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1 calculated. Instead, the witnesses have offered only vague generalities and hidden  
2 behind claims of attorney-client privilege. See, e.g., Exhibit 47, Deposition of Andrew  
3 Meyers, p. 35, lines 4-15; pp. 35-37; p. 42, lines 2-8; Exhibit 51, Deposition of Noah  
4 Mesel, p. 25-26, pp. 32-33, lines 19-25 and 1-5, p. 37, lines 8-18, p. 39, lines 1-18;  
5 Exhibit 46, Deposition of George Balaban, pp. 31-33; Exhibit 48, Deposition of  
6 Christopher Bordonaro, p. 26, lines 14-25; Hearing, Day 1, Testimony of Andrew Meyers,  
7 p. 62, lines 13-17, pp. 84-85 (counsel for IVSC agreed to have testimony struck rather  
8 than agree to waiver of attorney-client privilege); Hearing, Day 2, Testimony of  
9 Christopher Bordonaro, p. 30, lines 4-6; Hearing, Day 2, Testimony of Gerald Bell, p. 60,  
10 line 25 and p. 61, lines 1-2.

11  
12         Applicant filed its Amended Application of Desert Cab Co. to Adjust Taxicab  
13 Charges to Include a Pass-Through Software License Charge (the "Amended  
14 Application") on March 5, 2025. Applicant filed the Second Amended Application on  
15 August 15, 2025, significantly altering the Amended Application by seeking to have  
16 twenty-five percent (25%) of the pass-through charge paid to "Kaptyn or any technology  
17 services company that provides the same or similar technology as Kaptyn, at the election  
18 of the operator". Second Amended Application, p. 2.

19  
20         In particular, the Amended Application stated that Kaptyn "has negotiated a  
21 conditional license agreement between the taxicab operators and the third-party patent  
22 owner for a \$0.50 per trip royalty." Amended Application, p. 4. Nothing in the Amended  
23 Application provided any notice that technology services companies would be sharing in  
24 the pass-through charge.

25  
26         Subsequent pre-filed testimony and deposition testimony revealed that Kaptyn in  
27 particular and "any technology services company that provides the same or similar  
28

1 technology as Kaptyn" would receive twenty-five percent (25%) of the pass-through  
2 charge. No witness was able to explain exactly how the pass-through charge would be  
3 collected and paid, what would happen if the certificated taxicab operator chose to use  
4 multiple technology providers, or if a technology provider's system performed similar  
5 functions using technology that was not "the same or similar" to Kaptyn's. See, e.g.,  
6 Exhibit 46, Deposition of George Balaban, p. 44, lines 11-16; Exhibit 47, Deposition of  
7 Andrew Meyers, p. 57, lines 7-10.

9 The draft agreement attached to the Amended Application (and attached hereto  
10 as Exhibit 1) has not been executed by any of the parties and is not binding. See, e.g.,  
11 Exhibit 47, Deposition of Andrew Meyers, p. 60, lines 1-2; Exhibit 51, Deposition of Noah  
12 Mesel, p. 34 and p. 40, lines 14-16; Hearing, Day 1, Testimony of Andrew Meyers, p.  
13 101, lines 11-14. In fact, IVSC now envisions a different set of agreements to protect it  
14 from the doctrine of "patent exhaustion" and allow it to claim royalties directly from the  
15 operators, rather than from the technology providers who have allegedly infringed the  
16 IVSC Patents with the software they have developed. Exhibit 51 at pp. 34-35.

18 Yet none of the operators were involved in discussions with IVSC over the  
19 proposed license agreement. See Exhibit 46, Deposition of George Balaban, p. 26, lines  
20 11-17; Exhibit 25, Written Testimony of William George, ¶ 10. Instead, IVSC's  
21 negotiations were solely with JJ Bell on behalf of Kaptyn. Exhibit 47, Deposition of  
22 Andrew Meyers, p. 29, lines 14-17.

24 Mr. George testified that his companies began using a computer dispatch system  
25 in 1997. Hearing, Day 2, Testimony of William George, p. 191, lines 4-7. The Applicant  
26 has been using the technology of Kaptyn and its predecessor companies since 2005.  
27 Exhibit 46, Deposition of George Balaban, p. 34, lines 3-16. Kaptyn's FleetManager  
28

1 system has been in existence since at least 2008. See Exhibit 48, Deposition of  
2 Christopher Bordonaro, p. 13, lines 11-20. Kaptyn acquired the assets and intellectual  
3 property of several predecessor companies who had developed what is now Kaptyn's  
4 FleetManager software. See Exhibit 47, p. 15, lines 6-21, p.

5  
6 The draft agreement contains no indemnification of the licensees by IVSC to  
7 protect the licensees against any claims by the developers of any prior art upon which  
8 IVSC's technology might infringe. See Exhibit 4, Draft Non-Exclusive Patent License  
9 Agreement. After the deadline for submitting documents had passed, Kaptyn submitted a  
10 new draft Confidential Release and Settlement Agreement that is unexecuted and which  
11 incorporates the original draft license agreement by reference and while it provides the  
12 certificated operators a license to use the IVSC Patents, it still provides no  
13 indemnification against third party claims for the proposed licensees of the IVSC Patents.  
14  
15 Hearing, Day 1, Testimony of Andrew Meyers, pp. 89, lines 17-25 and 90, line 1; Exhibit  
16 6, § 4.

