14 sound economic conditions in motor transportation; (ii) encourage the establishment and
15 maintenance of nondiscriminatory reasonable charges for intrastate transportation by
16 regulated carriers without preference to any certificate holder; and (iii) discouraging practices
17 that increase or create competition detrimental to the traveling public or to the business of the
18 certificate holders. NEV. REV. STAT. § 706.151(1)(c)-(e).

(c) NAC 706.471 provides:

1. Only the Authority may set, adjust, alter or change the rates, charges or fares for service by a taxicab.
2. A hearing concerning rates, charges or fares may be initiated by the Authority or upon application of any certificate holder.
3. Except upon a showing that the public interest requires otherwise, the rates, charges or fares of all holders of a certificate in a county will be uniform.

25 (d) NAC 706.876 through NAC 706.990 “[g]overn all practice and procedure before
26 the Taxicab Authority and the Administrator unless otherwise directed by the Authority or

1 Administrator," but these practice rules "[m]ust be liberally construed to secure just, speedy
2 and economical determination of all issues presented to the Authority." NAC 706.876(1).

3 (e) NAC 706.909 provides in pertinent part that an application to increase any rate,
4 fare or charge or rule or regulation resulting in any increase must include, in addition to
5 complying with the provisions of NAC 706.876 to 706.975:

6 1. A statement showing in full the rates or fares, rules
7 or regulations requested to be put into effect or the general
relief asked for.

8 2. A statement or reference showing in full the rates or
9 fares, rules or regulations which will be superseded by the
proposed rates.

10 3. A complete and accurate statement of the
11 circumstances and conditions relied upon as justification for
the application.

12 4. A reference record to prior action if any by the
13 Authority in any proceeding relative to the existing and
proposed rates.

14 5. A financial statement for a full 12-month period
15 including a balance sheet and a profit and loss statement; or
16 in any application filed by or on behalf of a group of
17 companies as parties to a tariff, composite financial
statements for all or a representative group of companies
involved for a full 12-month period, and a composite and
representative profit and loss statement.

18
19 (f) Unless otherwise specified by law, the "preponderance of evidence" standard
20 applies in a contested case under the Nevada Administrative Procedure Act (the "NAPA").
21 NEV. REV. STAT. § 233B.125. "Preponderance of the evidence" means evidence that enables
22 a trier of fact to determine that the existence of the contested fact is more probable than the
23 nonexistence of the contested fact. NEV. REV. STAT. § 233B.0375.

24 (g) NRS 233B.123 states:

25 i. Irrelevant, immaterial or unduly repetitious evidence must be excluded.

26 Evidence may be admitted, except where precluded by statute, if it is of a

1 type commonly relied upon by reasonable and prudent persons in the
2 conduct of their affairs.

3 ii. Agencies shall give effect to the rules of privilege recognized by law.
4 iii. Subject to the requirements of this subsection, when a hearing will be
5 expedited and the interests of the parties will not be prejudiced
6 substantially, any part of the evidence may be received in written form.
7 iv. The experience, technical competence and specialized knowledge of the
8 agency may be utilized in the evaluation of the evidence.

9 (h) Evidence willfully suppressed is rebuttably presumed to be adverse were it
10 produced. NEV. REV. STAT. § 47.250(3).

11 (i) Nevada law recognizes a privilege associated with lawyer and client confidential
12 communications, see *id.* §§ 49.035 - .115, and for disclosure of trade secrets, which include
13 confidential commercial and corporate information. See *id.* § 49.325 & 604A.010 - .100; see,
14 e.g., Franz v. Johnson, 116 Nev. 455, 999 P.2d 351 (2000); Finkel v. Cashman Professional,
15 Inc., 128 Nev. 68, 270 P.3d 1259 (2012),

16 (j) No inference may be drawn from a claim of privilege. NEV. REV. STAT. §
17 49.405(1).

