

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------------|---|-----------------------------|
| KIM LYONS and | : | |
| PG PUBLISHING, INC. d/b/a | : | |
| THE PITTSBURGH POST-GAZETTE, | : | |
| Petitioners | : | |
| | : | PUC Dkt. No. A-2014-2415045 |
| v. | : | |
| | : | |
| LYFT, INC. | : | |
| Respondent | : | |

**PETITION FOR AN
INTERIM EMERGENCY
ORDER**

Filed on behalf of:
Petitioners, Kim Lyons and
The Pittsburgh Post-Gazette

Counsel of Record
for this Party:

Frederick N. Frank, Esq.
Pa. I.D. No. 10395

Ellis W. Kunka, Esq.
Pa. I.D. No. 311929

FRANK, GALE, BAILS,
MURCKO & PORCRASS, P.C.
Firm I.D. # 892
33rd Floor, Gulf Tower
Pittsburgh, PA 15219

(412) 471-5912

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| v. | : | |
| | : | |
| LYFT, INC. | : | |
| Respondent | : | |

To:

Lyft, Inc.
James P. Dougherty
Barbara A. Darkes
Adeolu A. Bakare
McNees Wallace & Nurick LLC
100 Pine St., P.O. Box 116
Harrisburg, PA 17108
(via email)

Bohdan R. Pankiw, Chief Counsel
Pennsylvania Public Utility
Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(via e-mail)


You are hereby notified that you may file an Answer to the attached Petition for Interim Emergency Relief within five (5) days from the date of service of this notice. Your Answer must conform to the requirements set forth in 52 Pa. Code § 5.61 (relating to answers to complaints, petitions and motions).

All pleadings, such as Answers to Petitions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

Additionally, you must serve a copy on the undersigned prosecutors for the Bureau of Investigation and Enforcement.

Date: September 10, 2014



Frederick N. Frank

Pa. I. D. No. 10395

Frank, Gale, Bails, Murcko & Pocrass, P.C.

Firm I. D. No. 892

33rd Floor, Gulf Tower

Pittsburgh, Pa. 15219

(Attorneys for Petitioners, Kim Lyons and *The Pittsburgh Post-Gazette*)

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| Respondent | : | |

**PETITION OF KIM LYONS AND PG PUBLISHING, INC d/b/a THE
PITTSBURGH POST-GAZETTE FOR AN INTERIM EMERGENCY
ORDER**

AND NOW, comes Kim Lyons and PG Publishing, Inc. d/b/a The Pittsburgh Post-Gazette (collectively referred to as “The Post-Gazette”) by and through their attorneys, Frederick N. Frank, Esquire, Ellis W. Kunka, Esquire, and Frank, Gale, Bails, Murcko & Pocrass, P.C., pursuant to 52 Pa. Code § 3.6, and petitions the Pennsylvania Public Utility Commission (“PUC”) for an Interim Emergency Order directing the unsealing of the record of the September 3, 2014 hearing in its entirety, including the hearing transcript and all exhibits in the application of Lyft, Inc. at PUC Docket No. A-2014-2415045 and directing the Administrative Law Judge conducting the continued hearing on September 9, 2014 on the application of Lyft Inc. at PUC Docket No. A-2014-2415045 to grant The Post-Gazette the right to intervene for the limited purpose of opposing any attempts to seal the record in the above-captioned

matter, and other relief as set forth herein. In support thereof, The Post-Gazette avers as follows:

I. Jurisdiction

1. This PUC has jurisdiction over this matter pursuant to 66 Pa.C.S.A. § 501, which provides in pertinent part:

“In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof and shall have the power to rescind or modify any such regulations or orders.”

II. Parties

2. Petitioner, Kim Lyons (“Ms. Lyons”), a reporter with The Pittsburgh Post-Gazette newspaper, a newspaper of general circulation in Western Pennsylvania, and PG Publishing, Inc. d/b/a The Pittsburgh Post-Gazette.

3. Respondent, Lyft, Inc. (“Lyft”), a business which uses a digital platform, the Lyft app, to connect passengers to Lyft drivers who use their personal, non-commercially licensed or insured vehicles for the purposes of providing transportation to the public for compensation.

