

# MICHAEL S. HENRY, LLC

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July 23, 2014

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

VIA ELECTRONIC FILING

Re: Application of Lyft, Inc. (experimental service in Allegheny County)  
Docket No. A-2014-2415045  
Application of Lyft, Inc. (experimental service in Pennsylvania)  
Docket No. A-2014-2415047

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Joint Prehearing Memorandum of the Protestants in the above-captioned proceeding, all of whom are named on the attached list.

Very truly yours,

*Michael S. Henry*

Michael S. Henry

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE:

APPLICATION OF

**A-2014-2415045**

**LYFT, INC.**

**A-2014-2415047**

**PREHEARING MEMORANDUM  
OF EXECUTIVE TRANSPORTATION, INC., TA LUXURY SEDAN**

Protestant, Executive Transportation, Inc., t/a Luxury Sedan, by and through its attorney, Michael S. Henry, Esquire, submits its Prehearing Memorandum pursuant to the Prehearing Conference Order and 52 Pa. Code 215.222(d).

**I. ISSUES TO BE RESOLVED**

Whether Applicant's request for authorization to provide service as a motor carrier should be denied because it will only act as a broker and will not provide any transportation itself?

Suggested Answer: Yes.

66 Pa. C.S. §102 (definition of common carrier & motor carrier)

66 Pa. C.S. §2501 – (definition of broker)

Whether the Application should be denied because the proposed service does not differ, in any meaningful way, for other motor carrier service and therefore does not qualify as “Experimental Service” with the Commission’s scheme of classification for service provided by common carriers of passengers?

Suggested Answer: Yes.

52 Pa. Code §29.13 (scheme of classification)

52 Pa. Code §29.352 (experimental service)

Whether the Application should be denied because it proposes to facilitate commercial transportation services under ridesharing arrangements without certificated service providers?

Suggested Answer: Yes.

55 P.S. §§ 695.1 through 695.9 (Ridesharing Arrangement Act)

66 Pa. C.S.. §1101 and 53 Pa. C.S. §§ 5714 and 5741 (necessity of obtaining a certificate of public convenience prior to providing service)

Whether the Applicant can sustain its burden that it will be able to obtain insurance coverage that complies with Commission regulations?

Suggested Answer: No.

66 Pa. C.S. §512 (common carrier insurance)

52 Pa. Code 32.11 (common carrier insurance)

Whether Applicant can sustain its burden of proof with regard to public need and fitness?

Suggested Answer: No.

52 Pa. Code §41.14 (evidentiary criteria used to decide motor carrier applications)

## II. STATEMENT OF FACTS

Applicant, Lyft, Inc. (“Lyft”), is a privately held California-based transportation network company<sup>1</sup> whose mobile-phone application facilitates on-demand ridesharing by enabling passengers who need transportation to demand immediate service from private non-professional drivers who charge a fee for their service. Protestant, Executive Transportation, Inc., t/a Luxury Sedan, is a Pennsylvania corporation and a public utility that holds a certificate of public convenience issued by the Pennsylvania Public Utility Commission (“PUC” or “Commission”) and the Philadelphia Parking

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<sup>1</sup> A transportation network company (“TNC”) is defined by the California Public Utilities Commission as “a company that uses an online-enabled platform to connect passengers with drivers using their personal, non-commercial, vehicles.” Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry, California Public Utilities Commission, Rulemaking 12-12-11 (Filed December 20, 2012) (copy attached).

Authority (“PPA” or “Authority”) authorizing it to transport persons, by motor vehicle, in limousine service in Philadelphia and throughout the Commonwealth. The Application states that the Applicant is seeking “the right to begin to transport, as a common carrier, by motor vehicle, persons in ... experimental service [by means of a] Transportation Network Company for passenger trips between points in Allegheny County.” But, the proposed service, as described in the application, is, in fact, the commercial use of a mobile software application to broker ridesharing arrangements between prospective passengers and private individuals, without certificates of public convenience, who will use their own vehicles to provide call or demand service or limousine service between points in Pennsylvania.