18 (k) The final decision of an agency may be rendered provided “a majority of the
19 officials . . . who are to render the final decision have . . . heard the case or read the record.”
20 *Id.* § 233B.124. The Board may render a decision on the Application given a majority of the
21 members either heard the case or have read the evidentiary record. No Party has established
22 that they will be prejudiced by the Board’s use of the procedure allowed by NRS 233B.124.

23 (l) The NAPA mandates that “a final decision must include findings of fact and
24 conclusions of law, separately stated,” and “[f]indings of fact and decisions must be based
25 upon a preponderance of the evidence.” *Id.* § 233B.125.

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(m) The doctrine of administrative res judicata applies where the same issues, involving the same parties are litigated to a final written decision of an impartial officer before an administrative agency with jurisdiction acting in quasi-judicial capacity after notice and opportunity for hearing. See, e.g., Campbell v. State ex rel. Dep't of Taxation, 108 Nev. 215, 827 P.2d 833 (1992).

(n) Under the doctrine of *stare decisis*, a **court** will not overturn precedent absent a compelling reason. See Whitfield v. Nevada State Personnel Comm'n, 137 Nev. 345, 348, 492 P.3d 571, 574 (2021). Administrative agencies **are not** accorded the deference of *stare decisis* recognized for the judiciary, and prior administrative decisions have “no binding effect.” Desert Irr., Ltd. v. State, 113 Nev. 1049, 1058, 944 P.2d 835, 841 (1997).

EXTRANEous ARGUMENTS THE BOARD DISREGARDED

(o) NRS 706.1516(3) is a statute governing the Nevada Transportation Authority (the “NTA”), and is inapplicable to the Authority or the Board. Accordingly, any and all evidence proffered by the Parties based on this statute is excluded as irrelevant and immaterial under NRS 233B.123. See Hearing Exhibit 8, at 1. The Applicant’s argument that “[c]ompliance with [these] statutory requirements inherently requires use of IVSC’s patented technology” is misdirected to the Authority and the Board given this statute only applies to the TSA which does not have jurisdiction to set rates or regulate taxicabs in Clark County, Nevada. Any argument advanced by the Parties upon such evidence is accordingly disregarded by the Board.

(p) NRS 706.8825 does not authorize the imposition of the rate increase sought by the Applicant and any technology fee imposed and collected pursuant to that statute is deposited in the state treasury exclusively for funding the budget of the Authority. For that reason, Hearing Exhibit 17, any other evidence related to that exhibit and the corresponding arguments are excluded from the Board's consideration as irrelevant.

(q) Neither Mesel nor any other witness established that either taximeters governed by NRS 706.8836 or electronic trip sheets required by NRS 706.8844 are technologically dependent on any aspect of the Claimed Patent Portfolio. The Administrative Record does not establish that it is more likely than not that certificate holders are incapable of complying with NRS 706.8836 and NRS 706.8844 unless they obtain a license to use some aspect of the Claimed Patent Portfolio. Balaban testified that the Applicant could continue to operate in compliance with applicable law without stylizing Kaptyn's Technology Systems albeit less efficiently and at increased expense. See Hearing Exhibits 1, 2 and 46.

(r) The principle of *stare decisis* does not apply to administrative agencies such as the Authority and Board; *res judicata* can apply to some administrative proceedings if, among other considerations, the **essential facts are identical in both proceedings**. Reliance by some of the Parties on prior decisions of the Board, see Hearing Exhibits 16-17 & 55-56, provide no precedent, are factually inapposite and do not have any preclusive effect on the Board in this proceeding.

RATE MAKING AND POLICY

(s) A new rate or rate modification must result in "just" and "reasonable" rates for the traveling public using the public service of taxicab transportation. Cf. NEV. REV. STAT. § 706.311. The certificate holder's cost of service is the basic standard of reasonableness of a public service rate. J.C. Bonbright, A. L. Danielson & D.R. Kamerschen, *Principals of Public Utility Rates* 108-112 (Pub. Util. Rpt. 1988). To be reasonable, a rate also must be based on a cost or investment by certificate holder in performing a public service that is proven to be prudently incurred. *Id.* at 223-224.

