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Adequacy of vehicle safety regulations

The topic of vehicle safety is one constantly discussed by a call and demand carrier. In recent years, the Commission has adopted a series of regulations that has resulted in a near absolute rule that vehicles 8 or more model years old may not be used in a carrier's fleet. The Commission's stated justification for such a rule is that vehicles of such an age are more likely than not unsafe.

Age is not a true indicator of the safety of a particular vehicle. There is not empirical evidence that a 7 year old car is safer than an 8 year old car. In fact, by their very nature, automobiles are individually unique, and rarely can be generally categorized based solely on their model year. The care that the vehicle has received, its driver, and the number of miles it has been driven all play a much greater role in the present safety of the vehicle than the vehicle's age.

Despite the minimal correlation of a vehicle's age to its safety in operation, the Commission has instituted a bright line rule based on age for when a taxi cab is to be retired from service. It is the suggestion of the Association as well as myself that rather than simply requiring a vehicle to be retired upon its ninth birthday, the vehicle undergo an individual inspection to determine if it is fit to serve the public.

Presently, pursuant to 29 Pa. Code. §29.314 the Commission requires an elaborate and time consuming application process to seek a waiver for each vehicle that a carrier seeks to utilize in service that is in excess of 8 model years old. The process requires a substantial amount of time to compile all of the necessary documentation for each vehicle from the carrier's side, and likely an equally excessive amount of time for Commission personnel to review the same. From the carrier's perspective, it can take weeks to properly put together the detailed information required for a waiver application. Furthermore, if any of the requested information is missing, the Commission can deny the waiver application as incomplete.

Once the mountain of paperwork necessary to make a waiver application is compiled, it is submitted to the Commission for review. At that point, an individual in an office looks at pictures of the vehicle, its maintenance records, and the reasons why the waiver has been requested and attempts to make a determination if a safety inspection of the vehicle is even necessary. From the

confines of an office the vehicle's fate is determined without so much as a test drive.

It is the position of this association that this process is far too costly from an administrative perspective on both the Commission and the Carrier. The entire process can be avoided altogether as follows:

As we all know, each certificated carrier is required to undergo an annual inspection by the Enforcement Division. Nearly all of the paperwork necessitated by the onerous waiver process currently in place could be eliminated if at the annual inspection all vehicles sought to put in service that are in excess of 8 years old undergo a safety inspection performed by the Bureau of Enforcement. This special, "wheels off" inspection would put the eyes of the Commission's highly trained inspectors directly on the vehicles in question. At the end of the inspection, the vehicles will be deemed safe and thus entitled to a waiver or unsafe and placed out of service. This simple inspection would streamline the process and eliminate the need for hours of administrative compilation of data and review of the same. The administrative headache is wholly unnecessary as the true issue is whether the vehicle in question is safe enough to be placed in operation by the carrier. This issue could be directly addressed by the Enforcement division through a "wheels off" inspection eliminating the mountains of paperwork currently required.

Practically speaking, the Association suggests that each carrier be required to provide the Enforcement Division a list of all vehicles that will reach their 8th model year as of January 1 of the subsequent year. Said list shall be provided to Enforcement at least six weeks prior to the carrier's annual inspection. The list shall only include those vehicles that will be 8 or more model years old that the carrier seeks to continue to utilize in its operation. Then, at the annual inspection, an enforcement officer will do a special "wheels off" safety inspection of each listed vehicle. If the officer deems the vehicle to be safe, then the waiver will be granted. If the vehicle is deemed unsafe then the vehicle will be placed out of service. This special inspection of all vehicles 8 years old or older will be in addition to any inspections done as a part of the traditional annual inspection.

To effectuate the above the Association proposes the following language change to 52 Pa. Code §29.314:

(d) Vehicle List. During the first quarter of each calendar year, carriers shall provide the Commission with a current list of all vehicles utilized under its call or demand authority which will exceed 8 model years old during the succeeding 12 months. The list must contain the year, make, vehicle identification number, current odometer reading and registration number for each

vehicle. The list shall be mailed to the Commission Bureau of Investigation and Enforcement, Pennsylvania Public Utility Commission, PO Box 3265, Harrisburg, PA 17105-3265.

Throughout the Commission proceedings related to the waiver process, it has acknowledged that the age of a vehicle is not an accurate barometer of condition for vehicles used in limousine service. The Association suggests that the use of age as the sole criterion for elimination of a particular vehicle in a taxicab fleet does not reflect the safety of the vehicle. Such an overgeneralization ignores the varying conditions under which these vehicles operate. The Association has proposed an alternative procedure which would relieve the administrative burden upon the Commission; promote efficiency; decrease costs to both the Commission and the carriers; and continue to insure that safety is not compromised.

While physical age and mileage are indicators to any owner for the need for increased vigilance with respect to a particular vehicle, it does not necessarily follow that expenses increase as mileage and age increases. Consistent routine maintenance and attention to minor mechanical and cosmetic issues can avoid major expenditures as the vehicle ages. This is particularly important to the smaller operator who simply cannot afford a high rate of turnover in its fleet.

Imposition of any absolute rule takes away the discretion not only of the Commission, but the carrier as well who deals with his or her vehicles and makes daily business decisions to determine when it is appropriate to retire a vehicle from service. Of course each operator would be thrilled to generate sufficient revenue to replace an entire fleet on an annual basis. However, in a declining economy with decreased ridership, such a utopian goal is totally unrealistic.

Rules for Transportation Network Companies

A transportation network company is nothing more than a call or demand carrier in disguise. The assertion that Transportation Network Companies utilize some kind of "App-based technology" to gather rides from passengers does not make them exempt from being classified as Call or Demand Service. The use of an App is not a new nor novel and while Applications for Certificates of Public Convenience filed by Transportation Network Service companies are filed as "Experimental", this is merely a mechanism to avoid the authority of the Commission.

The service provided by TNS companies are call or demand services because, among other similarities, both Transportation Network Services and

common carriers pick up passengers on call or demand and bring passengers to a specifically requested location, and upon arrival at the location, the passenger then pays a fee. The fee paid to a common carrier is regulated by a meter. Appropriate regulations exist to insure that the rate charged by the common carrier is fair and just. This regulation provides protection to the public. Transportation Network Services use an arbitrarily derived fare with no explanation as to how the fare is derived. The difference in how the fee is determined is harmful and dangerous to the public interest. In all other respects, the services provided are the same.

The lack of regulation TNS companies seek is harmful to the taxi cab industry and harmful to the public at large. TNS companies would have the Commission believe simply because the 'hailing' tradition of taxi service will not be utilized in TNS service, TNS companies are not common carriers. However, the 'hail' portion of traditional taxi service is merely being replaced with a cellular telephone.

Picking up and dropping off passengers is the core of call or demand service and as such, both a traditional taxi cab company and Companies which characterize themselves as Transportation Network Services are the same.

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