17 Kaptyn's purpose in supporting the proposed pass-through charge is to give it  
18 more funds to conduct research and development to improve the technology it offers. See  
19 Exhibit 47, Deposition of Andrew Meyers, pp. 60-62. In particular, Mr. Meyers stated that  
20 "the IVSC situation was an overdue catalyst to present a rate change increase to the  
21 Taxicab Board." *Id.* at p. 60, lines 19-21. He went on to say that:

23 And to me, a 12-and-a-half cent fare increase for technology, security  
24 protection, evolution, future builds, future enhancements, future  
25 integrations, future requests from our customers, which we receive all the  
time, again, is long overdue.

26 And, I believe it's fair and reasonable, and to me, that has no affiliation  
27 with any other assessment of the pass-through fee.  
28

1 *Id.* at p. 61, lines 7-15; see also p. 105 (looked at labor hours spent doing bug fixes,  
2 maintenance, etc.), p. 108 (allows Kaptyn to keep up with engineering and  
3 development), p. 109 (justification for pass-through charge is to "ensure that Kaptyn  
4 specifically can continue to keep up with the modernization and security of information),  
5 pp. 113-114 ("it was a combination of our specific internal engineering support needs  
6 and development needs"), and p. 125 (pass-through charge "specifically for technology,  
7 security, passenger information security ... absolutely fair and reasonable").

8  
9 When asked what the justification for the rate increase was, Christopher  
10 Bordonaro, Kaptyn's Vice President of Software Engineering, stated:

11 Kaptyn has long provided technology for the industry at a rate that has been  
12 constraining for us. There is always a need for us to hire more engineers, more  
13 talent, get more done quicker. We have not been able to pass those costs on to  
14 the operators.

15 Exhibit 48, Deposition of Christopher Bordonaro, p. 37, lines 4-14. Mr. Bordonaro went  
16 on to state "I have needs. I have a budget. Sometimes that budget increases." *Id.* at p.  
17 39, lines 10-11.

18 The owners of the Applicant, the Balaban family, are part owners of Kaptyn.  
19 Exhibit 47, pp. 11-12, lines 23-25 and 1-2; Exhibit 46, p. 10, lines 15-18. Kaptyn also  
20 leases space in the Applicant's building. Exhibit 46, p. 11, lines 2-5. The Applicant was  
21 not involved in negotiating the proposed license agreement and does not know how the  
22 proposed pass-through charge was determined. *Id.* at p. 29, lines 5-12.

23 In the Kaptyn Technology, Inc. Master Software License and Service Agreement  
24 ("Kaptyn MSA"), Kaptyn recites that it "is the developer, owner and licensor of proprietary  
25 software." See Exhibit 14, Kaptyn MSA, Recitals, p.1. In the Kaptyn MSA, Kaptyn agrees  
26 that it "will indemnify, defend and hold [certificated operator] harmless from and against  
27 all third party claims resulting, to the extent payable to third parties: damages, cost and  
28

1 expenses, including reasonable attorney fees arising from infringement as determined by  
2 a court of competent jurisdiction or an arbitrator as provided for herein, by the technology  
3 used by Kaptyn of any third party's U.S. intellectual property rights." Exhibit 14, Kaptyn  
4 MSA, § 8.1, p. 9.

5  
6 Kaptyn admitted that it cannot afford to fulfill its indemnity obligations to the  
7 certificate holders. Hearing, Day 1, Testimony of Andrew Meyers, p. 102, lines 7-17  
8 (proposed royalty would put them under water if Kaptyn had to pay it) and p. 103, lines  
9 3-6 (Kaptyn would not be able to sustain that amount). The proposed royalty, 37.5 cents  
10 per trip to be paid to IVSC, is more than Kaptyn's entire pre-tax operating profit. Hearing,  
11 Day 1, Testimony of Andrew Meyers, p.109, lines 9-14.

12  
13 IVSC has not identified any infringement claims it has made against any other  
14 parties. Exhibit 51, Deposition of Noah Mesel, p. 40, lines 5-8. IVSC has not notified any  
15 of the other parties to this proceeding of potential action to enforce its patents. See  
16 Exhibit 25, Written Testimony of William George, ¶ 10; Exhibit 26, Written Testimony of  
17 Vishal Dhawan, ¶13; Exhibit 46, Deposition Transcript of George Balaban, pp. 58-59.

18  
19 Other technology service providers, including MTI, iCabbi, Curb and Autocab  
20 reviewed the IVSC Patents and expressed their beliefs that their technology does not  
21 infringe the IVSC patents. Hearing, Day 2, Testimony of William George, p. 193, lines 1-  
22 3 and 23-25 and p. 194, lines 1-5; Exhibit 26, Written Testimony of Vishal Dhawan, ¶ 12;  
23 Exhibit 53, Deposition of William George, p. 30, lines 1-12 and pp. 54-56. They also  
24 specifically agreed to indemnify zTrip against any infringement claims. Exhibit 53,  
25 Deposition of William George, pp. 46-47, lines 18-25 and 1-8; Hearing, Day 2, Testimony  
26 of William George, p. 194, lines 9-25 and p. 195, lines 2-7.

