

**BEFORE THE STATE OF NEVADA TAXICAB AUTHORITY**

IN THE MATTER OF THE  
AMENDED APPLICATION OF  
DESERT CAB CO. TO ADJUST  
TAXICAB CHARGES TO INCLUDE  
A PASS-THROUGH SOFTWARE  
LICENSE CHARGE

**APPLICANT DESERT CAB CO.'S  
CLOSING BRIEF**

**PUBLIC HEARING DATE: OCTOBER  
15, 2025**

**TIME: 1:00 p.m.**

**PLACE: Nevada State Business Center  
3300 W. Sahara, 4<sup>th</sup> Floor  
Nevada Rm, Las Vegas, NV**

1                   **I.       LEGAL FRAMEWORK AND TECHNOLOGICAL CONTEXT**

2           Desert Cab submits this Closing Brief in support of its Amended Application for approval  
3 of a \$0.50 per-trip pass-through software license charge. The record now before the Authority—  
4 including three full days of sworn testimony—confirms that: (1) the fee is necessary to protect  
5 Nevada’s taxi industry from imminent patent litigation; (2) the fee is just and reasonable under  
6 NRS 706.321, 706.8822, and NAC 706.909; and (3) the fee is in the public interest, ensuring  
7 continued compliance with Nevada’s mandatory technology standards and uninterrupted service  
8 to the riding public.

9           Under NRS 706.8819(1)(a), NRS 706.151(1)(c), and NAC 706.909, the Nevada Taxicab  
10 Authority has jurisdiction to regulate rates and charges to promote the interests, welfare,  
11 convenience, necessity, and well-being of the customers of taxicabs. The Authority may approve  
12 a rate adjustment when it is necessary to ensure safe, adequate and efficient service, where the rate  
13 is just and reasonable; and in the public interest. The 2015 legislative amendments to NRS  
14 706.8836 and NRS 706.8844, coupled with NRS 706.1516, mandate digital taximeters, GPS-based  
15 trip recording, and real-time data reporting—technology covered by IVSC patents. Thus, every  
16 Nevada taxi operator is compelled by law to use systems that fall within IVSC’s claimed patented  
17 methods, giving rise to threatened legal exposure absent a license.

18                   **II.       LEGAL ARGUMENT WITH SUPPORTING EVIDENCE AND TESTIMONY**

19                   **A.       THE PATENT RISK IS REAL AND THE AUTHORITY NEED NOT**  
20                   **LITIGATE VALIDITY.**

21           IVSC holds five issued patents <sup>1</sup> and five pending applications covering real-time data  
22 systems and smart metering technology mandated under Nevada law (NRS 706.1516.3). <sup>2</sup>  
23 Compliance with statutory requirements inherently requires use of IVSC’s patented technology. <sup>3</sup>  
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25 <sup>1</sup> A sixth patent has issued during the pendency of these proceedings. Based upon information and belief, the  
26 application number is U.S. Patent Application No. 18/903,772.

27 <sup>2</sup> See Ex. 3, DC010-DC017; see also Supplemental Testimony of Noah Messel, August 15, 2025.; Ex 8, IVSC 009-  
IVSC 070.

28 <sup>3</sup> See Ex A to Supplemental Written Testimony of Noah Messel; Mr. Mesel recounted the legislative history involving  
IVSC (formerly Frias Transportation Infrastructure) which demonstrated its real-time data system in 2013 at the  
request of Nevada regulators, forming the basis for today’s patents. (Supplemental Testimony of Noah Messel, August  
15, 2025).



1 Since 2021, IVSC has asserted infringement claims against Kaptyn's technology.<sup>4</sup> The passage  
2 of time has only emboldened IVSC's patents and claims.<sup>5</sup> Negotiations led to a compromise pass-  
3 through fee of \$0.50 per trip,<sup>6</sup> instead of litigation that could expose operators to ~\$40 million in  
4 back damage.<sup>7</sup> George Balaban (Desert Cab) testified that litigation defense could cost several  
5 million dollars per operator and that the \$0.50 fee was the lowest workable compromise after  
6 extensive negotiations relayed by JJ Bell. Critically, no witness challenged or rebutted this  
7 testimony — a strong factual record supporting fairness and reasonableness.

8 Intervenor's argue that IVSC, Kaptyn, and Desert Cab have failed to "prove infringement"  
9 of IVSC's patents. This mischaracterizes the Authority's role. The Authority is not tasked with  
10 adjudicating federal patent disputes. Its statutory charge under NRS 706.151(1)(c) is to regulate in  
11 a manner that protects the public, ensures safe and efficient service, and fosters sound economic  
12 conditions. Sworn testimony by IVSC's Noah Mesel establishes that IVSC's patents cover real-  
13 time data and metering systems mandated under Nevada law. Specifically, in his pre-filed  
14 testimony, IVSC's CEO Noah Mesel provided a claim chart comparing Claims 1, 2, 6, 7, 10, 11,  
15 15, 20, 21, 22, 27, 33, and 35 of U.S. Patent No. 9,037,852 with NRS 706.1516(a)–(k), showing  
16 that every element of Nevada's mandated "computerized real-time data system" corresponds to  
17 IVSC's patented technology. The chart demonstrates that any compliant taxicab technology  
18 system necessarily infringes IVSC's patents. Mr Mesel further explained that IVSC's patents arose  
19 directly in response to Nevada's statutory mandates and that compliance with NRS 706.1516  
20 necessarily triggers use of the patented systems. No rebuttal or opposing analysis was submitted  
21 by Curb Mobility, or any opposing witnesses. Mesel's *unchallenged* claim chart showing that all  
22 11 statutory features of NRS 706.1516(a)–(k) map onto the IVSC patent claims.