4. The Pennsylvania Public Utility Commission, a duly constituted agency and quasi-judicial body of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth of Pennsylvania pursuant to The Public Utility Code, Act of July 1, 1978, P.L. 116 §1, *et seq.*; 66 Pa.C.S.A § 101 *et seq.*

III. Statement of Material Facts

5. On September 3, 2014, the PUC was holding a continued hearing in Pittsburgh, Pennsylvania in the matter of Lyft at PUC Docket No. A-2014-2415045 before Administrative Law Judges Mary D. Long (“Judge Long”) and Jeffrey A. Watson. The matter at issue is whether to grant Lyft’s application to operate a peer-to-peer ride-sharing network (“Lyft Application”).

6. As required by Section 703(c) of the Public Utility Code 66 Pa. C.S.A. § 703(c), the hearing was public. Ms. Lyons attended to report on the hearing on behalf of The Post-Gazette and the public.

7. During the hearing, a subject matter of testimony was the number of rides that Lyft had when it was under a cease-and-desist order not to provide such rides. Lyft asserted the number of rides was “proprietary” information and requested to close the hearing when that testimony was presented and seal that portion of the record.

8. Notably, present at the hearing were counsel for protestors to the grant of Lyft’s Application, JB Taxi LLC t/a County Taxi Cab and the Insurance Federation of Pennsylvania (collectively “Protestors”), who were cross-examining the officer of Lyft who was testifying at the point the alleged “proprietary” information was to be presented.

9. Ms. Lyons objected to the hearing being closed. Her objection was overruled and she was ordered out of the courtroom. While Ms. Lyons was ordered

out of the courtroom, counsel for the Protestors remained. It is believed and therefore averred the counsel for the Protestors were not under any order to prevent them from discussing the testimony or exhibits presented during the sealed hearing with their clients.

10. It is further believed and therefore averred that counsel for the Protestors were supplied or have available to them certain portions of the transcript and exhibits that are now sealed from the public. Per page 7 of the docket of the Lyft Application, attached hereto as Exhibit A, on September 5, 2014 “a private document” being “electronic transcripts with exhibits - 9/3/14” was filed which is “restricted on web.”

11. After Ms. Lyons was removed from the courtroom, she contacted The Post-Gazette’s counsel, Frederick N. Frank, Esquire (“Mr. Frank”), who then came to the hearing to seek to intervene to formally assert The Post-Gazette’s common law, First Amendment and the Pennsylvania Constitutional right of access to the proceeding.

12. When Mr. Frank began to speak, noting the violation *inter alia* of the First Amendment by the Commission’s actions, Judge Long told Mr. Frank that The Post-Gazette was “an extraneous party” and refused to allow him to speak even though Mr. Frank again noted First Amendment violations were at issue. When the Court was about to adjourn, Mr. Frank again attempted to speak and Judge Long ordered him to “stand back” and ordered Mr. Frank to stop speaking.

13. Subsequently, The Post-Gazette was advised by the PUC's counsel that Judge Long had entered an order denying Lyft's request to seal a portion of the proceeding. When The Post-Gazette's counsel attempted to obtain the order or the unsealed transcript at the PUC's Pittsburgh office, The Post-Gazette's counsel was told it had to "make an appointment" to look at the record, despite the provisions of the Public Utilities Law, 66 Pa.C.S.A. § 332(d), that all transcripts and records are to be available for public inspection.¹

14. On September 10, 2014, the Lyft Application hearing is continuing. It is anticipated that there will be similar efforts to those on September 3, 2014 to remove the press from the proceeding or to seal portions of the record, specifically with respect to Lyft's insurance coverage.

15. Accordingly, The Post-Gazette brings this Petition for Interim Emergency Relief to seek an Order from the PUC directing the unsealing of the record of the September 3, 2014 hearing in its entirety, including the hearing transcript and all exhibits in the application of Lyft, Inc. at PUC Docket No. A-2014-2415045. Further, The Post-Gazette seeks an Order from the PUC directing the Administrative Law Judge conducting the continued hearing on September 9, 2014 on the application of Lyft Inc. at PUC Docket No. A-2014-2415045 to grant The Post-Gazette the right to intervene for the limited purpose of opposing any attempts to

¹ All efforts to schedule such an appointment have failed to date.

seal the record in the above-captioned matter, and other relief as set forth herein.

