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June 6, 2014

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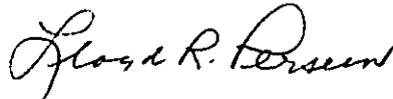
**Re: Application of Lyft, Inc.**  
**A-2014-2415047**

Secretary  
PA Public Utility Commission  
2<sup>nd</sup> Floor, Commonwealth Keystone Building  
Harrisburg, PA 17110

Dear Sir or Madam:

We file herewith on behalf of Protestant, Billtown Cab Co., Inc. (Billtown), its original Answer to Applicant's Preliminary Objections to Billtown's Protest. A Certificate of Service is attached to the Answer.

Very truly yours,



Lloyd R. Persun

LRP:pg  
Enclosures  
**HAND DELIVERED**

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Application of Lyft, Inc. : A-2014-2415047  
:   
:   
:

**BILLTOWN'S ANSWER TO  
APPLICANT'S PRELIMINARY OBJECTIONS**

AND NOW, this 6<sup>th</sup> day of June, 2014, pursuant to 52 Pa. Code §5.101(f), BILLTOWN CAB CO., INC. (Billtown), a Protestant, by its attorneys, files the following *Answer to the Preliminary Objections filed by Lyft, Inc., the Applicant*:

1. It is admitted that Applicant filed Preliminary Objections asking for dismissal of Billtown's Protest. In all other respects, the allegations of this paragraph are denied.
  
2. Admitted.
  
3. Denied. The Protest is not deficient. Billtown has standing. The Preliminary Objections should be overruled and denied.
  
4. Denied. Exhibit "A" to the Protest contains a copy of Billtown's authority upon which its Protest is predicated, in compliance with Section 3.381(c)(1)(i)(A)(V). This section does not require that Billtown "furnish actual copies" of the Commission Orders granting its operating authority. Applicant acknowledges Billtown's compliance with this section by citing Billtown's "call or demand, parcel or package transportation, paratransit, or airport transfer service . . . ." Preliminary Objections ¶5.

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5 through 5e. It is admitted, as Applicant alleges, that “[a]s a matter of law, the proposed TNC service is in conflict with Billtown’s existing services [¶5b]”.<sup>1</sup> In all other respects, the allegations of these paragraphs are denied.

Applicant proposes call or demand service. Like Billtown, it will use passenger vehicles with drivers. Applicant’s drivers and taxis will be dispatched by Internet or the App, just as Billtown’s drivers and taxis are dispatched by telephone or radio. Like meters, the GPS measures the distance of each trip. Applicant’s proposed service conflicts with Billtown’s existing service in portions of Lycoming County. Protest ¶3, Ex. “A”.

In an effort to distinguish itself from call or demand service, Applicant claims that there will be no street hail [Application, Attachment A ¶IV(A)(2)], and service will be exclusive to the passenger(s) requesting the service (Preliminary Objections ¶5b). These distinctions do not exist in Billtown’s operation. Street hail rarely occurs, if ever, in thinly populated areas like Billtown’s service territory.<sup>2</sup> Billtown’s passengers may, and almost always do, insist on exclusive service. See, 52 Pa. Code §29.312(3).

App-based technology is a method to dispatch drivers and taxis. It does not make Applicant’s proposed service new or innovative, any more than “smart meter technology” used to read water, electric and gas meters remotely or on a drive-by basis distinguishes those services from water, electric and gas services whose consumption historically was recorded by meter readers on foot. Applicant’s claim to experimental service is an attempt to avoid the evidentiary

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<sup>1</sup> This allegation by admission or estoppel binds Applicant and moots its standing argument. 52 Pa. Code §§5.1(a)(5), 5.405(c).

<sup>2</sup> Thinly populated areas like Lycoming County lack the passenger base to support multiple carriers.

criteria which common carrier applicants must prove, especially in contested on-the-record proceedings -- public need, propensity to operate safely and legally and impact on the operations of existing carriers, for example. 52 Pa. Code §41.14.