23 Patent litigation against certificate holders would cost \$3.6–\$4.4 million per case, exclusive  
24 of potential damages. The risk is not speculative; it is an existential threat to the industry. To  
25 alleviate this threat, negotiations ensued. Gerald "JJ" Bell (Kaptyn) described the negotiation  
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27 <sup>4</sup> See Andrew Meyers Deposition Transcript, p. 17, lns 9 - 19; see also Letter from Deborah Peacock to Andrew  
28 Meyers, Ex. 18, KAP00032-KAP00061

<sup>5</sup> Id.

<sup>6</sup> See Gerald JJ Bell Deposition Transcript.

<sup>7</sup> See George Balaban Prefiled Testimony and Supplement.

1 process that led to the \$0.50 figure and confirmed that it would not impair competition with Uber  
2 or Lyft. Further testimony described how the \$0.50 fee would not impair competitiveness with  
3 Uber or Lyft, as it represents less than 2.5% of average fares and is within the margin of typical  
4 dynamic pricing fluctuations. *See* Deposition Testimony of Andrew Meyers, p. 148, lns 15 - 22.  
5 Andrew Meyers and Christopher Bordonaro (Kaptyn) confirmed the fee supports system  
6 maintenance, licensing, and regulatory compliance, and greater competitive rm would result from  
7 operational shutdowns or fragmented compliance if the license were denied.

8 Notably, opposition Intervenor's failure to provide any technical or expert rebuttal  
9 constitutes a failure of proof under Nevada evidentiary standards for administrative proceedings.  
10 Despite having elicited testimony from Dhawan, Schwartz, Bailin, and George, all admitted they  
11 did not analyze IVSC patents, demonstrating the strength of the record in support of the  
12 application.

13 **B. THE INDEMNIFICATION PROVISION IN KAPTYN'S MASTER SERVICES**  
14 **AGREEMENT DOES NOT RESOLVE THE CONTROVERSY.**

15 Opposition Intervenor's reliance upon Kaptyn's indemnification clause contained in the  
16 Master Services Agreement to shield the industry (including themselves) from liability is  
17 fundamentally misplaced and is belied by the record. Mr. Balaban on behalf of Applicant explained  
18 that indemnity does not prevent operators from being sued, and that the defense and business  
19 disruption costs would still fall on each carrier (Balaban, Tr. Day 1, pp. 82-88). Even Opposition  
20 Intervenor's conceded that Kaptyn's financial capacity is unknown. (Schwartz, Tr. Day 2, pp. 260-  
21 267), which provides no guaranty to the taxicab operators of legal and financial indemnity. The  
22 proposed license and pass-through fee prevent such litigation entirely, achieving what indemnity  
23 cannot. Indemnity applies only after a lawsuit is filed and does not prevent defense costs or service  
24 disruptions.

25 Jonathan Schwartz testified as to Exhibit 14 (Section 8.1 of Master Software License)  
26 stating "Kaptyn may, at its option, secure the necessary rights and licenses for customer to continue  
27 using the software or service." (Schwartz, Tr. Day 2, pp. 259-268). Mr. Schwartz interprets  
28 "secure" as meaning Kaptyn must pay for IP rights, not operators. On the contrary, Kaptyn testified



1 that it has offered indemnification in the form of facilitating and promoting the relief afforded  
2 through this Application for a pass-through fee, the approval of which eliminates all risk to  
3 operators through a covenant not to sue.

4 **C. THE ELEMENTS FOR RATE APPROVAL ARE SATISFIED**

5 **1. THE PASS-THROUGH RATE ARISES FROM INDUSTRY WIDE NECESSITY.**

6 Despite the mischaracterization of the pass-through fee as some “private bail out”, the  
7 technology has been used industry wide and the pass- through fee is necessary to ensure  
8 compliance with Nevada’s statutory requirements for digital metering and trip data transmission.  
9 All operators face unavoidable patent exposure without a license. Balaban and Mesel testified that  
10 immediate adoption of the license prevents litigation and service disruption (Balaban, Tr. Day 1,  
11 pp. 24–39; Mesel, Tr. Day 1, pp. 110–127).

12 All certificate holders in Clark County use technology implicating IVSC’s patents.  
13 Compliance with Nevada’s statutory requirements necessarily triggers potential infringement  
14 liability.<sup>8</sup> Specifically, the 2015 statutory mandates compel use of patented technology, creating  
15 immediate exposure. Testimony from Mesel, Meyers, Balaban, and Bell uniformly confirms the  
16 risk and the need for this fee. IVSC, Kaptyn, and Desert Cab agree the \$0.50 fee is the only  
17 industry-wide solution to resolve infringement risk and keep operators compliant with NRS  
18 706.1516.3. Because all certificate holders rely on this technology, a uniform solution is essential.  
19 <sup>9</sup> Since every Clark County operator must use a compliant technology system, the fee ensures  
20 statewide statutory conformity and legal protection.  
21

22 **2. THE PASS- THROUGH FEE IS JUST AND REASONABLE.**

23 The \$0.50 fee is objectively modest, comprising less than 3% of the average fare and falling  
24 well below comparable technology license rates. Bell testified that the fee structure was heavily  
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27 <sup>8</sup> See Ex. 3, DC010-DC017; see also Supplemental Testimony of Noah Messel, August 15, 2025.; Ex 8, IVSC 009-  
IVSC 070.

