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July 28, 2014

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

**Re: Application of Lyft, Inc. (Experimental Service in Allegheny County); A-2014-2415045
Application of Lyft, Inc. (Experimental Service in Pennsylvania); A-2014-2415047**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Reply Exceptions of Lyft, Inc. in the above-captioned proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By 
Adeolu A. Bakare

Counsel to Lyft, Inc.

/lmc
Enclosure

c:c: Administrative Law Judge Mary D. Long (via e-mail and First-Class Mail)
Administrative Law Judge Jeffrey A. Watson (via e-mail and First-Class Mail)
Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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Counsel to Lyft, Inc.

Dated this 28th day of July, 2014, in Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re: Applications of Lyft, Inc.

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:
:

Docket No. A-2014-2415047

Docket No. A-2014-2415045

REPLY EXCEPTIONS OF LYFT, INC.

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Dated: July 28, 2014

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I. INTRODUCTION

On April 3, 2014, Lyft, Inc. ("Lyft") filed Applications at Docket Nos. A-2014-2415045 ("Allegheny County Application") and A-2014-2415047 ("Statewide Application") with the Pennsylvania Public Utility Commission ("PUC" or "Commission") requesting the issuance of certificates of public convenience to operate, as a Transportation Network Company ("TNC"), an experimental transportation network service platform between points in Allegheny County, Pennsylvania, and throughout the Commonwealth, respectively.

On May 5, 2014, the Insurance Federation of Pennsylvania ("Insurance Federation" or "Protestant"), an association of various insurance providers, filed a Protest to the Applications ("Protest"). Lyft filed Preliminary Objections on May 27, 2014, requesting that the presiding Administrative Law Judges ("ALJs") dismiss the Protest for lack of standing. On June 27, 2014, ALJs Mary D. Long and Jeffrey A. Watson issued an Initial Decision sustaining the Preliminary Objection and dismissing the Protest.

On July 16, 2014, the Insurance Federation filed Exceptions to the Initial Decision, requesting that the Commission reject the Initial Decision and grant standing to Protest the Applications.

In support of the ALJs' Initial Decision, Lyft hereby submits the following Replies to Exceptions of the Insurance Federation.

II. REPLIES TO EXCEPTIONS

A. Reply to Insurance Federation Exception No. 1: The Initial Decision properly determined that the Insurance Federation failed to demonstrate an interest which is "direct, immediate and substantial."

The Initial Decision properly determined that the interests set forth in the Protest are at best "speculative." Initial Decision, p. 7. Protestant's Exceptions fail to credibly rebut the well-reasoned arguments in the Initial Decision. Additionally, the primary concern raised by

Protestant has been rendered moot as Lyft has amended its excess liability policy to offer primary coverage.

Commission precedent supports the findings in the Initial Decision. As stated in Lyft's Preliminary Objections, "[a] protestant's interest in the subject matter of a proceeding is direct if the protestant's interest is adversely affected by the actions challenged in the protest, is immediate if there is a close causal nexus between the protestant's asserted injury and the actions challenged in the protest, and is *substantial if the protestant has a discernible interest other than the general interest of all citizens in seeking compliance with the law.*" See Preliminary Objection, p. 2 citing *Application of Consumers Pennsylvania Water Company - Shenango Valley Division*, Opinion and Order, Docket No. A-212750F0007 (January 11, 2001), p. 9 (hereinafter "*Consumers*"). Additionally, with regard to applications for transportation authority, only entities with motor carrier authority in actual or potential conflict with authority sought by the applicant have standing to protest applications for new or expanded authority. Preliminary Objections, p. 2 citing *Application of Germantown Cab Company*, slip op, Initial Decision, (Docket No. Docket No. A-2012-2294922 (August 23, 2012), pp. 4-5 (hereinafter "*Germantown*").

As discussed in Lyft's Preliminary Objections, the Insurance Federation's interest in this proceeding falls far below the standards established by precedent such as *Consumers* and *Germantown*. The Insurance Federation intervened alleging that its member insurance companies *could* be subject to additional administrative costs *if* Applicant's Applications were approved with an excess liability policy in place *and* an individual covered by a personal insurance policy held by an Insurance Federation member was involved in a future accident with a user of Lyft's Platform. Protest, p. 1 (confirming that the Insurance Federation is made up of

insurance companies); *see also* Preliminary Objections, p. 4 (outlining the "inherently indirect" interests of the Insurance Federation in the Applications"). Applicant filed Preliminary Objections alleging that Protestant seeks that Applicant complies with the Commission's Insurance Regulations, since its members make no claim to be potential competitors or potential users of Applicant's service. Preliminary Objections, p. 4. In short, Protestant's members operate businesses that could be indirectly affected by services proposed by Applicant, but do not operate in direct or potential conflict with Applicant's proposed service. *Id.* While the Insurance Federation views the Commission's standing rules as an unfair "Catch-22," the Commission's standing rules are designed to appropriately limit the issues raised in motor transportation applications in the interest of judicial economy. In the event that the indirect and speculative controversy raised by Protestant ever materialized, Protestant could avail itself of the Commission's Complaint process and properly address the actual controversy when ripe.