(t) Rate regulated businesses are entitled to (i) a reasonable opportunity to recover their prudently incurred costs, Federal Power Commission et al v. Hope Natural Gas Co., 320 U.S. 591, 603 (1944); and (ii) to earn a fair and reasonable rate of return on their capital

1 investments. Bluefield Water Works and Improvement Co. v. Public Service Commission of
2 West Virginia, 262 U.S. 679 (1923).

3 (u) The Board does not have jurisdiction to determine the validity of a patent or
4 whether there has been infringement of the patent. 28 U.S.C. 1338.

5 (v) Until adjudicated otherwise, an issued patent is presumed valid. 35 U.S.C. §
6 282.

7 (w) IVSC declined to provide evidence to support the basis for its Claim Letter
8 asserting the attorney and client communication privilege. Likewise, Kaptyn asserted the
9 attorney and client communication privilege in refusing to share with the Board its legal
10 counsel's assessment of infringement liability. Notably, neither IVSC nor Kaptyn asked to
11 submit this evidence for *in camera* review by the Board although the Board was repeatedly
12 requested and did conduct closed confidential sessions during the Hearings. Were it not for
13 the Legislature's admonition that the Board must "give effect" to the assertion of privilege and
14 may not draw an inference from these claims of privilege, the Board would have been
15 permitted to interpret the "willful suppression" of this evidence by IVSC and Kaptyn as adverse
16 to their claims and allegations upon which the Applicant's rate case hinges. For this reason,
17 the Board disregards arguments advanced by some of the Parties based on other Parties'
18 invocation of privilege not because improper, but rather because these arguments may not be
19 considered by the Board as a matter of law.

20 (x) As to the validity of IVSC's Patents – not its Patent Applications – under 35
21 U.S.C. § 282 the Board acknowledges the federal statutory presumption of validity and
22 nothing more because there is not evidence of more. Importantly, this federal statutory
23 presumption is of no aid to IVSC's infringement claims.

24 (y) The NAPA requires that our decision must be based on a preponderance of the
25 evidence. The Record of Proceedings does not contain a sufficient quantum of evidence to
26 satisfy this standard that establishes that the technology provided by Kaptyn and used by

1 Desert Cab in fact infringes on the IVSC patents, such as might have been shown by either (i)
2 a final binding determination of an adjudicative body *with jurisdiction*; or (ii) an independent
3 and qualified expert opinion report. In the absence of a preponderance of the evidence
4 proving it is more likely than not that Kaptyn has infringed upon IVSC's Patents, the Board
5 expressly concludes as compelled by NRS 233B.125 there is not sufficient evidence before us
6 to make any conclusion on that topic.

7 **THE COST OF SERVICE RULE**

8 (z) Fortunately, for the Board to act upon the Application, we do not need to know
9 whether the Claimed Patent Portfolio is valid or if Kaptyn infringed the Patents. Evidence
10 about IVSC **claims** of a valid patent portfolio and alleged infringement by Kaptyn and Nevada
11 certificate holders is only relevant as that proof might inform the Board as to whether the
12 Applicant **prudently incurred** a cost of service or made an investment in performing a public
13 service in furtherance of its obligations as a certificate holder. The Applicant has neither
14 made such investment nor incurred such cost. The evidence presented establishes that
15 whether or not the Board approves the Application, the Applicant will never make any
16 investment nor incur any cost of service. The Applicant asks the Board to impose the
17 requested rate directly upon the traveling public as a "pass-through" to IVSC and Kaptyn,
18 neither of which are certificate holders nor subject to the Authority's jurisdiction.