IV. Basis for Relief Sought

A. Standard for Interim Emergency Relief

16. Section 3.6(a) of the PUC's regulations, 52 Pa. Code § 3.6(a), permits a party to petition the PUC for an interim emergency order during the course of a proceeding. The petition must establish facts to demonstrate that:

1. The Petitioner's right to relief is clear.
2. The need for relief is immediate.
3. The injury would be irreparable if relief is not granted.
4. The relief is not injurious to the public interest.

52 Pa. Code § 3.6(b).

17. It is not necessary to determine the merits of an underlying complaint, controversy or dispute (here The Post-Gazette's right of access) to satisfy Section 3.6(b) of the PUC's regulations, 52 Pa. Code 3.6(b). Rather, the PUC has found that if a petition raises "substantial legal questions," then a petitioner has established that its right to relief is clear. *Core Communications, Inc. v. Verizon Pennsylvania, Inc. and Verizon North, LLC*, Docket No. P-2011-2253650 (Order entered September 23, 2011).

18. If the foregoing criteria are met, a presiding officer may issue an order granting the relief sought, which order shall become effective immediately upon issuance by the presiding officer. 52 Pa. Code § 3.10.

I. The Post-Gazette's Right to Relief is Clear

A. The Post-Gazette's Right to Intervene

19. The PUC hearing is fundamentally a judicial proceeding. This Court has held that the PUC acts as a quasi judicial body in making determinations of the public interest. *Duquesne Light Co. v. Pennsylvania Pub. Util. Comm'n*, 715 A.2d 540, 547 n. 13 (Pa. Commwlt. 1998). See also *City of Pittsburgh v. Pennsylvania Public Utility Commission*, 20 A.2d 869, 870 (Pa. Super. 1941), holding the PUC acts "in its quasi judicial capacity" when it "adjudicates rights of parties appearing before it."

20. Like a judicial proceeding, the hearing must be public, a full and complete record of the proceedings must be kept, and the parties are entitled to introduce evidence. 66 Pa. C.S.A § 703(c). With exhibits, direct examination, cross examination, the PUC hearing is in the nature of a civil judicial proceeding. Thus, the Common Law right of access, the First Amendment Right of Access and the Pennsylvania Constitution all apply, and all mandate that the PUC hearing is open.²

21. The Pennsylvania Supreme Court has held the proper manner by which the media may assert the public's right of access to judicial proceedings is to file a petition to intervene. *Capital Cities Media, Inc. v. Toole*, 506 Pa. 12, 22, 483 A.2d 1339, 1344 (1984); *Commonwealth v. Long*, 592 Pa. 42, 47, 922 A.2d 892, 895 n.1 (2007) ("In

² The Ninth Circuit has held that proceedings before an administrative law judge may not be sealed as they are governed by the common law right of access. *Raulerson v. Massanari*, 25 F. App'x 589, 594 (9th Cir. 2001).

Pennsylvania, a Motion to Intervene is the proper vehicle for the press to raise a right of access question.").

22. In the alternative, The Post-Gazette must be granted the right to intervene to assert its First Amendment rights of access to the government proceeding and to protect its First Amendment right to gather news.

23. Thus, intervention by The Post-Gazette in this matter is proper to assert their right of access.

B. The Post-Gazette's Right of Access

1. Due Process Rights

24. The Pennsylvania Courts have held strict due process applies to adjudication of The Post-Gazette's rights under the common law and First Amendment. A court "in closing a proceeding must both articulate the countervailing interest it seeks to protect and make 'findings specific enough that a reviewing court can determine whether the closure order was properly entered.'" *Publicker Industries v. Cohen*, 733 F.2d 1059, 1071 (3d. Cir. 1983) (finding that the First Amendment right of access was a fundamental right entitled to due process) (quoting *Press-Enter. Co. v. Superior Court of California, Riverside Cnty.*, 464 U.S. 501, 510 (1984)) (cited with approval in *R.W. v. Hampe*, 626 A.2d 1218, 1220-21(Pa. Super. 1993)).