1 Vishal Dhawan testified that he thoroughly reviewed the IVSC Patents against  
2 Curb's technology and discussed his analysis with patent counsel. Hearing, Day 3, pp.  
3 22-25. They concluded that Curb's technology does not infringe any of the IVSC  
4 Patents. Hearing, Day 3, Testimony of Vishal Dhawan, p. 22, lines 10-19; Exhibit 26,  
5 Written Testimony of Vishal Dhawan, ¶ 12.  
6

7 There are more than 12 million taxi trips in the Las Vegas market annually. See  
8 Exhibit 51, Deposition of Noah Mesel, p. 101, lines 1-5; Exhibit 53, Deposition of William  
9 George, p. 50, lines 2-6. At \$0.50 per trip the total fees paid for the alleged infringement  
10 would be more than \$6 million dollars per year. WHC Worldwide, operates transportation  
11 companies under "zTrip" in 38 municipalities and 20 states. Deposition of William  
12 George, p. 10, lines 13-19 and pp. 96-97. In Nevada, zTrip operates Whittlesea Blue and  
13 Henderson Taxi. *Id.* at p. 12, lines 1-4. According to the most recent statistics posted by  
14 the Taxicab Authority, there are 3,530 medallions in all of Clark County. Yet six million  
15 dollars per year is considerably more than zTrip pays for technology for 4,000 taxicabs  
16 across the country. In fact, Mr. George testified that zTrip pays \$730,000 per year for  
17 technology for its entire fleet, less than one-eighth of the amount that would be  
18 generated by the proposed pass-through charge. Hearing, Day 2, Testimony of William  
19 George, p. 195, lines 15-19.  
20

21  
22 Other than costs related to this proceeding, which was initiated by the Applicant  
23 voluntarily, the Applicant has not incurred any costs as a result of the alleged  
24 infringement of the IVSC Patents. Exhibit 46, Deposition of George Balaban, pp. 47-48.

25 **II. The Proposed Pass-Through Software License Charge Is Not Properly**  
26 **Set Forth in the Application.**

27 The Authority's regulations set forth the requirements for an application for a rate  
28 increase. In particular, NAC 706.909 provides:



1       **NAC 706.909** Applications for change of rates or rules. (NRS 233B.050,  
2       706.8818) Applications by any taxicab company to increase any rate, fare or  
3       charge or rule or regulation resulting in any increase must, in addition to  
4       complying with the provisions of NAC 706.876 to 706.975, inclusive, applicable to  
5       all pleadings, submit the following data, either in the application or attached to it  
6       as an exhibit:

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

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

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

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

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

20       The evidence presented in this case fails to establish that the Applicant has met  
21       its burden to provide a completed and accurate statement justifying the proposed pass-  
22       through charge.

23       ***The Applicant Has Failed to Meet Its Burden to Demonstrate That The Rate***  
24       ***Increase is Justified***

25       The Applicant has the burden to justify the increase in rates. The financial  
26       statement is required to show the costs that the Applicant has incurred that justify the  
27       rate increase. We have not received a copy of the required financial statement.

28       According to the Amended Application, the Applicant intended to file the required  
financial statements under confidential seal. See Amended Application, p. 5, n. 8.

While we do not know whether the required financial statements were ever  
actually filed, we do know that the Applicant has not incurred any costs as a result of the  
alleged infringement of the IVSC Patents, other than the costs of this proceeding, which  
the Applicant voluntarily undertook. Exhibit 46, Deposition of George Balaban, pp. 47-48.

Moreover, there is no definitive evidence of future costs that the Applicant or any other certificated taxicab operator will incur. The proposed agreement attached to the Amended Application has not been executed by any of the parties and is not binding. See, e.g., Exhibit 47, p. 60, lines 1-2; Exhibit 51, p. 34 and p. 40, lines 14-16; Hearing, Day 1, Testimony of Andrew Meyers, p. 90, lines 3-8. It is a draft agreement which the Applicant has not even reviewed, let alone agreed to. Exhibit 46, Deposition of George Balaban, p. 24, lines 7-20. In fact, IVSC now envisions a different set of agreements to protect it from the doctrine of "patent exhaustion" and allow it to claim royalties directly from the operators, rather than from the technology providers who have allegedly infringed the IVSC Patents with the software they have developed. Exhibit 51, pp. 34-35. At this point, the potential future costs are purely speculative.

***The Rate Increase Is Not Ripe For Determination***

As a result, the proposed rate increase is not ripe for determination. As Chair Reaser suggested, if Kaptyn believes it needs more money to settle IVSC's claims or to keep its technology current, it should enter into a license agreement with IVSC and raise its prices to the certificated operators. The certificated operators would then include those increased costs on their financial statements and have an opportunity at the annual rate review to argue that as a result of higher costs, they need higher rates to earn a reasonable rate of return. Hearing, Day 1, p. 111, lines 2-16. Andrew Meyers acknowledged that this proposed pass-through charge bypasses that process. *Id.*

***The Proposed Rate Increase Was Not Properly Noticed***

The Amended Application failed to disclose that 25% of the proposed \$0.50 pass-through charge would be paid to Kaptyn or "any technology services company that provides the same or similar technology as Kaptyn." Therefore, the industry and the

1 public were not given proper notice of the proposed rate increase. Other certificated  
2 operators or technology service providers may have sought to participate in these  
3 proceedings had the proposed rate increase been accurately described in the Amended  
4 Application.