19 (aa) As but one of many poignant examples from statute. The use of credit cards by
20 passengers to pay certificate holders is an important use of technology for taxicabs.
21 Deployment of this technology involves third-party financial institutions, payment processors
22 and technology providers. The rates for such use, however, are determined in the discretion
23 of the Authority based on "the expenses incurred by the certificate holder in accepting
24 payment by a credit card . . ." and as a predicate requires that the certificate holder has
25 entered into requisite contracts so that these expenses may be evaluated. See NEV. REV.
26 STAT. § 706.88355.

1 (bb) The Board would only be obligated to determine as to the rate adjustment
2 sought by the Applicant whether the actual cost was prudently incurred had the Applicant
3 presented evidence of a valid, binding and enforceable contract pursuant to which it had been
4 making payments to IVSC and Kaptyn, the terms under which it is obligated contractually to
5 prospectively continue. The Applicant, Kaptyn and IVSC have not entered any definitive
6 agreements.

7 (cc) The four different agreements submitted in evidence to prove a purported
8 "settlement" upon which rates could be approved are a "work in progress" and merely reflect
9 the "current state of negotiations" or "agreements to agree." That the Application contains the
10 information required by NAC 706.909 is inadequate alone to grant approval of the rate
11 increase. No valid, binding and effective agreements exist and an actually incurred cost of
12 service has not been established by a preponderance of evidence. Amending the Application
13 to "conform to proof" did not satisfy the burden of proof under NRS 233B.125 and cannot cure
14 the Applicant's failure to present "complete and accurate" evidence justifying the application
15 as required by NAC 706.909. This is grounds enough to deny the Application.

16 (dd) The Applicant has failed to prove by a preponderance of the evidence that it has
17 or ever will incur an actual cost of service relative to the rate increase requested, and for that
18 reason alone the Applicant's case cannot succeed on the most basic standard of
19 "reasonableness" of a public service rate.

20 | THE PRUDENCY REQUIREMENT

21 (ee) The Applicant argues that the cost of service that it will never actually incur is
22 prudent because (i) Kaptyn is in actual or anticipatory breach of its contractual indemnity
23 obligations; (ii) Kaptyn is so poorly capitalized and has so conducted its business that it
24 cannot perform its contractual indemnity obligations; and (iii) the costs to defend claims by
25 IVSC are ruinous. The Board is thus urged to approve the Application because IVSC's patent

1 infringement “claim” is an existential threat to continued existence of the taxicab industry in
2 Clark County, Nevada.

3 (ff) Among all the certificate holders, only the Applicant advances this claim. Other
4 certificate holders have intervened and adamantly disagree with this assessment, while other
5 certificate holders have remained altogether disengaged in this matter. The certificate holders
6 contesting the Application also do not suffer the Applicant’s conflict-of-interest as an affiliate of
7 Kaptyn, a direct financial beneficiary of the proposed rate increase.

8 (gg) Moreover, this purported threat is not sufficient to have motivated Kaptyn, IVSC
9 and the Applicant to present to the Board for its evaluation and approval final, definitive and
10 executed agreements implementing the arrangements by which the industry will be purported
11 rescued. The preponderance of the evidence thus belies the suggested exigency and
12 justification for approval of a \$120 million rate increase on the traveling public.

13 (hh) The rates the Board approves obviously include recovery of carriers’ actual
14 expenses prudently incurred and paid to technology providers that are vendors of the carriers.
15 Based on the fundamental “just and reasonable” principles of ratemaking and public policy,
16 the Board declines the Applicant’s invitation to bypass the cost of service and prudence tests
17 and impose rates to directly compensate vendors.

18 (ii) The Application is essentially a request that the Board impose a rate increase on
19 the traveling public to directly rescue Kaptyn, which is neither a certificated carrier nor a sole-
20 source provider of an essential good or service deprivation of which renders any or all
21 certificate holders incapable of providing the regulated transportation service authorized by
22 the Nevada Legislature.