25. In this case, the Judge Long made no such finding. Instead, the Judge referred to *The Post-Gazette*, as a representative for the public, as an "extraneous

party,” refused to hear argument from *The Pittsburgh Post Gazette’s* counsel, and even ordered its counsel to step away from the podium.

26. In *Com. v. Buehl*, 462 A.2d 1316, 1321-22 (Pa. Super. 1983), the Superior Court found insufficient due process given when a reporter asked for a recess so counsel for the press could argue the motion to seal the hearing. The reporter’s request was denied and the proceeding was sealed and continued after the reporter was escorted out of the courtroom. *Id.*

27. In this case, the only difference is that counsel for *The Post-Gazette* was present at the hearing. Yet, despite the presence of counsel, Judge Long refused to hear argument and demanded counsel step down from the podium. This type of conduct by the Judge is clearly prohibited by the Superior Court’s decision in *Buehl*.

28. Further, rights of due process apply generally to PUC hearings. *Popawsky v. Pennsylvania Public Utilities Commission*, 805 A.2d 637, 643 (Pa. Commonwealth 2002).

29. In the alternative, rights of due process attach to adjudication of First Amendment claims of access to government proceedings. *See Whiteland Woods, L.P. v. Twp. of W. Whiteland*, 193 F.3d 177, 182 (3d Cir. 1999).

2. The Common Law Right of Access

30. “In order to justify closure or sealing the [judicial] record a party must overcome the common law presumption of openness.” *Hampe*, 626 A.2d at 1220.

31. “The existence of a common law right of access to judicial proceedings and inspection of judicial records is beyond dispute.” *Id.*

32. In *Hampe*, the Superior Court quotes from the United States Court of Appeals for the Third Circuit's decision in *Publicker Industries, supra*, 733 F.2d at 1068-70 about the benefits that openness has on judicial proceedings. *Id.* at 1220-21.

33. In *Hampe*, the Superior found that a litigant's embarrassment about the sexual nature of information in her medical malpractice suit was insufficient cause to overcome the presumption of access under the common law. *Id.* at 1223-24.

34. The Common Law right of access enhances public confidence in judicial proceedings and promotes testimonial trustworthiness. *Id.* at 1220-21.

35. "In order to rebut this well established presumption of openness and to obtain a closure of judicial proceedings a party must demonstrate good cause. *Id.* at 1221. "Good cause exists where closure 'is necessary in order to prevent a clearly defined and serious injury to the party seeking it." *Id.*

36. Further, "weak assertions involving trade secrets" that function as "a ruse to prevent public exposure" will not constitute good cause. *PA ChildCare LLC v. Flood*, 887 A.2d 309, 313 (Pa. Super. 2005).

37. In the case at hand, the press was barred and the record sealed the hearing solely on Lyft's bald assertion that the number of rides was "proprietary," without requiring any more specific proof of the "clearly defined and serious injury" it would suffer from release of such information.

38. It strains all logic that the common law burden has been met here. The alleged "proprietary" information was given to the counsel for the Protestants, one of

whom is a natural competitor of Lyft, while the public was barred.

39. As such, Lyft's bald assertion of business proprietary information cannot outweigh the presumption of openness. *See Hampe*, 626 A.2d. at 1223, n.4.

3. The United States Constitution First Amendment Right of Access

40. Even if the common law presumption is overcome, the movant still must overcome the higher First Amendment burden. *Commonwealth v. Long*, 922 A.2d 892, 897 (Pa. 2007) ("the First Amendment provides a greater right of public access than the common law"). Under the constitutional analysis, the party seeking closure must demonstrate that "denial of public access serves an important governmental interest and there is no less restrictive way to serve that government interest." *Hampe*, 626 A.2d at 1220 n.3.