5 **III. The Proposed Pass-Through Charge Is Not Justified By The Evidence.**

6 The evidence produced by the Applicant, Kaptyn and IVSC does not justify the  
7 proposed pass-through charge. Not only is there no definitive agreement to pay a  
8 royalty, there is no evidence that the IVSC Patents will be upheld if challenged or that  
9 the pass-through charge is justified by comparison to other similar license agreements.

10 IVSC failed to describe how Kaptyn or any other technology service provider  
11 infringes their patents, relying solely on "privileged advice" from patent counsel. Exhibit 7,  
12 Direct Testimony of Noah D. Mesel, ¶ 4, p.2. Mr. Mesel reviewed a website setting forth  
13 average royalty rates for various industries, none of which were the regulated  
14 transportation industry. *Id.* at pp. 2-3. Those involved in negotiating the \$0.50 pass-  
15 through charge settled on 2.5% of the average taxi fare of \$20, resulting in \$0.50 per  
16 trip. *Id.* IVSC's analysis was one-sided and fatally flawed, however, for several reasons.

17 ***NRS 706.1516 Does Not Apply in This Case***

18 The only attempt at a claim chart that IVSC provided came in the middle of this  
19 case, long after the fifty-cent pass-through charge had been proposed. See Exhibit 8,  
20 Supplemental Testimony of Noah Mesel, ¶ 2 and Exhibit A. It is interesting to note that  
21 this chart applies to the earliest filed patent of the IVSC Patents, the '852 patent, filed in  
22 2011. *Id.* According to the testimony of Andrew Meyers, when IVSC's claims were based  
23 solely on the '852 patent, it was "business as usual." Hearing, Day 1, Testimony of  
24 Andrew Meyers, p. 64, lines 5-8.

1           Moreover, the law that Mr. Mesel cites in his supplemental testimony does not  
2 apply in this case. NRS 706.1516 creates and applies to the Nevada Transportation  
3 Authority Regulatory Account. The money in that account is to be used to "implement  
4 technological improvements in safety, reliability and efficiency ... to assist with the  
5 administration and enforcement of the provisions of NRS 706.011 to 706.791, inclusive."  
6 NRS 706.1516(3). The statutes governing the Taxicab Authority begin at NRS 706.881  
7 and, therefore, are not included in the statutes the technology described in NRS  
8 706.1516 is intended to help administer and enforce.

9  
10           Further, the real-time data system described in NRS 706.1516(3) is clearly  
11 intended to be contracted for and used by the Nevada Transportation Authority, not  
12 purchased by certificated carriers. First, it is to be acquired using public funds collected  
13 by the Nevada Transportation Authority. See NRS 706.1516(3). Second, it is to be  
14 operated by the Nevada Transportation Authority or an agent acting on its behalf. See  
15 NRS 706.1516(5). Finally, "all the information and data collected by the computerized  
16 real-time data system is under the control of the Authority." *Id.*

17  
18           Mr. Mesel also provided a proposal for a demonstration that Frias Transportation  
19 Infrastructure ("FTI"), the predecessor of IVSC, made to the Nevada Transportation  
20 Authority. See Exhibit 8, Supplemental Testimony of Noah Mesel, ¶ 8 and Exhibit C.  
21 Only months before the real-time data system provisions were added to NRS 706.1516,  
22 FTI represented that it "is the inventor and owner of RideIntegrity, a product conceived  
23 and designed specifically to provide real-time data *to regulators* of taxicabs ... ." Exhibit  
24 8, p. 28 (IVSC036) (emphasis added). FTI then represented that it "is not a credit-card  
25 processing company or a *provider of software systems to fleet owners* ... ." *Id.*  
26 (emphasis added). In the detailed description of the RideIntegrity system, FTI represents  
27  
28

1 that it is "regulator focused" and that "No other tech market player in the FHV industry  
2 has this regulator focus." Exhibit 8, p. 35 (IVSC043). Mr. Mesel goes on to state that later  
3 that same year, after NRS 706.1516 had been amended to provide for a real-time data  
4 system to be acquired by the Nevada Transportation Authority, FTI responded to a  
5 "Request for Information/Qualifications to provide information on a computerized *real-*  
6 *time data system*" and concludes his supplemental testimony by stating that "It was this  
7 invention that *formed the basis of the numerous patents* which were later issued to  
8 protect IVSC's invention." Exhibit 8, ¶ 8, pp. 3-4 (emphasis added). Thus, the system  
9 that IVSC submitted as the basis for the IVSC Patents was a system to be acquired and  
10 used by regulators, in particular, the Nevada Transportation Authority.

11  
12 This interpretation of the statute is supported by the legislative history. In  
13 particular, during a hearing on the bill that added the description of the real-time data  
14 system to NRS 706.1516 in front of the Senate Finance Committee, Mark James, the  
15 owner of IVSC, stated that "[t]he Ride Integrity System provides transparency.  
16 Information that is *already available to businesses* will be made available to the public  
17 *and to regulators.*" Minutes of the Senate Committee on Finance, Hearing on SB 430  
18 (May 14, 2013) p. 5 (emphasis added).