In Application of Yellow Cab Company of Pittsburgh, Inc., t/a Yellow X, Docket No. A-2014-2410269, 2014 WL 2427000 (May 22, 2014), the Commission was not required to address these criteria or the conflicts between applicant's proposed experimental service and protestants' existing call or demand services. The application was not opposed. Testimony was not taken. As a certificated carrier, Yellow X was presumed fit.<sup>3</sup> It sought authority to originate or terminate service only within Allegheny County, excluding trips originating from the Pittsburgh International Airport, with no impact on existing carriers, as the absence of protests demonstrates. By comparison, Applicant seeks statewide authority impacting the operations of more than 50 protestants.<sup>4</sup>

Applicant's styling its proposed service "experimental" does not differentiate the service from Billtown's existing call or demand service. The pleadings suggest that the services are the same and conflict in Lycoming County.

A genuine issue of material fact is whether the services are **in fact** different.

Applicant bears the burden of proving that difference by reliable, probative and substantial evidence. Only testimony under oath with the right of cross-examination and rebuttal in an on-

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<sup>3</sup> As a proposed carrier, Applicant is not presumed fit or to possess the technical and financial ability to provide service or to operate legally and safely. Yellow X Slip Op. at 5, 2014 WL 2427000. Applicant must prove its fitness and the need for its proposed service by reliable, probative and substantial evidence. 66 Pa. C.S.A. §§332(a), (b).

<sup>4</sup> These circumstances demonstrate the Commission's wisdom in limiting its decision to the Yellow X application. Slip Op. at 7.

the-record proceeding will provide the facts to make that determination. 66 Pa. C.S.A. §§332(c), (d).

Billtown filed an Application with the Commission seeking authority to transport by motor vehicle persons in experimental service between points in the County of Lycoming and from points in that county to points in Pennsylvania and return, excluding areas under the jurisdiction of the Philadelphia Parking Authority. A true and correct copy of the Application is attached hereto as Exhibit "A" and made a part hereof.<sup>5</sup> Billtown's Application conflicts with the operating authority proposed by Applicant. This conflict also demonstrates Billtown's standing.

10. If the ALJs sustain or grant Applicant's Preliminary Objections in whole or in part, Billtown is entitled to file an Amended Protest within ten (10) days of service of the ALJs' Order sustaining or granting the Preliminary Objections, either in whole or in part. 52 Pa. Code §5.101(h).

11. Applicant and Protestants should be encouraged to attempt to resolve this Application through mediation. 52 Pa. Code §§41.31, 41.32.

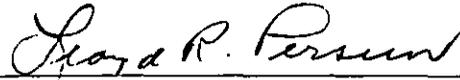
WHEREFORE, Billtown respectfully requests that the Administrative Law Judges enter an Order overruling and denying Applicant's Preliminary Objections, directing the

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<sup>5</sup> The Administrative Law Judges (ALJs) may judicially notice of Billtown's Application. 66 Pa. C.S.A. §332(e).

parties to attempt to resolve this Application through mediation, setting a Resolution Conference and permitting Billtown to participate therein as a Protestant and party in interest.

Respectfully submitted,



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Lloyd R. Persun, Esquire  
Persun & Heim, P.C.  
P.O. Box 659  
Mechanicsburg, PA 17055-0659  
(717) 620-2440  
Attorneys for Billtown Cab Co., Inc.,  
Protestant

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VERIFICATION

I, Edward A. Bartholomew, as President of Billtown Cab Co., Inc., have read the foregoing Answer and verify that the facts set forth therein are true and correct according to the best of my knowledge, information and belief and that as such President I am authorized to execute this Verification on behalf of the corporation.

I understand that any false statement made herein is subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

*Edward A Bartholomew*

Edward A. Bartholomew

Dated: June 6, 2014

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Secretary  
Pennsylvania Public Utility Commission  
400 North Street, Second Floor  
Harrisburg, PA 17120  
(717) 772-7777  
[www.puc.pa.gov](http://www.puc.pa.gov)

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Revised 12/1/13

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## Application for Motor Common Carrier of Persons in Experimental Service

THIS APPLICATION IS TO BE USED WHEN PROVIDING A NEW, INNOVATIVE, OR EXPERIMENTAL TYPE OF TRANSPORTATION WHICH IS NOT CHARACTERIZED IN THE SCHEME OF CLASSIFICATION IN ACCORDANCE WITH 52 PA. CODE §29.13.