28 <sup>9</sup> See 2014 Rate Increase Order, which approved adjustments after evidence of changed “current circumstances”  
showing a “need for a rate/fare adjustment”

1 negotiated at the lowest practical level (Bell, Tr. Day 1, pp. 65–80), below comparable royalty  
2 benchmarks and represents a minimal portion of average fares. The fee ensures passenger safety,  
3 prevention of long-hauling, accurate trip data, and enhanced regulatory oversight.<sup>10</sup> It also protects  
4 operators from ruinous defense costs (estimated \$3.6M–\$4.4M per case, plus IPR costs). 25% of  
5 the fee (\$0.125) is reserved for technology providers (not just Kaptyn), ensuring operator choice  
6 and avoiding monopolization. *See* Settlement Agreement | License Agreement, Ex. 6, DC028-  
7 DC034. The \$0.125 portion of the \$0.50 fee is available to any qualified technology provider,  
8 ensuring fairness and preserving operators’ autonomy in vendor selection.  
9

10 Intervenor claim the \$0.50 fee is excessive because it equates to \$6 million annually. This  
11 argument overlooks the importance of scale, and that Las Vegas market produces over 12 million  
12 taxicab rides annually. Even at \$6 million in aggregate, the per-ride cost to passengers is negligible  
13 compared to the catastrophic costs avoided, and the risk of service disruption and the industry as  
14 a whole. IVSC’s data on litigation risks and Kaptyn’s negotiation history show that \$0.50 is well  
15 below potential exposure and represents only 2.5% of a \$20 fare. The relevant financial analysis  
16 should concern the quantified cost of compliance and licensing, and not Desert Cab’s margins.  
17 Further, the \$0.50 rate, producing about \$6 million annually industrywide, aligns with NAC  
18 706.909(3)’s proportionality requirement, given that Authority has approved far larger relative  
19 fees, including the \$3 credit card fee per use of one “swipe”, e-hailing surcharge and the \$0.05  
20 technology fee. In this context, \$0.50 is conservative, justified, and in line with existing precedent.  
21

22 Opponents’ policy argument that the fee sets “bad precedent” was addressed by counsel  
23 and by the testimony of Bell and Meyers. The Authority has repeatedly approved targeted, public-  
24 interest-based surcharges—including fuel surcharges, special event fees, and airport zone  
25 adjustments—where external circumstances required short-term or specific responses (Bell, Tr.  
26 Day 1, pp. 65–80; Meyers, Tr. Day 3, pp. 59–61). The present fee is consistent with that precedent  
27 because it directly addresses an external, state-mandated compliance cost. Moreover, the fee  
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<sup>10</sup> *See* Pre-Filed Testimony of Andrew Meyers, Exs. 21 and 22, KAP00066-KAP00074; *See* also Exs. 9-12, KAP00025 – KAP00028, regarding Data Sheets for Kaptyn’s software system.



1 applies uniformly to all operators and technology vendors, ensuring fairness and transparency. All  
2 operators share identical statutory obligations and uniform application of the fee resists the creation  
3 of any special advantage or monopoly to any operator or technology provider.

4  
5 **3. APPROVAL OF THE FEE SERVES THE PUBLIC INTEREST AS DEFINED BY NRS**  
6 **706.8819 AND NRS 706.151(1)(C).**

7 The Authority's role is to promote the welfare, convenience, and well-being of taxi  
8 passengers and to maintain stable, lawful, and efficient transportation. The testimony of all  
9 witnesses confirmed that without the pass-through fee, the operators risk non-compliance with  
10 Nevada regulatory requirements, a potential shutdown of business, and ultimately consumer rider  
11 disruption. As the Authority has held in prior surcharge orders, protecting service continuity and  
12 lawful operation constitutes a direct benefit to the public. Set forth in the written and live testimony  
13 of Msrs. Meyers, Baldonaro, and Balaban, the fee provides continuity of Kaptyn's fleet  
14 technology (dispatch, DT5 meters, FleetManager, data security), while protecting passengers'  
15 data, reducing long-hauling, and ensuring real-time oversight. Approval maintains lawful,  
16 uninterrupted, and technologically compliant taxi service for Clark County residents and visitors.

17 In opposition, Intervenors have argued the fee would harm passengers, drivers, and  
18 tourism. The opposite is true. The record shows that (1) passengers benefit from accurate fares,  
19 prevention of long-hauling, and data security; (2) drivers benefit from a stable industry shielded  
20 from collapse due to litigation; and (3) the public and carriers both benefit from a "safe and  
21 reliable"<sup>11</sup> modern taxi system that complies with Nevada's statutory mandates. The record in the  
22 Desert Cab Application—including testimony from George Balaban and Noah Mesel—shows a  
23 clear public-interest need: compliance with mandatory Nevada technology laws and avoidance of  
24 disruption caused by patent litigation and enforcement. While Mr. Bailin (Day 3, pp. 63–67)  
25 criticized Kaptyn's responsiveness and claimed other vendors could replace its system, on cross-  
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28 <sup>11</sup> See 2024–2025 Special Event Surcharge Orders which conclude that "the public interest will be served by  
implementing special event surcharges to support certificated taxi carriers" and ensure "safe and reliable  
transportation"

1 examination, he conceded those vendors (Curb, Autocab, iCabbi) also use electronic trip and fare  
2 technologies — meaning they risk the same patent infringement exposure.

