



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

July 3, 2014

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Lyft, Inc.
Docket No. C-2014-2422713
Answer to Motion for Stay

Dear Secretary Chiavetta:

Enclosed for filing is the Answer of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission to the Motion for Stay of Lyft, Inc. in the above-captioned matter.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

A handwritten signature in blue ink, appearing to read "S.M. Wimer".

Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Enclosure

cc: ALJ Mary D. Long and ALJ Jeffrey A. Watson (via e-mail and first class mail)
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2014-2422713
	:	
Lyft, Inc.	:	
Respondent	:	

**ANSWER OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT TO
THE MOTION FOR STAY OF LYFT, INC.**

TO THE HONORABLE MARY D. LONG AND HONORABLE JEFFREY A. WATSON:

Pursuant to Sections 5.61 and 5.103(c) of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code §§ 5.61 and 5.103(c), the Commission’s Bureau of Investigation and Enforcement (“I&E”), by and through its prosecuting attorneys, hereby responds to the Motion for Stay of Lyft, Inc. (“Lyft”) in the above captioned proceeding.

1. Admitted, in part. Denied, in part. It is admitted that Lyft filed an Application seeking authority from the Commission to operate an experimental transportation network service in Allegheny County, Pennsylvania and that its Application is pending.¹ The remaining averments are denied. Specifically, it is denied

¹ *Application of Lyft, Inc., a corporation of the State of Delaware, for the right to begin to transport, by motor vehicle, persons in the experimental service of Transportation Network Company for passenger trips between points in Allegheny County, A-2014-2415045.*

that Lyft's Application is relevant to the instant enforcement proceeding. This proceeding alleges that Lyft operated and continues to operate as a broker of transportation without proper Commission authority to do so. The issues in this matter are not duplicative with the issues in Lyft's pending Application for authority, except that a protestant in the Application proceeding may be able to show that Lyft lacks a propensity to operate legally by the existence of this enforcement proceeding, pursuant to 52 Pa. Code § 41.14. It is also denied that Lyft has demonstrated a willingness and desire to work with the Commission. To the contrary, Lyft has clearly demonstrated a willingness to blatantly ignore the law by openly and notoriously violating the Public Utility Code, 66 Pa.C.S. §§ 1101 and 2505, by brokering transportation without a license and using non-certificated motor carriers as drivers. Moreover, I&E lacks sufficient information to admit or deny whether Lyft is currently preparing an Amended Application, and therefore, the averment in Footnote 1 of Lyft's Motion is denied.

2. Admitted.

3. Admitted. By way of further answer, I&E's Petition for Interim Emergency Relief² was granted on July 1, 2014, and Lyft was directed to immediately cease and desist from utilizing its digital platform to facilitate transportation to passengers using non-certificated drivers until it receives appropriate authority from the Commission.

² *Petition of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission for an Interim Emergency Order requiring Lyft, Inc. to immediately cease and desist from brokering transportation service for compensation between points within the Commonwealth of Pennsylvania.* P-2014-2426847 (Order entered July 1, 2014).

4. Admitted. By way of further answer, I&E's Petition for Interim Emergency Relief was granted on July 1, 2014, and Lyft was directed to immediately cease and desist from utilizing its digital platform to facilitate transportation to passengers using non-certificated drivers until it receives appropriate authority from the Commission.

5. Admitted, in part. Denied, in part. It is admitted that Lyft filed an Application at Docket No. A-2014-2415045. It is denied that this Application was filed on April 14, 2014, and not on April 3, 2014. It is also admitted that Lyft filed an Application at Docket No. A-2014-2415047 requesting the issuance of a Certificate of Public Convenience from the Commission to operate an experimental ridesharing network service throughout the Commonwealth, as averred in Footnote 2 of Lyft's Motion. It is denied that this enforcement proceeding at the instant docket bears any relevance to Lyft's Applications for authority, except to demonstrate Lyft's lack of propensity to operate legally, pursuant to 52 Pa. Code § 41.4.

6. Admitted, in part. Denied, in part. It is admitted that Lyft proposed to use a digital platform to connect passengers to drivers in its Application for authority. It is denied that Lyft's Application is so intertwined with the instant enforcement proceeding, which addresses past and continued violations of the Public Utility Code committed by Lyft, to require a stay of this proceeding.

7. Admitted, in part. Denied, in part. It is admitted that Lyft made these assertions in its Application. It is denied that Lyft's Application is so intertwined with the instant enforcement proceeding to require a stay of this proceeding. It is also denied

that the City of Pittsburgh has subject matter jurisdiction over Lyft's Application or this Complaint proceeding.

8. Admitted.

9. Denied. I&E lacks sufficient information to either admit or deny the averments set forth in this Paragraph, and therefore, they are denied. Strict proof is demanded.

10. Admitted, in part. Denied, in part. It is admitted that the Commission approved the Application of Yellow Cab Company of Pittsburgh, Inc. t/a Yellow X for experimental transportation network service.³ It is also admitted that Commissioner Witmer and Commissioner Brown entered a Joint Statement accompanying the adoption of the Yellow X Order, which emphasized the Commission's fundamental duty of ensuring driver integrity, vehicle safety, adequate insurance and public safety when reviewing applications for transportation network service. I&E lacks sufficient information to admit or deny the remaining averments of this Paragraph and therefore, they are denied.

11. Denied. I&E lacks sufficient information to either admit or deny the averments set forth in this Paragraph and, therefore, they are denied.

12. Denied. By way of further answer, Lyft's Application is separate and distinct from the instant enforcement proceeding. Lyft is openly and notoriously violating the Public Utility Code, 66 Pa. C.S. §§ 1101 and 2505, by brokering

³ *Application of Yellow Cab Company of Pittsburgh, Inc., t/a Yellow X, for the additional right to begin to transport, by motor vehicle, persons in the experimental service of Transportation Network Service for passenger trips originating or terminating within Allegheny County, Pennsylvania, A-2014-2410269 (Order entered May 22, 2014).*

transportation without a license and by using non-certificated motor carriers as drivers. Therefore, it is in the public interest for the instant proceeding to move forward expeditiously. Moreover, to grant this stay would be tantamount to ignoring past and present illegal practices in the anticipation of the approval of a utility's application for operating authority. This result would allow any individual or company to provide unlicensed transportation brokerage service without any consequences so long as they file an application, regardless of whether the application is approved and is merely pending.

13. Denied. While Lyft avers that it has demonstrated a willingness to work with the Commission, Lyft has in fact demonstrated an unwillingness to comply with the law. I&E submits that if Lyft wants to demonstrate a willingness to work with the Commission, it will cease and desist violating the Public Utility Code immediately instead of attempting, through this motion, to stall this proceeding, which is not sufficiently related to its pending Application so as to warrant a stay.

WHEREFORE, for the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that Your Honors deny Lyft, Inc.'s Motion for Stay and proceed immediately to adjudicate this matter irrespective of any other proceeding currently before the Commission.

Respectfully submitted,



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

Wayne T. Scott
First Deputy Chief Prosecutor
PA Attorney ID No. 29133

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Date: July 3, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by First Class Mail and Email:

James P. Dougherty, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
jdougherty@mwn.com

Adeolu A. Bakare, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
abakare@mwn.com



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 772-8839
stwimer@pa.gov

Date: July 3, 2014