1. **Legal Name of Applicant** (Individual, Partnership or Corporation)

Billtown Cab Co., Inc.

- If you are an individual who has not formed any type of corporate entity, you should enter your name **as it will appear on your insurance documents**.
- If you are filing for a partnership, but **not a limited liability partnership**, the names of all partners must be entered on this line. Those names should be entered **as they will appear on your insurance documents**. This includes husbands and wives filing jointly.
- If you are filing for a corporate entity (corporation, limited liability company, or limited liability partnership), **even if you are the sole shareholder member**, you must enter the name **exactly as it appears on the registration papers from the Corporation Bureau of the Pennsylvania Department of State**.

2. **Trade Name** (Attach a copy of fictitious name registration if applicable)

N/A

This is any name which you will be operating under which differs from the **LEGAL NAME OF APPLICANT**. A **TRADE NAME** is considered a **FICTITIOUS NAME** if the identity of the applicant cannot be readily determined. *EXAMPLE: John Doe is the applicant and wants to use the name "Johnboy Trucking" as his trade name. People cannot readily determine that John Doe is the actual operator; therefore, the name is fictitious and must be registered as such. Trade names such as "John Doe Trucking" or "J. Doe Trucking" are not considered fictitious and would not have to be registered.*

3. **Do you currently hold PUC Authority?**  NO **Previous Authority?**  NO

If YES, at PUC No. A- 00111341

4. **Are you a business entity registered with the PA Dept. of State?**  NO

If NO, you must register (see checklist on how to register)

If YES, provide your **PA Corporation Bureau Entity ID Number** 2560687

(see checklist and indicate type of business entity registered)

5. **Physical Address** (do not use PO Box)

3575 West Fourth Street  
Street Address

Williamsport, PA 17701  
City, State and Zip Code

(570) 322-3600  
Telephone Number

Lycoming  
County

The address entered here should reflect the actual location of the business. This is the address the Commission needs in order to dispatch Enforcement Officers to inspect equipment.

6. **Mailing Address** (if different from Physical Address)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip Code

This is the address to which the Commission will send all official documents issued by the Commission. If left blank, it will be assumed that the **MAILING ADDRESS** is the same as the **PHYSICAL ADDRESS**.

7. **Attorney** (if applicable)

Lloyd R. Persun, Esquire (717) 620-2440  
Attorney's Name & Telephone Number for this Filing

Persun & Heim, P.C., P.O. Box 659, Mechanicsburg, PA 17055-0659  
Attorney's Address

An attorney's name should only be entered if an attorney is filing the application for a client and the application is being sent under the attorney's cover letter.

8. **Does applicant hold interstate operating authority?**

No  Yes, at No. \_\_\_\_\_

9. **Describe the service area proposed by this application.**

(Use the space below or attach additional sheet if space provided is not sufficient).

See attached.

**Example:**

*To transport people in their own vehicles, limited to persons who frequent establishments that serve alcohol, for the prevention of driving while intoxicated, between points within the city of Allentown, Lehigh County Pennsylvania.*

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10. **Certification:**

Applicant certifies that it is not now engaged in unauthorized intrastate transportation for compensation between points in Pennsylvania and will not engage in said transportation unless and until authorization is received from the Pennsylvania Public Utility Commission.

Applicant further certifies that it understands the requirements of the Pennsylvania Public Utility Commission, especially as they relate to safety and insurance and that it may be subject to civil penalties, suspension or cancellation of the Certificate for failure to comply with Commission requirements.

Applicant further certifies that it understands that it is subject to an annual assessment based upon its reported gross Pennsylvania intrastate revenues; said assessment to help defray expenses incurred in regulating Motor Common Carriers of Persons in Experimental Service; and acknowledges that failure to report revenue and pay its annual assessment may result in civil penalties, suspension or cancellation of the certificate.