3 The Application promotes a global resolution versus a private business bail, as  
4 mischaracterized by certain opponents. The underlying dispute arises due to the advent of  
5 technology that was specifically developed based upon this market, to respond to the mandates of  
6 Nevada regulators. All industry participants, not just Applicant or Kaptyn, are implicated,  
7 especially given the notice of infringement issued by IVSC and the continued use of the Kaptyn  
8 software post-notification. Everyone risks willful infringement and the penalties associated with  
9 intentional and knowing infringement. Contrary to bad policy, an approval of a narrowly tailored  
10 fee tied to compliance and litigation prevention reinforces regulatory predictability and prevent  
11 harm to the industry at large. Failure to approve the fee risks industry-wide insolvency, loss of  
12 service, and regulatory breakdown. A modest \$0.50 per ride ensures continuity, compliance, and  
13 protection for all stakeholders.  
14

15 **4. POLICY AND PRECEDENT IN BALANCING CONSUMER AND OPERATOR INTERESTS**  
16 **SUPPORTS APPROVAL OF THE APPLICATION.**

17 Vis-à-vis the riding public, the pass-through fee is for technology that the public uses and  
18 benefits from, and has been using since the advent of the IP and software. And this Authority  
19 has long approved conditional and purpose-specific surcharges when the record shows necessity,  
20 fairness, and limited scope where the public bore the cost. The proposed fee set forth in the  
21 Application is no different: a narrowly tailored mechanism to fund a mandatory compliance cost  
22 — patent licensing required to lawfully operate technology under NRS 706.1516. Contrary to  
23 opponents' claims that the pass-through fee constitutes “bad policy”, the exposure of the operators  
24 and the industry stems from statutory mandates (NRS 706.1516), not private risk. In fact, the  
25 Authority has previously approved targeted surcharges (fuel, airport, e-hailing) within the same  
26 legal authority and public-interest framework as in this Application, with the following digest:

27 (i) In the 2011 Temporary Fuel Surcharge Order, the Authority held that it has express  
28 authority under NRS 706.8819(1)(a) to alter rates and surcharges when circumstances affect “the



1 interests, welfare, convenience, necessity, and well-being of the customers of taxicabs.” The  
2 Board concluded that short-term market shocks justified a targeted surcharge and emphasized that  
3 protecting service continuity for consumers outweighs static fare concerns. The \$0.50 pass-through  
4 fee can be viewed as analogous — a narrow, justified surcharge imposed to protect the public from  
5 imminent service disruption caused by mandated technology costs. The 2011 order shows the  
6 Authority can approve special, cause-based fees when operational necessities arise.

7  
8 (ii) The Amended F1 Surcharge Order (Oct. 30, 2023) exemplifies the Authority’s  
9 discretion to approve temporary or situational surcharges where an external regulatory or market  
10 event increases operator costs and threatens public convenience. The Authority routinely approves  
11 narrowly tailored fees tied to external obligations (e.g., F1 event costs, fuel prices) and when the  
12 objective was to protect public welfare and service stability rather than generate operator profit.  
13 Here, the Authority again grounded its decision in necessity, fairness, and consumer protection,  
14 consistent with NRS 706.321 and 706.151(1)(c) This patent-license requirement is an equally  
15 external, state-mandated condition — and therefore a valid basis for a per-trip fee.

16 (iii) As further guidance, The PUCN’s “General Rate Case Process” fact sheet (used for  
17 guidance in quasi-utility rate regulation) codifies Nevada’s balancing principle: “The purpose of  
18 rate regulation is to balance the needs of the consumer and the utility. Consumers seek reliable  
19 service at the lowest reasonable rates; the utility seeks rates sufficient to cover prudent costs and  
20 attract investment.”

21 (iv) The 2019 Zone-Based Fare Order previously entered demonstrates that the  
22 Authority can restructure or supplement the existing fare framework to reflect operational realities  
23 and modern technologies.

24 (v) 2024–2025 Special Event Surcharge Orders concluded that “the public interest will  
25 be served by implementing special event surcharges to support certificated taxi carriers” and  
26 ensure “safe and reliable transportation”.  
27  
28

Application of across all of the Orders (Fuel Surcharge 2015–2022, EDC 2024, NYE/F1 2024–2025, and the 2014 General Rate Increase), the Taxicab Authority repeatedly affirmed that it has broad statutory discretion under:

- NRS 706.8819(1)(a): to “set, adjust, alter, or change rates, charges, or fares for taxicab service”
- NRS 706.8824(5): to attach “any terms and conditions” that the public interest may require
- NRS 706.8824(6)(b) – to review rates annually and act on new charges or surcharges.
- NAC 706.471(3): to permit non-uniform rates if “the public interest requires otherwise.”

These Orders collectively show that the Authority relies on substantial evidence in the record (testimony, filings, staff analysis) and may adopt a proportional, cost-based fee rather than a flat percentage or revenue-based change.

