**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Lyft, Inc., a corporation of the State of : A-2014-2415045

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 :

Application of Lyft, Inc., a corporation of the State of : A-2014-2415047

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 :

Pennsylvania :

**INTERIM ORDER ON**

**MOTION FOR A PROTECTIVE ORDER**

The Applicant in the above-captioned proceedings seeks a protective order. The Applicant takes the position that information which we directed the Applicant to provide by order dated July 31, 2014, should be treated as highly confidential, proprietary material and protected from public disclosure. Additionally, the Applicant also seeks to protect insurance policies and certain rate information contained in those insurance policies which form the basis of a proposed Form E.

Protestant JB Taxi LLC, filed an answer to the motion on September 2, 2014, which opposed the motion. No other Protestant filed a timely answer to the motion.

The exclusion of records from the public domain is antithetical to the public’s interest in free and open access to the administrative process. Therefore the Commission’s

rules of procedure limit the circumstances under which matters should be shielded from the public eye:

  (a)  *General rule for adversarial proceedings*. A petition for protective order to limit the disclosure of a trade secret or other confidential information on the public record will be granted only when a party demonstrates that the potential harm to the party of providing the information would be substantial and that the harm to the party if the information is disclosed without restriction outweighs the public’s interest in free and open access to the administrative hearing process.… In considering whether a protective order to limit the availability of proprietary information should issue, the Commission or the presiding officer should consider, along with other relevant factors, the following:

    (1)  The extent to which the disclosure would cause unfair economic or competitive damage.

    (2)  The extent to which the information is known by others and used in similar activities.

    (3)  The worth or value of the information to the party and to the party’s competitors.

    (4)  The degree of difficulty and cost of developing the information.

    (5)  Other statutes or regulations dealing specifically with disclosure of the information.[[1]](#footnote-1)

Although common in public utility rate proceedings that involve sensitive financial information, it is less common for a protective order to be appropriate in a transportation application. Applying the standard of this regulation the Applicant’s motion will be denied in part and granted in part.

Our July 31, 2014 Interim Order stated that certain trip information that was requested by Secretarial Letter in connection with complaint proceedings instigated by the Commission’s Bureau of Investigation and Enforcement was also relevant to our consideration of the applications here:

Also on July 24, 2014, the Commission held a public meeting and rendered decisions in enforcement proceedings related to the parent company of the Applicant in this matter. By Secretarial Letter dated July 28, 2014, the Commission required Lyft, Inc. to provide specific information for submission into the record of those enforcement proceedings:

. . . .

1. The number of transactions/rides provided to passengers in Pennsylvania via the connections made with drivers through Internet, mobile application, or digital software during the following periods:
2. From the initiation of Lyft’s service in Pennsylvania to June 5, 2014 (the date I&E filed the Complaint against Lyft);
3. From June 5, 2014, to July 1, 2014 (the date the *Cease and Desist Order* became effective); and
4. From July 1, 2014, to the date on which the record in this Complaint proceeding is closed.

The Applicant contends that this data “would reveal operational information that would not otherwise be provided to the public and could be used by competitors to extrapolate the data and model Lyft’s existing and potential activities in other markets.” Therefore, according to the Applicant, the potential harm to its operations is “substantial” and outweighs any need for public disclosure.

We disagree. The information that we directed the Applicant to disclose is of the sort that all motor carriers are directed to submit to the Commission on a routine basis.[[2]](#footnote-2) These records are subject to inspection by the Commission. The Applicant’s bald statement that trip data for transportation network companies is proprietary when it is clearly not for other motor carriers, does not outweigh the public interest in an open record in this proceeding.

The Applicant cited no Commission decision or order where a motor carrier was exempted from providing trip data because it was confidential. Indeed, the Applicant should expect to provide trip logs to the Commission if it wishes to continue operation in the Commonwealth in the future.[[3]](#footnote-3)

The Applicant also seeks a protective order for the insurance policies which will form the basis of a Form E submitted to the Commission and a “proposed Form E.” The Applicant contends that the policies themselves are not typically reviewed by the Commission, which instead relies upon the Form E supplied by a motor carrier’s insurer. The Applicant also states that while it is willing to provide copies of the policies pursuant to the protective order, it requests that it be permitted to redact certain rates.

