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412.331.8998

July 31, 2014

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

Docket No. A-2014-2415045, Application of Lyft, Inc.

Dear Secretary Chiavetta:

Transmitted herewith is Protestant's Brief in Opposition to the Petition of Lyft, Inc. for Interlocutory Review of the Interim Order and Answer to a Material Question. The Petition was filed in this docket on July 21, 2014.

Very truly yours,

/s/ electronically filed

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET A-2014-2415045
APPLICATION OF LYFT, INC

BRIEF OF PROTESTANT JB TAXI LLC'S IN OPPOSITION TO THE
PETITION OF LYFT, INC. FOR INTERLOCUTORY REVIEW

Comes now JB Taxi LLC t/a County Taxi Cab (Protestant) and files this Brief in Opposition to the Petitioner's request for interlocutory review of the Interim Order of Administrative Law Judges Mary D. Long and Jeffrey A. Watson dismissing Preliminary Objections to the Protest and Petition for Leave to Intervene. This Brief in Opposition is filed pursuant to 52 Pa. Code § 5.302(a).

Statement of the Case

At paragraphs 5, 6 and 7 of the Petition for Interlocutory Review, Petitioner sets forth its claims upon which its request for interlocutory review is premised. While disputing the argumentative portions of those paragraphs, Protestant agrees with the suggested nature and dates for the prior pleadings preceding this petition. Two additional developments have occurred since the Petition was filed that are relevant to the request for interlocutory review.

Passenger service consistent with the matter to be heard in this proceeding has been authorized at Docket No. A-2014-2432304, *Application of Lyft, Inc., For Emergency Temporary Authority to Operate An Experimental Transportation Network Service Between Points in Allegheny County, PA*, Order entered July 24, 2014.

The Administrative Law Judges have combined the evidentiary proceeding in this case (Allegheny County service) with that in the companion application (statewide service) at the prehearing conference convened on July 23, 2014, in both proceedings involving Petitioner's request for permanent authority. That disposition is confirmed in the Hearing Notice dated July 24, 2014, in this proceeding.

Protestant's Interests

Protestant challenges Petitioner's proposed service on the grounds that it is not materially different than the type of services Protestant's currently provides in its call and demand operations, that a foothold secured in Allegheny County will likely result in similar efforts to serve Protestant's patrons in the counties adjacent to Allegheny using the same business model and that the ensuing competition would be unfair to Protestant. Protestant additionally challenges Petitioner's fitness. Protestant argues that each of these concerns appear well founded given Petitioner's actions since the time the Petition for Leave to Intervene and Protest were filed.

Argument

1. Interlocutory review will not meaningfully expedite this proceeding.

Petitioner's purpose in seeking interlocutory review is to expedite the Commission's handling of the application for permanent authority. (Paragraph 4 of the petition.) No other purpose is suggested. The evidentiary hearing has been set for August 8th and 9th, and the record is to be developed with respect to permanent service in Allegheny County at the same time as is the record for permanent, statewide service. Protestant is a party in both application proceedings, and its claims with respect to experimental services, unfair competition and fitness issues are addressed to the

nature of a new class of service in competition with existing providers. Issues to be raised at the evidentiary hearing as the impact of Petitioner's current and proposed operations are likely to be heard at the same time, even if a different disposition is reached with respect to the requests for permanent authority. Were relief granted to entertain the material question suggested in the petition, the answer would not likely reduce the number of parties at the hearing nor allow for the evidentiary hearing to occur at an earlier time.

2. No compelling reason for interlocutory review has been established by Petitioner.

Since the time Petitioner's request for relief was presented, the Commission has already addressed the harm implicit in further delay on Petitioner's suggestion that the proposed service is consistent with and required by the public's interest. Subject to conditions consistent with the Public Utility Code, Petitioner is permitted for the 60 days following July 24, 2014, to provide its digital platform to Allegheny County patrons and drivers for the purpose of so-called ride-sharing. If for any reason the 60-day period is not adequate in length, Petitioner remains free to seek an extension in the temporary authority consistent with events transpiring since the initial authorization was granted.

3. The Commission has already declined similar requests for relief in similar proceedings.

The Commission has reviewed recently reviewed similar petitions advanced on substantially the same grounds and for the same purposes. The same conclusion is warranted in this proceeding. Docket P-2014-2431743, *Application of Rasier-PA LLC, a limited liability company of the State of Delaware, for the right to begin to transport,*

by motor vehicle, persons in the experimental service of shared-ride network for passenger trips between points in Allegheny County, Order entered July 24, 2014.

4. Petitioner's case should be rejected on the merits.

The suggested restriction in scope of the application is only rhetoric and is inconsistent with both the operation proposed and the Petitioner's history of operations in the Pittsburgh marketplace. Accordingly, the Commission should not base any conclusion upon the issue of standing upon a territorial restriction Petitioner's senior managers do not believe they are required to observe. All sins are suggested as excused once Petitioner tags compensation "a donation" or a distinguishing feature, such as a pink moustache is attached to the vehicle to differentiate from a taxi. These fictions remain in the case to be presented at the evidentiary hearing and have no relevance to geographical boundaries. See Petitioner's Brief filed July 8, 2014, in Docket P-2014-2426847, *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*, at pages 5 and 6.

Protestant has a sound basis to advance the claims made in the Protest as well as to seek leave to intervene for the purpose of challenging the ground rules set by Petitioner. The application states the experimental service is to be exempt from complying with regulations Petitioner does not specifically designate as acceptable.

12. The TNC [Transportation Network Company] shall not be required to comply with the provisions of Title 52 of the Pennsylvania Code not specifically addressed herein. (Application at Page 4, Paragraph 12)

At no place does Petitioner suggest an obligation to abide by requirements imposed upon its competitors 52 Pa Code 29.312(4) and (5). Protestant's fears articulated

several months ago in its Protest with respect to a foothold in Allegheny County and unfair competition are not abstract. And, it is likely that neither the patrons using Petitioner's digital platform nor the responding drivers, all of whom appear to be operating unlawfully, would acquire a reason to observe artificial boundaries once the platform is accessed. The link between Protestant's concerns over unfair competition and passenger broker operations mislabeled as "experimental" are both direct and clearly substantiated by the decisions of Petitioner's management since the Protest was filed. And, the prospect of unfair competition appears to be at Protestant's doorstep with Petitioner's capability to operate under the temporary authority conferred on July 24, 2014. The Protest demonstrates that existing providers of call-and-demand services in the western Pennsylvania region should be afforded standing if the Commission is to have a record upon which the current policy, as set forth at 52 Pa.Code 41.14, to consider the impact of a Transportation Network Company or a ride-sharing operation upon existing providers.

Conclusion

The Petition should be denied and the applications for permanent authority returned to the Administrative Law Judges assigned to this case.

Respectfully submitted,

electronically filed -

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Certificate of Service

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

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By email

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Dated this 31st day of July, 2014

electronically filed_____

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