Similarly, the pass-through fee proposed in the Application is a lawful rate component—within the same statutory authority consistently used to approve fuel surcharges and special-event fees. This framework mirrors the taxi industry’s rate-adjustment process. A modest per-trip fee that ensures legal operation, compliance, and reliability satisfies the same “balancing” test — it preserves safe and lawful service at minimal incremental cost. Because the fee responds to a state-mandated technological condition and serves the public interest, it fits squarely within these provisions.

#### **D. DESERT CAB HAS STANDING AND THE PETITION IS RIPE UPON FILING**

##### **1. A CERTIFICATE HOLDER HAS STANDING TO PETITION FOR A RATE INCREASE.**

Under NRS Chapter 706, the Nevada Taxicab Authority is charged with regulating and setting rates for the operation of taxicabs in Clark County. Specifically, NRS 706.8822 empowers the Authority to “regulate rates, charges, and fares” for the transportation of passengers by taxicab, and NRS 706.8827 provides that certificates of public convenience and necessity (“CPCNs”) authorize a certificate holder to provide such transportation service under the supervision of the Authority.



1 Pursuant to NAC 706.471, a *certificate holder* may petition the Authority to adjust or  
2 increase rates. The regulation expressly provides that “[a] rate, charge or fare may be adjusted  
3 *upon application of the certificate holder* or upon the Authority’s own motion, after notice and  
4 hearing.” Thus, the regulation confers direct procedural rights upon the certificate holder to file  
5 such an application and to be heard thereon. Because the Authority’s regulations specifically  
6 identify the *certificate holder* as the party entitled to request a change in rates, the petitioner here  
7 is squarely within the class of persons whom the statute and regulations were designed to protect  
8 and to whom they grant procedural standing. The petition affects the certificate holder’s legally  
9 protected interests—namely, its ability to recover just and reasonable rates sufficient to sustain  
10 regulated operations and ensure the continued availability of safe and reliable taxicab service to  
11 the public. Desert Cab’s interest is not theoretical or generalized. It is direct, personal, and  
12 statutorily recognized. Accordingly, the petitioner plainly has standing under NRS 706.8822 and  
13 NAC 706.471 to seek rate relief.

## 14 2. THE PETITION IS RIPE UPON FILING UNDER NEVADA LAW.

15 When applied in the context of concurrent judicial and administrative proceedings, the  
16 ripeness doctrine can serve the salutary purpose of “ ‘prevent[ing] the courts, through avoidance  
17 of premature adjudication, from entangling themselves in abstract disagreements over  
18 administrative policies, and also to protect the agencies from judicial interference until an  
19 administrative decision has been formalized and its effects felt in a concrete way by the challenging  
20 parties.’ ” (Davis v. Southern California Edison Co. (2015) 236 Cal.App.4th 619, 645, fn. 19,  
21 186 Cal.Rptr.3d 587, quoting Pacific Legal Foundation v. California Coastal Com., supra, 33  
22 Cal.3d at p. 171, 188 Cal.Rptr. 104, 655 P.2d 306.) Whether in that context or others, however, an  
23 issue is ripe for resolution if it “arises from a genuine present clash of interests and the operative  
24 facts are sufficiently definite to permit a particularistic determination rather than a broad  
25 pronouncement rooted in abstractions.” (Safai v. Safai (2008) 164 Cal.App.4th 233, 244, 78  
26 Cal.Rptr.3d 759.) Analytically, the test for ripeness is twofold: we must (1) determine whether the  
27 issue is “ ‘appropriate for immediate judicial [or arbitral] resolution,’ ” and then (2) analyze “ ‘the  
28 hardship that may result from withholding court [or the arbitrators’] consideration.’ ” (Wilson &

1 *Wilson*, supra, 191 Cal.App.4th at p. 1582, 120 Cal.Rptr.3d 665.) See Panoche Energy Center,  
2 LLC v. Pacific Gas & electric Co, 1 Cal App. 5th 68, 205 Cal Rptr.3d 39 (2016).

3 The doctrine of ripeness prevents agencies from issuing advisory or premature decisions,  
4 but it does not bar review of a matter where a concrete controversy exists and agency action is  
5 statutorily authorized. Here, ripeness is satisfied the moment a certificate holder files a petition  
6 that complies with NAC 706.471 and the Authority issues notice of hearing.

7 Specifically, the filing of the petition itself creates an actual case or controversy: the  
8 petitioner seeks a change in a legally enforceable rate schedule, and the Authority's duty to  
9 evaluate and determine whether the proposed rate is "just, reasonable and compensatory" is  
10 triggered. There is no further contingency or prerequisite event required by statute or regulation  
11 before the Authority may act.

12 Moreover, delaying consideration until some undefined later point would frustrate the  
13 purpose of the statutory scheme, which is to maintain rates that are fair both to the public and to  
14 the regulated carriers. As soon as a certificate holder demonstrates that existing rates are  
15 inadequate due to increased operating costs or market conditions, the issue becomes fit for  
16 administrative determination. The Authority's jurisdiction to hear and decide the petition is  
17 therefore immediately invoked.

18 The petition thus presents a live, concrete controversy requiring resolution under the  
19 Authority's statutory mandate. Accordingly, the matter is ripe for adjudication upon filing, and the  
20 Authority should proceed to evaluate the merits of the proposed rate adjustment.