Based on the foregoing, the Applicant seeks authorization to act as a broker not as a common carrier and proposes to facilitate illegal transportation by uncertified carriers. In the alternative, the proposed service is indistinguishable from either call or demand or limousine service.

### III. WITNESSES

Edward Burkhardt – representative of Protestant who will describe Protestant’s authorized service and the adverse impact the proposed service will have on Protestant’s service.

Protestant reserves the right to call any witness listed on any Pre-trial memorandum and reserves the right to supplement this list before any hearing in this matter.

#### IV. DISCOVERY

Protestant will serve discovery requests on the Applicant prior to July 25, 2014. Protestant anticipates that the Applicant will provide responses to Protestant's discovery requests within 30 days.

#### V. PROPOSED MODIFICATION TO DISCOVERY RULES

None.

#### VI. REQUESTED LOCATION OF HEARING

Pittsburgh

#### VII. ESTIMATED LENGTH OF HEARING

3 days.

#### VIII. DATE FOR HEARING

Early September, 2014

Respectfully submitted,  
*Michael S. Henry*

Michael S. Henry  
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CERTIFICATE OF SERVICE

I, Michael S. Henry, hereby certify that I mailed by first class mail, postage prepaid, a copy of the foregoing Protest to the following:

Administrative Law Judges  
Mary D. Long  
Jeffrey A. Watson  
Piatt Place, Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222

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

James P. Dougherty, Esquire  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Lloyd R. Persun, Esquire  
Persun & Heim, PC  
PO Box 659  
Mechanicsburg, PA 17055

David W. Donley, Esquire  
3361 Stafford Street  
Pittsburgh, PA 15204

*Michael S. Henry*

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Michael S. Henry  
Attorney for Protestants  
2336 South Broad Street  
Philadelphia, PA 19145  
215-218-9800

Date: July 23, 2014

LIST OF PROTESTANTS FILING THIS PREHEARING  
MEMORANDUM

A-2014-241507

Aceone Trans Co.  
AF Taxi, Inc.  
AG Cab, Inc.  
AGB Trans, Inc.  
Almar Taxi, Inc.  
ATS Cab, Inc.  
BAG Trans, Inc.  
BNA Cab Co.  
BNG Cab Co.  
BNJ Cab Co., Inc.  
Bond Taxi, Inc.  
BSP Trans, Inc.  
Double A Cab Co.  
FAD Trans, Inc.  
GA Cab, Inc.  
GD Cab, Inc.  
GN Trans, Inc.  
God Bless America Trans, Inc.  
Grace Trans, Inc.  
IA Trans, Inc.  
Jarnail Taxi, Inc.  
Jaydan, Inc.  
LAN Trans Co., Inc.  
LMB Taxi, Inc.  
MAF Trans, Inc.  
MDS Trans, Inc.  
MG Trans Co., Inc.  
Noble Cab, Inc.  
Odessa Taxi, Inc.  
RAV Trans, Inc.  
S&S Taxi Cab, Inc.  
Saba Trans, Inc.  
SAJ Trans, Inc.  
SF Taxi, Inc.

A-241505

Executive Transportation Company  
Inc. d/b/a Luxury Sedan

Society Taxi, Inc.  
Steele Taxi, Inc.  
TGIF Trans, Inc.  
V&S Taxi, Inc.  
Valtrans, Inc.  
VB Trans, Inc.  
VSM Trans, Inc.

Executive Transportation Company, Inc. d/b/a Luxury Sedan  
BM Enterprises, Inc. t/a AG Taxi  
Bucks County Services, Inc.  
Concord Limousine  
Dee Dee Cab Company  
Germantown Cab Company  
Ronald Cab Company  
Rosemont Taxicab Co., Inc.  
Sawink, Inc.  
Shawn Cab