23 (jj) Seventy-five percent of the “pass-through rate” ostensibly is directly paid to a
24 patent holder for technology Kaptyn has been using and continues to use for services for
25 which approximately two-thirds of the certificate holder carriers have for years and are now
26

1 paying in the fees and charges imposed under their contracts with Kaptyn. Kaptyn concedes
2 this is precisely what is asked of the Board.

3 (kk) The other 25 percent of the requested rate compensates Kaptyn for
4 "administering" the collection of the rate and intended to provide ongoing direct financial
5 support of Kaptyn's business evidently because the prices imposed for its services are too low
6 to fund research, development and other costs. If true, this is an issue for the technology
7 providers to take up with the carriers not a topic for direct rate increases on the traveling
8 public. The Applicant and Kaptyn contend that other technology providers might be able to
9 participate in this portion of the increased rate revenue based on the conceptual draft of the
10 proposed settlement agreements. The weight of the evidence, however, makes it
11 unambiguous that Kaptyn would receive at least \$1 million annually and \$20 million over the
12 projected term of the license agreement with IVSC.

13 (ll) The Administrative Record fails to support a finding by a preponderance of the
14 evidence that the proposed rate increase is prudent. The Board's approval of the Application
15 is **categorically not** the only viable solution and other alternatives are, based on the weight of
16 the evidence, considerably more prudent than sanctioning a putative \$120 million rate
17 increase.

18 (mm) In furtherance of its indemnity obligations, Kaptyn only studied its costs and the
19 timeframe necessary for it to transition to other technology that did not infringe on the Patents.
20 Focusing on its own self-preservation, notably Kaptyn did not evaluate what cost and
21 transition period would be involved to assist its customers in transitioning to other technology
22 providers while it moved to alternative systems.

23 (nn) Without contradiction, a preponderance of the evidence supports the conclusion
24 that certificate holders can transition their technology service requirements from Kaptyn to its
25 competitors, including Curb Mobility. Curb Mobility persuasively established it researched the
26 Patents and concluded it was not infringing on IVSC's intellectual property rights.

1 zTrip also persuasively demonstrated it had made such a transition to another technology
2 provider within six months and for a price tag that could not have exceeded \$750,000.

3 (oo) Transitioning service is the alternative best calculated "to promote economical
4 and efficient service" and to "foster sound economic conditions in taxicab industry" in Clark
5 County, Nevada. By avoiding the preferential treatment of Kaptyn which is inherent in the
6 proposal advocated by the Applicant, the Board provides "for fair and impartial regulation,"
7 encourages "nondiscriminatory reasonable charges" avoids preference to the interest of one
8 certificate holder not shared by other regulated carriers and discourages practices detrimental
9 to the traveling public or to the business of the certificate holders. NEV. REV. STAT. §
10 706.151(1)(c)-(e).

11 (pp) The transaction costs and the reasonable expenses prudently incurred from
12 these alternative technology purveyors once incurred by certificate holders may be
13 recoverable in rates.

14 (qq) Moreover, Meyers' testimony alluded that Kaptyn itself might be in a position to
15 remain a competitor in the marketplace by transitioning to alternative non-infringing
16 technology within three to five years at a cost of \$3 million to \$7 million, considerably less than
17 proposed rate hike. Transcript I at 119-120.

18 (rr) Having been deprived of any evidence from which the Board could evaluate the
19 legitimacy of IVSC's Claim Letter and the potency of any defense by the Applicant and Kaptyn
20 to the infringement claims, the Board must conclude that another prudent expenditure by
21 certificate holders would be funding litigation to challenge the validity of the Claimed Patent
22 Portfolio. These legal expenses would be recoverable costs of service prudently incurred that
23 could be annually presented to the Board, and the evidence unequivocally shows that
24 regarding the range of these costs the total is far less than \$120 million. Were that litigation to
25 result in a prudently negotiated settlement approved by the federal courts, a recoverable cost
26 of service would be incurred.