### 21 **3. POLICY CONSIDERATIONS SUPPORT RECOGNIZING STANDING AND RIPENESS AT** 22 **FILING**

23 Recognizing the standing and ripeness of the certificate holder's petition upon filing also  
24 comports with the public interest objectives underlying NRS Chapter 706. The Legislature has  
25 declared it the policy of this State that the regulation of taxicabs be conducted so as to:

- 26 • Promote safe, efficient, and reliable public transportation;
- 27 • Ensure that rates are *just and reasonable* to both the public and the operator; and
- 28 • Provide stability and continuity in regulated carrier service.



1 Allowing certificate holders to timely petition for rate relief when economic conditions warrant  
2 ensures that the Authority receives current information about the financial viability of carriers and  
3 can make informed regulatory decisions to protect the riding public. Denying or delaying  
4 jurisdiction on the ground of alleged “unripeness” would be contrary to the statutory purpose, and  
5 would inhibit the Authority’s ability to fulfill its mandate.

6 **E. THE APPLICATION AS AMENDED WAS PROPERLY NOTICED AND**  
7 **AMENDMENTS RELATE BACK TO THE ORIGINAL FILING.**

8 Opposition Intervenors contend that the Second Amended Application was not properly  
9 noticed because it clarified that 25% of the fee would be allocated to technology providers. This  
10 argument fails. First, the original and Amended Application was filed publicly on December 18,  
11 2024 and March 5, 2025, respectively, in full compliance with NAC 706.909, requiring disclosure  
12 of the requested rate, superseded rates, justification, prior Authority action, and financial  
13 information. The Second Amended Application was filed publicly on August 15, 2025, which  
14 merely conformed to the evidence that was elicited during the discovery process.

15 By analogy NRCP Rule 15 permits amendments of pleadings to be made freely to aid in  
16 the presenting of merits.<sup>12</sup> When the original pleadings give fair notice of the fact situation giving  
17 rise to the new claim, the amendment to the pleadings relates back. *Jackson v. Groenendyke*, 132,  
18 Nev. 296, 369 P.3d 362, (2016). The evolution and inclusion of “any technology provider” was  
19 explored in discovery. The Second Amendment enhances rather than diminishes transparency by  
20 preserving operator choice and ensuring the fee is not monopolistic. Moreover, the sought pass-  
21 through fee was not increased, and remains at the initially requested \$0.50 amount, with no  
22 objection being raised to admission of the evidence. The fee structure was fully disclosed in the  
23 amended filings and pre-filed testimony. NAC 706.471(3) allows differential rate structures upon  
24 a showing of necessity. The Second Amendment and the substance of the \$0.125 was fully  
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28 <sup>12</sup> Generally, leave to amend a complaint is only denied when it is clear that the deficiencies of the complaint cannot  
be cured by amendment. *Bank of America, N.A. v. Woodcrest Homeowners Association*, 2019, 381 F.Supp.3d  
1280, reconsideration denied 2020 WL 9520577, appeal dismissed 2020 WL 3866914

1 disclosed to all parties, was the subject of much discovery, and was relevant to the issue. It relates  
2 back to the original pleading and must stand.<sup>13</sup>

3  
4 **F. APPROVAL OF THE FEE MAY BE CONDITIONED UPON FINAL**  
5 **EXECUTION OF THE SETTLEMENT AGREEMENT, LICENSE**  
6 **AGREEMENT AND FURTHER ASSURANCES.**

7 The draft form of the Settlement Agreement and License Agreement are not prohibitions to  
8 approval of the Application. Instead, affording the Authority input and decision-making prior to  
9 the finalization of these documents demonstrate prudence and respect for the regulatory process.  
10 As with many transactions that are subject to regulatory approval (i.e. gaming, liquor) contracts  
11 are not finalized until conditions precedent are satisfied. Routinely, transaction documents require  
12 modification and amendments upon review of the applicable regulatory prior to finalization and  
13 effectiveness. Placing regulatory muster and input as pre-conditions to any final agreement should  
14 be championed and not criticized.

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<sup>13</sup> See *Upper Deck Co. v. Matt Const., LLC*, 128 Nev 941, 381 P.3d 671 (2012) where amendment to the pleadings to confirm to the evidence was affirmed, where “had raised the issue in his opening argument, [opposing counsel] specifically referred to the matter as an issue in the case, that the factual issue had been explored in discovery, that no objection had been raised at trial to the admission of evidence relevant to the issue.”



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DATED this 8th day of October, 2025

*/s/ Puoy Premsrirut*  
Puoy Premsrirut, Esq.  
520 S. Fourth Street  
Las Vegas, Nevada 89101  
(702) 598-1484  
puoy@brownlawlv.com  
*Attorney for Applicant*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of Brown Brown & Premsrirut, and that on this 8th day of October, 2025, I caused to be served the foregoing **APPLICANT DESERT CAB CO.'S CLOSING BRIEF** upon all parties to this action via U.S. mail and email:

Desert Cab Co.	Puoy Premsrirut, Esq. Brown Brown & Premsrirut 520 S. 4 <sup>th</sup> Street, 2 <sup>nd</sup> Floor Las Vegas, Nevada 89101 puoy@brownlawlv.com	Desert Cab ATTN: George Balaban 4675 Wynn Road Las Vegas, NV 89103 gtbalaban@aol.com
Curb Mobility, LLC	Elliot Anderson, Esq. Greenberg Traurig, LLP 10845 Griffith Peak Drive, Suite 600 Las Vegas, Nevada 89135 andersonel@gtlaw.com	Las Vegas Litigation Docketing Greenberg Traurig, LLP 10845 Griffith Peak Drive, Suite 600 Las Vegas, Nevada 89135 lvlitdock@gtlaw.com
Curb Mobility, LLC	Joshua L. Raskin, Esq. Greenberg Traurig, LLP One Vanderbilt Avenue New York, NY 10017 raskinj@gtlaw.com	Vimal M. Kapadia, Esq. Greenberg Traurig, LLP One Vanderbilt Avenue New York, NY 10017 vimal.kapadia@gtlaw.com
Curb Mobility, LLC	CURB MOBILITY, LLC Attention: Amos Tamam, CEO 11-11 34 <sup>th</sup> Avenue Long Island City, NY 11106 <a href="mailto:legal@gocurb.com">legal@gocurb.com</a> <a href="mailto:amos.tamam@gocurb.com">amos.tamam@gocurb.com</a>	
IVSC IP LLC (Patent Holder)	D. Neal Tomlinson, Esq. 2857 Paradise Road, Suite 301 Las Vegas, NV 89109 neal@hyperionlawyers.com	
Kaptyn Technology, Inc.	Robert Yorio, Esq. Carr & Ferrell LLP 411 Borel Ave, Suite 603 San Mateo, CA 94402 yorio@carrferrell.com	Kent Brian Bathurst, Esq. Carr & Ferrell LLP 411 Borel Ave, Suite 603 San Mateo, CA 94402 bbathurst@carrferrell.com
Kaptyn Technology, Inc.	KAPTYN TECHNOLOGY, INC Attention: Andrew Meyers, CEO 4675 Wynn Road	



	Las Vegas, Nevada 89103 <a href="mailto:andrew@kaptyn.com">andrew@kaptyn.com</a>	
Nevada Yellow, Checker, Star Corporations, Newcab, and Taxi Management, LLC	Scott Scherer, Esq. (& Curb Mobility Co-counsel) Brownstein Hyatt Farber Schreck LLP 5520 Kietzke Lane, Suite 110 Reno, NV 89511 <a href="mailto:sscherer@bhfs.com">sscherer@bhfs.com</a>	NEVADA YELLOW, CHECKER, STAR CORPORATIONS, NEWCAB, AND TAXI MANAGEMENT, LLC ATTN: Michael Bailin, General Manager 5225 W. Post Road Las Vegas, NV 89118 <a href="mailto:mbailin@taximanagement.vegas">mbailin@taximanagement.vegas</a> <a href="mailto:legal@taximanagement.vegas">legal@taximanagement.vegas</a>
Deputy Attorney General	Jessica Guerra, Esq. Paige L. Magaster, Esq. Ryan D. Sunga, Esq. (T.A. Staff Counsel) Deputy Attorney General Nevada Attorney General's Office 1 State of Nevada Way, Suite 100 Las Vegas, Nevada 89119 <a href="mailto:jguerra@ag.nv.gov">jguerra@ag.nv.gov</a> <a href="mailto:pmagaster@ag.nv.gov">pmagaster@ag.nv.gov</a> <a href="mailto:rsunga@ag.nv.gov">rsunga@ag.nv.gov</a>	Joseph Ostunio, Esq. Matthew P. Feeley, Esq. (T.A. Board Counsel) Deputy Attorney General Nevada Attorney General's Office 1 State of Nevada Way, Suite 100 Las Vegas, Nevada 89119 <a href="mailto:jostunio@ag.nv.gov">jostunio@ag.nv.gov</a> <a href="mailto:mfeeley@ag.nv.gov">mfeeley@ag.nv.gov</a>

/s/ Kami C. Vermillion  
An Employee of BROWN BROWN & PREMSRIRUT

# EXHIBIT “A”



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## I. PROCEDURAL HISTORY

A public hearing on the Application was conducted before the Nevada Taxicab Authority (“**Authority**”) on September 17, 18, and 19, 2025, during which the Authority received sworn testimony (both pre-filed and live), documentary evidence, and argument from the Applicant, intervenors, and interested parties. Following the close of testimony, the matter was submitted for decision.

After considering the record as a whole, the Authority makes the following findings of fact:

The Nevada Legislature amended NRS 706.8836 and NRS 706.8844 in 2015 to require that all Clark County taxicabs utilize *electronic taximeters, GPS-based trip recording, and real-time trip data transmission*.

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1 LLC (“*IVSC*”), as set forth by IVSC acting COO Noah Mesel, whose testimony (*see* Hearing Day  
2 1 transcript, pp. 110–127) established that the patented systems were developed in response to  
3 Nevada’s statutory mandates.

4 **B. EXISTENCE OF PRESENT AND UNAVOIDABLE EXPOSURE**

5 The Authority finds that taxicab operators are currently using certain technology necessary  
6 to comply with Nevada law, and that this use exposes operators to immediate and ongoing  
7 potential patent liability absent a license agreement. This risk is not speculative or premature but  
8 arises directly from compliance with Nevada’s statutory requirements.