Insurance coverage and whether the travelling public is adequately protected is clearly a central issue in these applications. Section 512 of the Public Utility Code empowers the Commission to require sufficient insurance for the protection of the public.[[4]](#footnote-4) We agree with the Applicant that the Commission does not typically review insurance policies held by motor carriers. Yet this application is not typical. The Applicant’s ability to provide safe transportation given its unconventional business plan is a central issue to

whether the application should be approved.[[5]](#footnote-5) Indeed, the Protestant argues that the interplay between the terms of service related to the Applicant’s software platform and the terms of any insurance policy it may claim covers “the vehicles to be used or useful in the provision of service to the public” and must be considered by the Commission.[[6]](#footnote-6) Thus, contrary to the claim by the Applicant that the terms of its insurance is irrelevant, insurance coverage is an important consideration. The importance of this issue is not outweighed by the Applicant’s claim that the terms of the policy are confidential.

However, we will grant the Applicant’s motion as it relates to the rates referred to in the insurance policies and the proposed Form E. The Protestant does not object to the redaction of the dollar amounts paid for the specific policy.[[7]](#footnote-7) We agree that the dollar amounts paid for the policy is irrelevant to the Commission’s review of the proposed application and whether the Applicant is fit to render transportation services to the public.

THEREFORE,

IT IS ORDERED:

1. That the Petition for Protective Order filed by Lyft, Inc. as it relates to the submission of trip data required by the Order dated July 31, 2014 at Docket No. A-2014-2415045 is DENIED.
2. That the Petition for Protective Order filed by Lyft, Inc. as it relates to insurance policies and the proposed Form E is DENIED, except as set forth in Ordering Paragraph 3.
3. That the Petition for Protective Order filed by Lyft, Inc. as it relates to dollar amounts paid for insurance coverages is GRANTED.

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Mary D. Long

Administrative Law Judge

Date: September 2, 2014 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jeffrey A. Watson

Administrative Law Judge

**A-2014-2415045 – Application of Lyft Inc.,** a corporation of the State of Delawarefor 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-2014-2415047 – 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 Pennsylvania.

***Revised 7/2/2014***

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**A-2014-2415045 and A-2014-2415047**

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***A-2014-2415045***

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***A-2014-2415047***

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***A-2014-2415047***

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***A-2014-2415047 only:***

*Aceone Trans Co., AF Taxi, Inc., AG Cab, Inc., AGB Trans, Inc., Almar Taxi, Inc., ATS Cab, Inc., BAG Trans, Inc., BM Enterprises, Inc. t/a A.G. Taxi, BNA Cab Co., BNG Cab Co., BNJ Cab Co., Inc., Bond Taxi, Inc., BPS Trans, Inc., Bucks County Services, Inc., Dee Dee Cab Company, Double A Cab Co., FAD Trans, Inc., GA Cab, Inc., GD Cab, Inc., Germantown Cab Company, 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., Ronald Cab, Inc. t/a Community Cab, Rosemont Taxicab Co., Inc., S&S Taxi Cab, Inc., Saba Trans, Inc., SAJ Trans, Inc., Sawink, Inc. t/a County Cab, SF Taxi, Inc., Shawn Cab, Inc., Society Taxi, Inc., Steele Taxi, Inc., TGIF Trans, Inc., V&S Taxi, Inc., Valtrans, Inc., VB Trans, Inc., VSM Trans, Inc.*

***Representing this complainant in both***

***A-2014-2415045 and A-2014-2415047***

*Executive Transportation, Inc. t/a Luxury Sedan,*

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1. 52 Pa.Code § 5.365. [↑](#footnote-ref-1)
2. *E.g.,* 52 Pa.Code § 29.313(c); 52 Pa.Code § 29.225. [↑](#footnote-ref-2)
3. *E.g., Application of Yellow Cab Company of Pittsburgh, Inc. t/a Yellow X*, Docket No. A‑2014-2410269 (Order entered May 22, 2014), slip op. at 10. [↑](#footnote-ref-3)
4. 66 Pa.C.S. § 512. [↑](#footnote-ref-4)
5. 52 Pa.Code § 41.14(b)(3). [↑](#footnote-ref-5)
6. *Id.* [↑](#footnote-ref-6)
7. Response of JB Taxi, LLC at ¶ 5. [↑](#footnote-ref-7)