(ss) The Board concludes that denial of the Application will not undermine safe, adequate and efficient service to the traveling public, given there are readily available alternative service providers that can, and as the evidence demonstrates have replaced Kaptyn with comparable services and systems. The record establishes such a transition can be accomplished within six months and at a cost that may be inferred from the testimony that is considerably less than the economic repercussions of approving the requested rate increase.

(tt) We observe that the Applicant did not present evidence of a fulsome analysis of a range of alternative solutions that provide a complete and accurate statement of the circumstances and conditions relied upon as justification for the application.” The Board is not prepared to conclude that there are no other expenses or investments that could be prudently incurred to address the “existential threat” posed by the Applicant. The Authority and the Board may utilize their “experience, technical competence and specialized knowledge” in evaluating the evidence. As but examples, the Board is troubled that there was no evidence presented (i) summarizing the Applicant’s efforts to transition its technology services requirements from Kaptyn to an alternative provider such as Curb Mobility; (ii) explaining why the Applicant had not commenced litigation against Kaptyn to compel it to honor contractual indemnity obligations; (iii) what examination was performed of using the lower cost IPR process to test the Patents; and (iv) an independent expert’s evaluation of defensive patent insurance, see, e.g., Y. Zhang, *Insuring Patents*, HARVARD J. LAW & TECH. (Apr. 27, 2016), available at <https://jolt.law.harvard.edu/digest/insuring-patents> (Last Visted Nov. 28, 2025).

CERTAIN PROCEDURAL MATTERS

(uu) No Party has appealed to the Board pursuant to NAC 706.975 any order entered by the Authority's appointed hearing officer. Accordingly, the Board approves and ratifies the procedural decisions of the hearing officer. The Board concludes that because no such appeal has been taken, the Parties have failed to exhaust their administrative remedies to

1 challenge any interlocutory decision of the hearing officer. See, e.g., Malecon Tobacco, LLC
2 v. State ex rel. Dep't of Taxation, 118 Nev. 837, 839 (2002).

3 (vv) We address two other procedural topics raised during the proceedings. It has
4 been suggested by the Administrator that the Application is not ripe for our review. Curb
5 Mobility and Taxi Management assert that the Application remains after the filing of
6 amendments statutorily deficient to provide required notice and to confer jurisdiction upon the
7 Board. As to the notice deficiency claim, the Second Amended Application was noticed and
8 published in accordance with NAC 706.924. Otherwise, the Board interprets these challenges
9 as raising the issue that the Applicant has failed to prove a claim under the Application upon
10 which relief may be granted under NAC 463.909. Given the Board conclusions in addressing
11 the merits of the Applicant's request for relief, we decline to dispose of the Application on
12 either of these procedural grounds.

13 (ww) Board Member Weekly abstained from voting on the motion to deny the
14 Application.

15 (xx) In an abundance of caution, given Kaptyn applied for and obtained intervenor
16 status in this proceeding after January 16, 2025, Chair Reaser abstained from voting on the
17 motion to deny the Application to avoid any claim of disability under NRS 233B.126. See
18 *supra* Finding of Fact No. 2.

19 (yy) Vice Chair Graf, Member Decker and Member Vasquez voted to deny the
20 Application.⁶

21 (zz) If any of the foregoing conclusions of law is more appropriately construed as a
22 finding of fact, it may be so construed.

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25 ⁶ An evenly-divided ("tie") vote of the deliberative body on a motion results in the rejection of the
26 motion. The presiding officer of such body, who also is a member of the body may vote to either break a tie or to
create a tie. H.M. Robert III, D.H. Honeman & T.J. Balch, Robert's Rules of Order §§ 4 & 44, at 53-54 & 405-406
(11th ed. 2013).

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Application is denied.

Dated this 31st day of December, 2025.

BY THE AUTHORITY

Rusty Graf, Vice Chair
Nevada Taxicab Authority Board