Further, the question remains theoretical because Protestant's concerns have been rendered moot by the Commission's diligent review of insurance matters related to TNC applications. *See* Preliminary Objection, p. 4; *see also* Application of Lyft, Inc., *Order*, Docket No. A-2014-2432304 (July 24, 2014), pp. 5-6 ("ETA Order") modifications to Applicants' liability policy. Applicant has confirmed that it will provide insurance in conformance with Section 32.11 of the Commission's Regulations, including primary coverage for drivers. ETA Order, pp. 5-6.

For the reasons stated above, the Commission should deny Protestant's Exception No. 1.

B. Reply to Insurance Federation Exception No. 2: The Initial Decision correctly concluded that the Insurance Federation has not set forth sufficient facts to support its standing for its Protest.

The Initial Decision accurately stated that the Protestant failed to offer facts sufficient to support standing for its Protest. *See* Initial Decision, p. 7. Protestant's Exceptions continue to

confuse potential indirect injury with the "direct, immediate, and substantial" standard required for standing to Protest the Application. Exceptions, p. 4. As observed in the Initial Decision, the fact that Protestant has opinions "concerning the adequacy and potential consequences of the Applicant's proposal is not sufficient" to confer standing. Initial Decision, p. 7. As described in the Preliminary Objections, Protestant has no direct issues in this proceeding, with the result that any "indirect and speculative interests identified by IFPA will be adequately represented in this proceeding as evidenced by the Commission's stated commitment to review and monitor insurance requirements for TNC service providers." Preliminary Objections, p. 4.

For the reasons stated above, the Commission should deny Protestant's Exception No. 2.

C. Reply to Insurance Federation Exception No. 3: The Initial Decision's dismissal of the Insurance Federation's Protest without a hearing was "just, reasonable and in the public interest" and should be adopted by the Commission without modification.

The Initial Decision properly recognized that the public interest would be best served by dismissing the Protest. Subjecting motor carrier applications to protest by any entity with an indirect interest runs contrary to longstanding Commission policies and the public interest. *See* Preliminary Objections, pp. 2-3.

Additionally, the claims made by Applicant regarding the I&E request for a Cease and Desist Order misrepresented the record in that docket. Protestant avers that "BIE, noted, and the Applicant did not counter, the inadequate insurance coverage as reflected in the Application and detailed in the Insurance Federation's Protest, citing that Protest and noting the dangers of inadequate insurance." Exceptions, p. 6. This statement is inaccurate. Lyft submitted an Answer to I&E's request specifically denying the claim of inadequate insurance, stating "[t]he liability coverage provided through Lyft's insurance policies meets or exceeds the Commission's minimum required levels" and adding that "Lyft will submit a Certificate of Insurance evidencing

both compliance with the PUC's minimum coverage amounts and additional coverage exceeding the PUC's minimum requirements." Lyft Answer to I&E Petition for Interim Emergency Order, Docket No. P-2014-2426847 (June 23, 2014), p. 12.

Further, in a separate docket, Lyft provided a description of its liability policy clarifying that the policy had been modified to offer primary coverage instead of excess coverage. *See* ETA Order, pp. 5-6. Notably, the primary liability coverage preserves the \$1 million benefit, which prompted two Commissioners at the Commission's July 24, 2014 Public Meeting to declare that "we are especially pleased with the commitments of both Lyft and Raiser to substantially exceed our current insurance requirements." Joint Statement of Commissioner Pamela A. Witmer and Chairman Robert F. Powelson, Docket No. A-2014-2432304 (July 24, 2014).

As stated above, Protestant's interest in the Applications was speculative to begin with and has since been rendered moot. None of the Insurance Federation's members would be directly impacted by approval of the Applications and would only experience indirect consequences of tangential insurance-related administrative matters arising from Applicant's initially proposed excess liability policy. Moreover, Applicant will offer primary insurance consistent with Section 32.11 of the Commission's Regulations. ETA Order, pp. 5-6. Therefore, denial of Protestant's Exceptions would serve the public interest as the Protest raised only indirect concerns which have since been rendered moot.

For the above reasons, the Commission should deny Protestant's Exception No. 3.

III. CONCLUSION

WHEREFORE, Lyft respectfully requests that the Pennsylvania Public Utility Commission Deny the Exceptions of the Insurance Federation and adopt the Initial Decision issued by Administrative Law Judges Mary D. Long and Jeffrey A. Watson.

Respectfully Submitted,

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By  _____

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