**Verification of Application**

I/We hereby state that the statement(s) made in this application is/are true and correct to the best of my/our knowledge and belief.

The undersigned understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Edward A. Bartholomew, President

(Print Name)



(Signature)

5-23-14

(Date)

The verification of the application must be completed by the applicant appearing on Line 1 of the application by the named individual, all partners if a partnership, a member (if a limited liability company), or by the President or Secretary (if a corporation).

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SUPPLEMENT TO PARAGRAPHS 4 AND 9

Scope of Authority Sought

To transport, by motor vehicle, persons in the experimental service of Transportation Network Service for passenger trips between points in the County of Lycoming and from points in said county to points in Pennsylvania and return, excluding areas under the jurisdiction of the Philadelphia Parking Authority.

Description of Service

The experimental service provided by the applicant will consist of its offering Transportation Network Service through a mobile software application to connect individuals seeking transportation with qualified drivers who use their own vehicles to provide the service. This service would utilize the latest electronic and social media forms of communication, including "Apps" and internet platform reservation services. The applicant will require the drivers to comply with the Commission's regulations and will obtain the required criminal background information and driver history information for all of the drivers. The applicant will maintain a policy providing for zero tolerance for the use of drugs and alcohol and will insure that the drivers are qualified pursuant to 52 Pa. Code §29.501 through §29.508.

Shareholder and Officers

Edward A. Bartholomew is the only shareholder. The officers are:

President	-	Edward A. Bartholomew
Vice President	-	Ann Johnson
Secretary	-	Ann Johnson
Treasurer	-	Edward A. Bartholomew

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon each of the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code §§1.54 and 1.59:

**VIA EMAIL AND FIRST-CLASS MAIL**

Adeolu A. Bakare, Esquire  
McNees Wallace & Nurick, LLC  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[abakara@mwn.com](mailto:abakara@mwn.com)

David William Donley, Esquire  
JB Taxi LLC t/a County Taxi Cab  
3361 Stafford Street  
Pittsburgh, PA 15204  
[dwdonley@chasdonley.com](mailto:dwdonley@chasdonley.com)

Paul S. Guarnieri, Esquire  
Ray Middleman, Esquire  
Malone Middleman, PC  
Pennsylvania Association for Justice  
Wexford Professional Building III  
11676 Perry Highway, Suite 3100  
Wexford, PA 15090  
[guarnieri@mlmpclaw.com](mailto:guarnieri@mlmpclaw.com)

Michael S. Henry, Esquire  
Michael S. Henry LLC  
Concord Limousine, Black Tie Limousine,  
Executive Transportation Inc  
2336 S. Broad Street  
Philadelphia, PA 19145  
[mshenry@mshenrylaw.com](mailto:mshenry@mshenrylaw.com)

**VIA FIRST-CLASS MAIL**

Honorable Mary D. Long  
Administrative Law Judge  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Honorable Jeffrey A. Watson  
Administrative Law Judge  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Dennis G. Weldon, Jr., Esquire  
Bryan L. Heulitt, Jr., Esquire  
Philadelphia Parking Authority  
701 Market Street, Suite 5400  
Philadelphia, PA 19106

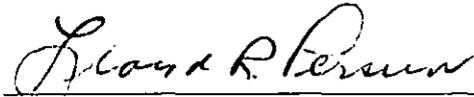
Honorable Harry A. Readshaw  
PA State House of Representatives  
1917 Brownsville Road  
Pittsburgh, PA 15210

Ernest J. Delbo  
Shamokin Yellow Cab Inc.  
T/A Shamokin Yellow Cab  
212 W. Independence Street  
Shamokin, PA 17872

Samuel R. Marshall  
CEO and President  
Insurance Federation of Pennsylvania, Inc.  
1600 Market Street, Suite 1720  
Philadelphia, PA 19103

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Carl W. Hovenstine  
Vice President  
Paul's Cab Service, Inc.  
735 Market Street  
Sunbury, PA 17801



Lloyd R. Persun, Esquire  
Attorney for Billtown Cab Co., Inc.

Dated this 6<sup>th</sup> day of June, 2014

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