9 **C. NEGOTIATED RESOLUTION AND FEE STRUCTURE**

10 The evidence establishes that Desert Cab, through its technology provider Kaptyn  
11 Technology, Inc., participated in industry-wide negotiations with IVSC to resolve the exposure.  
12 IVSC initially sought royalties in excess of \$2.00 per trip but ultimately agreed to a \$0.50 per-trip  
13 fee, of which \$0.375 funds IVSC’s patent license and \$0.125 funds continued technology  
14 maintenance, support, and integration to either Kaptyn, or to another eligible technology provider  
15 as selected by the respective operator to promote technological compliance with Nevada’s  
16 statutory mandates. The Authority finds that this structure was negotiated at arm’s length and  
17 represents a reasonable compromise that protects the industry and the public as required by NRS  
18 706.151.

19 **D. FINANCIAL IMPACT AND REASONABLENESS**

20 Testimony from George Balaban (*see* Hearing Day 1 transcript, pp. 24–39, 82–88)  
21 established that defending a single patent infringement lawsuit could cost between \$3–4 million  
22 in legal fees and damages. This litigation cost estimation was corroborated by Mr. Noah Messel,  
23 who demonstrated knowledge and experience with patent matters such that the Authority finds  
24 the legal fees approximation to be credible. The Authority finds the \$0.50 per-trip fee to be  
25 reasonable and proportionate, constituting approximately 2.5% of the average fare and falling well  
26 below comparable patent license rates (\$0.56–\$2.60 per trip).

27 ///



1           **E. PUBLIC INTEREST CONSIDERATIONS**

2           The Authority finds that approval of this fee will prevent service disruptions, preserve  
3 compliance with Nevada's technology mandates, protect the economic viability of certificated  
4 operators, and ensure continued safe and reliable service for passengers. The fee promotes  
5 regulatory stability, transparency, and uniformity in addressing a system-wide issue that no single  
6 operator could resolve individually.

7           The Authority finds that the matter is ripe for determination because legal exposure exists  
8 at present, not merely upon future litigation. The Authority recognizes that indemnification  
9 clauses in vendor contracts do not prevent lawsuits, nor do they provide guaranteed funding for  
10 multimillion-dollar defenses. In his proceeding, the indemnification provision in Kaptyn's Master  
11 Software License and Service Agreement (Exhibit 14, Section 8.1) specifically provides Kaptyn  
12 with the option to "secure the necessary rights and licenses for Customer to continue using the  
13 Software or Service," which is precisely what the Amended Application seeks to accomplish.  
14 Approval of this pass-through fee does not create "bad precedent"; rather, it follows established  
15 Authority practice in approving targeted surcharges (e.g., fuel surcharges, event surcharges, and  
16 technology fees) justified by external necessity.

17           The Authority further finds that Desert Cab has met its evidentiary burden under NAC  
18 706.909, providing testimony, exhibits, and data establishing the necessity, fairness, and public  
19 interest of the proposed rate adjustment. The hearing was properly noticed and conducted under  
20 NAC 706.948, and the Authority's decision is supported by substantial evidence in the record.

21           **III. CONCLUSIONS OF LAW**

22           1.       The Authority has jurisdiction over this matter pursuant to NRS 706.8819, NRS  
23 706.8822, and NRS 706.8824, which authorize the regulation of taxicab rates and the imposition  
24 of surcharges in the public interest.

25           2.       Pursuant to NRS 706.151(1)(c) and NAC 706.909, the Authority may adjust rates  
26 when necessary to ensure safe, adequate, and efficient service, and when the adjustment is just,  
27 reasonable, and in the public interest.

1           3.     The evidence demonstrates that the proposed \$0.50 pass-through fee is (1)  
2 necessary to ensure operators' compliance with Nevada's statutory requirements and to avoid  
3 imminent legal exposure; (2) just and reasonable because it reflects the lowest negotiated amount  
4 necessary to secure compliance and protect taxicab service continuity; and (3) in the public interest  
5 because it ensures the continued availability of lawful, compliant, and affordable taxicab service  
6 to the public.

7           4.     Approval of the pass-through fee is consistent with prior Authority determinations  
8 approving fees and surcharges, including the Fuel Surcharge Orders (2011–2022), the Special  
9 Event Surcharge Orders (EDC, F1, NYE 2024–25), and the 2014 Rate Increase Order, all of which  
10 were grounded in necessity and public benefit.

11           5.     The Authority concludes that the fee structure, collection mechanism, and  
12 implementation procedures are lawful under NAC 706.471(3) and NAC 706.909, and that the  
13 application was properly filed and supported by sufficient evidence.

#### 14     **IV.   ORDER**

15           IT IS HEREBY ORDERED that:

16           The Amended Application of Desert Cab Company for approval of a \$0.50 per-trip pass-  
17 through fee is GRANTED for a period of ten (10) years.

18           The approved fee shall apply to all metered fares originating within Clark County and shall  
19 appear as a separate line item on the meter and receipt, labeled "Technology Compliance Fee."

20           The fee shall be implemented no later than 30 days from the date of this Order.  
21 The Applicant shall notify the Administrator upon implementation and shall file certification of  
22 compliance.

23           All certificated operators using licensed technology under the IVSC agreement or  
24 equivalent compliance license may apply the approved fee.

25           The Authority retains continuing jurisdiction to review, amend, or terminate the fee under  
26 NRS 706.8824(6) and NAC 706.909(4) upon material change in circumstances or after two (2)  
27 years.



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