19  
20 At no time did Mr. James suggest that IVSC's patent pending technology would  
21 be the only way to comply with the statute. In fact, during a hearing in front of the  
22 Assembly Committee on Ways and Means, Assemblyman Anderson expressed  
23 concerns that the "requirements for the data system read like an advertisement for a  
24 specific product." Minutes of the Assembly Committee on Ways and Means, Hearing on  
25 SB 430 (May 29, 2013) p. 11. Mr. James responded that the requirements in the bill  
26 "were capabilities that a product would need, and most of the capabilities could be  
27  
28

1 accomplished by companies *using current systems.*" *Id.* (emphasis added). Mr. James  
2 went on to say that "the industry believed there were 11 different companies that could  
3 have brought a product forward in San Francisco, and there would be a number of  
4 companies that would respond to the RFP in Nevada." *Ibid.* at p. 12. Unless Mr. James  
5 was misrepresenting IVSC's technology to the Nevada Legislature, even IVSC's  
6 regulator-based system fails to meet the novelty requirements for patent protection.  
7

8 ***IVSC Did Not Follow The Authorities They Claimed To Rely On***

9 When asked about the reference materials that he supposedly consulted in  
10 determining an appropriate royalty rate, IVSC's representative, Mr. Mesel, did not recall  
11 those resources. See Exhibit 51, Deposition of Noah Mesel, p. 70, lines 6-20. Further,  
12 the website that Mr. Mesel referenced describes "Key Takeaways" and states that  
13 "Patent licensing royalty rates vary by industry typically ranging from 0.1 percent to 25  
14 percent of net sales or profits." Exhibit 51, Deposition of Noah Mesel, p. 76, lines 1-8;  
15 see also Exhibit 27, Average Royalty Rates by Industry: Patent Licensing and Key  
16 Factors, p.1.  
17

18 In determining what he thought would be comparable industries for determining the  
19 appropriate royalty, Mr. Mesel, chose the automotive, consumer goods, electronics and  
20 software industries as his comparisons. Exhibit 51, p. 71. None of those have regulated  
21 rates or the low-margins associated with the taxicab business.  
22

23 Mr. Mesel acknowledges that the net sales or profits are those of the licensee of  
24 the technology, but attempts to assert that the appropriate licensees are the taxicab  
25 operators, even though they have no involvement in developing or selling the technology  
26 that allegedly utilizes the IVSC Patents. Exhibit 51, p. 76.  
27  
28

1 The certificated operators who use Kaptyn's FleetManager software all pay  
2 license fees to Kaptyn under the Katpyn MSA. As acknowledged by Mr. Meyers,  
3 Kaptyn's net sales or operating profits from all of its Las Vegas customers is lower than  
4 the more than \$4.5 million that would be generated by just IVSC's portion of the  
5 proposed pass-through charge. As demonstrated by the testimony of William George,  
6 even \$4.5 million per year is more than zTrip pays for its technology for 4000 taxicabs in  
7 20 states. See Hearing, Day 2, Testimony of William George, p. 195, lines 15-19; Exhibit  
8 53, Deposition of William George, pp. 93 and 94.

10 Another one of the "Key Takeaways" in the web site Mr. Mesel uses to justify the  
11 proposed pass-through charge states "Under common royalty valuation methods, the  
12 rule of 25 percent is described as a widely-used income-based approach where  
13 inventors receive 25 percent of the pre-tax operating profit *from the licensed product*."  
14 Exhibit 27, p. 8 (emphasis added); see also Exhibit 51, Deposition of Noah Mesel, pp.  
15 82-83, lines 25 and 1-4. While Mr. Mesel attempts to claim that the operating profit  
16 should be the operating profit of the certificated taxicab operators, the fact is that they do  
17 not develop or sell the "licensed product". Kaptyn developed and sold the licensed  
18 product and the evidence produced in this proceeding shows that the proposed pass-  
19 through charge is more than one hundred percent of Kaptyn's operating profit. Hearing,  
20 Day 1, Testimony of Andrew Meyers, p.109, lines 9-14; Hearing, Day 2, Testimony of  
21 William George, p. 195, lines 15-19.

24 The document on which Mr. Mesel relied also states that whether a license  
25 agreement is exclusive or non-exclusive impacts the amount of the royalty. Exhibit 51,  
26 pp. 90-91. Mr. Mesel testified that an exclusive license agreement is more valuable than  
27 a non-exclusive agreement. *Id.* Because the proposed license agreement does not grant  
28

1 Kaptyn or the certificated taxicab operators exclusive use of the IVSC Patents, the  
2 Second Amended Application is essentially seeking approval of a non-exclusive  
3 arrangement.

4 One of the other considerations noted in the web site on which IVSC relied states  
5 that "high-growth sectors such as AI and fintech may see increasing royalty percentages  
6 due to rapid innovation." Exhibit 27, p. 3; see also Exhibit 51, p. 97. While he did not  
7 answer the question directly, Mr. Mesel did not attempt to claim that the taxicab industry  
8 is a high growth sector. Exhibit 51, p. 97.

9  
10 Finally, the web site on which IVSC relied specifically states that the comparable  
11 industry approach, which Mr. Mesel admitted was one of the factors he considered, has  
12 a flaw – in particular, "the inability to identify reliable data that can truly compare similarly  
13 situated deals." Exhibit 27, p. 4; Exhibit 51, pp. 98-99.

14  
15 The evidence in this case shows that IVSC did not even follow the authorities on  
16 which it claims to rely in determining the proposed pass-through charge, that the charge  
17 is excessive when considering the appropriate factors described by those authorities,  
18 and that it is applying the royalty to the wrong revenue base by trying to say that the  
19 "licensed product" is each taxi ride provided by a certificated operator in the Las Vegas  
20 market, rather than the technology provided to the certificated operators.

21  
22 ***There Is Substantial Doubt About The Validity of the IVSC Patents***

23 While Chair Reaser and Vice-Chair Graf have both made it clear that this is not a  
24 patent case, see Hearing, Day 1, p. 15, lines 20-22 and Hearing, Day 2, p. 224, lines 14-  
25 16, there is substantial doubt about the validity of the IVSC Patents. That substantial  
26 doubt underscores the facts that this matter is not ripe for review, that the Applicant has  
27



1 failed to meet its burden to justify the rate increase and that the amount sought is  
2 excessive as a settlement of dubious claims.

3 While this is not a patent case, it is important to understand certain basic  
4 requirements for a patent to be valid to understand why the intervenors believe that  
5 IVSC and Kaptyn are trying to achieve indirectly what they cannot achieve directly. While  
6 we will not get into the weeds of patent law, we ask the Board to take judicial notice of  
7 the following information from the United States Patent and Trademark Office. To  
8 receive a valid patent, an invention "must meet four conditions:  
9

- 10 1. Able to be used (the invention must work and cannot just be a
- 11 theory)
- 12 2. A clear description of how to make and use the invention
- 13 3. New, or "novel" (something not done before)
- 14 4. "Not obvious," as related to a change to something already
- 15 invented".

16 United States Patent and Trademark Office, *Patent Essentials*, available at  
17 <https://www.uspto.gov/patents/basics/essentials>.

18 Any inventions patented by IVSC were obvious, were not novel, and as applied to  
19 technology currently operated by certificated carriers, as opposed to regulators, was not  
20 clearly described or able to be used. Rather, IVSC's system provided a "platform or  
21 mechanism through which the taxicab industry could work together through a system  
22 *operated by state government*." Such a system would "offer *mutual* e-hailing and  
23 dispatch services." Minutes of the Assembly Committee on Ways and Means, Hearing  
24 on SB 430 (May 29, 2013) p. 5 (emphasis added). In other words, the system described  
25 in Mr. James comments to the Nevada Legislature, FTI's proposal to the Nevada  
26 Transportation Authority and Mr. Mesel's supplemental testimony as the "basis" of the  
27 IVSC patents was a system to be operated by government and through which the  
28 industry could participate in certain "mutual" services. Based only on these patents of

1 dubious validity, IVSC and Kaptyn are attempting to use the power of the Taxicab  
2 Authority to force the riding public to pay them a per-ride royalty for the next 20 years.

3 Mr. Meyers and Mr. Bordonaro testified that Kaptyn's FleetManager system was  
4 developed prior to 2008. Deposition of Christopher Bordonaro, p. 13, lines 11-20. Mr.  
5 Balaban testified that the Applicant has used the systems developed by Kaptyn's  
6 predecessor companies since approximately 2005 and that taximeters have been in use  
7 since at least 1976.

8  
9 Of the five patents attached to the Amended Application as Exhibit 1, one of them  
10 was filed in September of 2011. The others were all filed between November of 2018  
11 and December of 2021. Kaptyn proceeded with "business as usual" after its counsel  
12 analyzed the first patent. By the time the subsequent patents were filed, they were  
13 clearly not novel or were obvious extensions of existing technology.

14  
15 While this is not a patent proceeding, all of these arguments would be made in  
16 challenging the validity of the patents had IVSC actually brought its claims against a  
17 party capable of and interested in defending itself. Instead, the evidence shows that it  
18 asserted its claims only against Kaptyn. Mr. Balaban, one of Kaptyn's owners testified  
19 that he was concerned that Kaptyn could not afford to defend itself against the  
20 infringement claims. See Exhibit 46, Deposition of George Balaban, p. 41, lines 1-4; see  
21 also Exhibit 49, Deposition of Michael Bailin, p. 90, lines 6-20. Mr. Meyers admitted he  
22 was more concerned about the economics of defending against IVSC's claims than he  
23 was about the validity of those claims. Hearing, Day 1, Testimony of Andrew Meyers, p.  
24 117, lines 2-14.

25  
26 If IVSC was so certain of the validity of the IVSC Patents, it would have agreed to  
27 indemnify the licensees against third party claims of infringement in the draft  
28

1 agreements. This glaring failure, even in the new drafts produced after the issue was  
2 raised in depositions, shows that IVSC knows that its claims are frivolous.

3 ***The Proposed Pass-Through Charge Was Not The Result of Arms-Length***  
4 ***Negotiations***

5 Moreover, Kaptyn is not interested in defending itself. Andrew Meyers testified  
6 that the 12.5 cents per trip Kaptyn or another technology provider would receive is a  
7 technology fee which will help Kaptyn do research and development to keep up with the  
8 industry's need for more modern technology. With all due respect to Mr. Meyers,  
9 research and development activities of technology suppliers is not the responsibility of  
10 the riding public.  
11

12 Nor is Kaptyn's indemnification obligation under the Kaptyn MSA a responsibility  
13 of the riding public. As Mr. Balaban testified, the proposed pass-through charge would  
14 benefit Kaptyn because they would not have to defend the threatened litigation. Exhibit  
15 46, Deposition of George Balaban, p. 41, lines 10-12.  
16

17 Contrary to the assertions of IVSC and Kaptyn, it is clear that this was not an  
18 arms-length negotiation. Kaptyn wants the pass-through fee to avoid its indemnification  
19 obligations and cover its research and development costs. All of the negotiations were  
20 conducted by JJ Bell on behalf of Kaptyn and representatives of IVSC. Exhibit 47,  
21 Deposition of Andrew Meyers, p. 29, lines 14-17. The Bell and Balaban families both  
22 own an interest in Kaptyn. Exhibit 47, pp. 11-12, lines 23-25 and 1-2.  
23

24 JJ Bell, who took the lead in negotiations on behalf of Kaptyn, wanted to ensure  
25 that the negotiations took care of any potential back royalties. As he testified:

26 Like, we can have something lower, but then you've got to have an  
27 upfront payment to deal with the back royalties. And obviously, *I*  
28 *was trying to avoid that at all costs*. And so I kept – I would much  
rather have it moving forward than have to have a big upfront  
payment to cure the back.

1 Hearing, Day 2, Testimony of JJ Bell, p. 46, lines 4-9 (emphasis added). Up until six to  
2 nine months ago, Mr. Bell was a certificated taxicab operator in Clark County. *Id.*, p. 57,  
3 lines 13-18. They sold the assets of the certificated taxicab operator to zTrip because  
4 their entire board was looking for an "opportunity to get out". *Id.* at p. 57, lines 19-25 and  
5 p.58, lines 1-4. Mr. Bell also testified that it was his understanding that royalties could go  
6 back for 6 years, long before his family sold its Clark County taxi business. *Id.* at p. 61,  
7 lines 8-11. Thus, Mr. Bell's own testimony shows that not only was Kaptyn financially  
8 interested in avoiding its indemnification obligations and receiving additional revenue for  
9 research and development, but Mr. Bell himself was personally interested as a former  
10 owner of a certificated taxicab operator who believed he may have liability for back  
11 royalties, which he sought to avoid "at all costs."

14 Frankly, the Second Amended Application is nothing more than a manipulated  
15 cash grab by Kaptyn and IVSC. Without more evidence that truly independent parties  
16 have reviewed the IVSC Patents and engaged in arms-length negotiations over a  
17 reasonable royalty, there is zero justification for the proposed pass-through charge.

19 The evidence in this case makes clear that other technology providers do not  
20 believe their technology infringes the IVSC patents. That technology is superior to the  
21 technology offered by Kaptyn. Exhibit 53, Deposition of William George, p. 30, lines 1-12  
22 and pp. 54-56. Other technology providers are aware of the IVSC Patents and are  
23 prepared to indemnify certificated operators. Hearing, Day 2, Testimony of William  
24 George, p. 193, lines 1-3 and 23-25 and p. 194, lines 1-5; Exhibit 26, Written Testimony  
25 of Vishal Dhawan, ¶ 12; Exhibit 53, Deposition of William George, p. 30, lines 1-12 and  
26 pp. 54-56.

1 Unlike the rambling, imprecise and dissembling testimony of Mr. Mesel, whose  
2 dubious credibility is further undercut by the fact that he stands to receive a percentage  
3 of the pass-through charges collected by IVSC, see Hearing, Day 2, p. 145, lines 14-24,  
4 Mr. Dhawan's testimony about his background and the exhaustive review he conducted  
5 comparing the IVSC Patents to Curb's technology is clear, straight-forward and credible.  
6 Hearing, Day 3, Testimony of Vishal Dhawan, pp. 22-25.

8 If IVSC and Kaptyn are so certain that the IVSC Patents are valid and are being  
9 infringed, they could waive attorney-client privilege and present their analysis so that the  
10 parties and the Authority could review it and determine its merits. They were not willing  
11 to provide that analysis or even a detailed claim chart comparing the IVSC patents  
12 against Kaptyn's technology. While they have every right to claim attorney-client  
13 privilege, the failure to provide the evidence necessary to establish the likelihood that the  
14 IVSC Patents are valid and are being infringed by Kaptyn is fatal to their ability to meet  
15 their burden to justify the proposed pass-through charge.

17 Consistent with their unwillingness to waive attorney-client privilege and present  
18 their analysis of the IVSC Patents, Kaptyn's CEO, Mr. Meyers, stated that he was more  
19 concerned with the economics of defending against the infringement claims than he was  
20 with the validity of the claims. Hearing, Day 1, Testimony of Andrew Meyers, p. 117,  
21 lines 2-14. Mr. Schwartz remembers Andrew Meyers telling him that he tried to get  
22 authorization to challenge the IVSC Patents, but Kaptyn's Board of Directors would not  
23 give him that authority. Hearing, Day 2, Testimony of Jonathan Schwartz, p. 250, lines 9-  
24 12. Board Member Decker specifically asked Mr. Meyers if Kaptyn had challenged the  
25 IVSC Patents and Mr. Meyers confirmed that they had not. Hearing, Day 1, Testimony of  
26 Andrew Meyers, p. 98, lines 17-18.

1       ***The Issuance of New Patents Extends the Term of the Proposed License***  
2       ***Agreement***

3       Vice-Chair Graf asked each of the parties to address the impact of the newly  
4       issued patent on this case. See Hearing Transcript, Day 2, p. 158, lines 8-16. During his  
5       testimony, Mr. Mesel stated that the pending patent applications are included, so the  
6       newly issued patent was one of the patents that would be licensed if any of the parties  
7       entered into the draft agreements. Hearing Transcript, Day 2, p. 159, lines 14-16.  
8       However, Mr. Mesel also stated, earlier in his testimony, that "the life of the patent is the  
9       duration of the license period. And so we just expanded that by 20 years starting  
10      yesterday." Hearing Transcript, Day 2, p. 138, lines 12-14.

11       This is another reason that this matter is not ripe for review. While the definition of  
12      "This is another reason that this matter is not ripe for review. While the definition of  
13      "Licensed Patents" in the draft Non-Exclusive Patent License Agreement includes any  
14      future patents IVSC may obtain, the term of that agreement continues "until the  
15      expiration date of the last valid claim of the issued Licensed Patents to expire." Exhibit 4,  
16      Draft Non-Exclusive Patent License Agreement, ¶¶ 1.c. (definition of "Licensed Patents")  
17      and 5 (Term).

18       By adding another 20 years to the Term every time a patent is issued to IVSC,  
19      there is no clear evidence of when the proposed pass-through fee will expire. Mr. Mesel  
20      acknowledged that technology will continue to evolve and it is possible that another  
21      company will eventually come along with another technology that does not infringe the  
22      IVSC Patents. Hearing, Day 2, p. 102, lines 7-18. Taxi Management, zTrip and Curb  
23      would assert that it is not only possible, it is likely that superior, non-infringing technology  
24      will be developed long before the Term expires and, in fact, already exists today.  
25      Hearing, Day 2, Testimony of William George, pp. 195-197.

1 Based on the Draft Non-Exclusive Patent License Agreement attached to the  
2 Application, IVSC could continue to collect 37.5 cents per ride long after new technology  
3 has made their patents obsolete.

4 **The Proposed Pass-Through Charge Is Not In The Public Interest.**

5 Granting the rate increase requested in this case will set a horrible and  
6 destructive precedent. Allowing the Authority to be used to impose additional fees on the  
7 riding public to fund Kaptyn's research and development budget and allow IVSC to  
8 monetize dubious patent claims will simply lead to more frivolous claims and requests for  
9 additional charges. When they see that it works, those with dubious claims will pick on  
10 the weakest potential adversary and pressure them into a settlement paid for by  
11 someone else and from which they also benefit.

12 In this case, IVSC has not brought its claims against any other party. It picked out  
13 Kaptyn, knowing that Kaptyn could not afford to defend itself, Kaptyn had investors who  
14 had interests in a certificate holder who would file the application, and gave Kaptyn an  
15 incentive by offering to share the rate increase.

16 Obviously, requiring the riding public to pay more hurts them. But it also hurts the  
17 drivers as riders frequently tip by just rounding up a fare or paying the same amount they  
18 always pay and much of this \$0.50 increase will come out of the drivers tips. Exhibit 49,  
19 Deposition of Michael Bailin, pp. 88-89.

20 It hurts Las Vegas' tourism industry by making it more expensive to visit Las  
21 Vegas for those who use taxicabs as their preferred means of ground transportation.  
22 Tourists are already concerned about the costs of a trip to Las Vegas. This proposed  
23 pass-through charge will only be seen as another attempt by businesses in Las Vegas to  
24 nickel and dime the tourist to death. That is the reputation that the Las Vegas  
25  
26  
27  
28

1 Convention and Visitors Authority is currently trying to overcome and this pass-through  
2 charge will fly in the face of it.

3 Finally, it hurts the certificate holders because it drives more potential riders away  
4 from taxis and to alternative forms of ground transportation. The number of taxi rides in  
5 Clark County has dropped precipitously in the last 10 years from 27,487,009 trips in  
6 2015 to 13,483,379 trips in 2024. The number of trips is down again so far this year.  
7 Competition from less expensive alternatives continues to increase.  
8

9 Finally, the Taxicab Authority should also consider the fact that it has no direct  
10 regulatory authority over IVSC or ability to enforce or invalidate the proposed settlement  
11 and license agreements should it determine that the proposed pass-through charge has  
12 caused substantial detrimental impacts to the public or is otherwise no longer  
13 appropriate. Once a pass-through charge is approved, IVSC will claim it relied on the  
14 charge in settling its patent claims and try to force the Board into maintaining the pass-  
15 through charge long after its patents (assuming for the sake of argument that they are  
16 valid in the first place) have become obsolete.  
17

18 For all of these reasons the Authority should reject the Second Amended  
19 Application and the proposed pass-through charge.  
20

21 Respectfully submitted this 8th day of October, 2025.

22  
23 

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## CERTIFICATE OF MAILING

I, Maria Gonzales, do hereby certify that on October 8, 2025, I deposited in the U.S. mail, postage prepaid, via First Class Mail, and email, a true and correct copy of the foregoing **1) Closing Brief on Behalf of Intervenor Tax Management LLC and Curb Mobility LLC** to the following:

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17 Dated this 8th day of October, 2025.

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