41. No government interest was asserted by Lyft and none was pronounced by the Administrative Law Judges when they closed the hearing and sealed the record. PUC failed to articulate an important government interest in closing its September 3, 2014 hearing. The Judges also failed to articulate how such a closure would be the least restrictive way to serve any such interest.

42. No important government interest could exist justifying closure. To the contrary, the Pennsylvania General Assembly has mandated openness in the proceedings, determining an important government interest in openness exists, as follows:

- a. The PUC hearings must be public. "All hearing before the commission

or its representative *shall be public.*” 66 Pa. C.S.A. §703 (c); accord *Popowsky v. Pennsylvania Pub. Util. Comm'n*, 805 A.2d 637, 642 (Pa. Commonwealth. 2002) (“The hearing shall be public and a full and complete record shall be made.”)

b. The records of the PUC hearing, including the transcript of testimony and exhibits “shall be available for inspection by the public.” 66 Pa. C.S.A. §332(d).

c. Neither of the aforesaid sections provides for any exceptions allowing for sealing the proceedings or the record on any basis, including bald assertions of “proprietary information.”

4. The Pennsylvania Constitutional Provision

43. Further, the Pennsylvania Constitution further amplifies the First Amendment right of access to judicial proceedings, stating: “All courts shall be open.” Pa. Const. Art. I, ¶11.

44. This unqualified and unalienable mandate was violated when the PUC, acting in its quasi-judicial capacity closed the hearing

5. Experience and Logic Test Requires Openness

45. Even if this Court determines that the PUC hearing is not a civil judicial proceeding, the First Amendment right of access still applies, because the PUC hearing meets the experience and logic test for access of the press. *See Capital Cities Media, Inc. v. Chester*, 797 F.2d 1164, 1174 (3d Cir. 1986). In *Capital Cities*, the Third Circuit noted that the experience prong is satisfied when “the place and process has historically been open to the press and general public” and the logic prong is satisfied

when “public access plays a significant role in the functioning of the process in question.” *Id.*

46. The logic prong of the test, is squarely satisfied by the Public Utility Act, 66 Pa. C.S.A. §§332(d), 703(c) where the Pennsylvania General Assembly has determined that public access has a significant positive role in the process. The statute mandates PUC hearings “shall be public” and the record “shall be available for inspection by the public.” Further, the PUC exists for the protection of the public. It is beyond cavil that the public has a right to play a significant role in the process, as is evident by the various protestors in the Lyft Application.

47. As to the experience prong, The Public Utility Act went into effect in 1978, which is over thirty five years ago. The PUC has been functioning under the mandate of public hearings and public records throughout that time.

48. In a similar case, the Third Circuit found that the experience and logic test was satisfied and extended a First Amendment right of access to a municipal planning meeting as public access was guaranteed by both the Pennsylvania Municipal Code and the Sunshine Act. The Public Utility Act provisions for public access similarly guarantee access. *See Whiteland Woods, L.P., id.*

6. The Constitutional Right to Gather News

49. The backdrop to all of the rights asserted, including any experience and logic application, must be the basic First Amendment right of the press to gather and

report news. The actions of the PUC in barring The Post-Gazette and sealing the record directly violated those rights.

50. In *Mills v. Alabama*, 384 U.S. 214, 218 (1966), the United States Supreme Court noted: “The Constitution specifically selected the press . . . to play an important role in the discussion of public affairs. Thus the press serves and was designed to serve as a powerful antidote to any abuses of power by governmental officials and as a constitutionally chosen means for keeping officials elected by the people responsible to all the people whom they were selected to serve.”

7. Sunshine Act

51. As discussed *supra*, *The Pittsburgh Post-Gazette* maintains that the PUC hearing is a quasi-judicial hearing. In the alternative, if it is an executive body governed by the Sunshine Act, then the actions in barring the public not only violated the Post-Gazette’s First Amendment rights noted in Sections 5 and 6, but they violated both the procedures and requirements of the Sunshine Act, Act of October 15, 1998, P. L. 729, No. 93, 65 Pa. C. S. § 701 *et seq.*

52. In *Trib Total Media, Inc. v. Highlands Sch. Dist.*, 3 A.3d 695, 699 (Pa. Commw. Ct. 2010), this Court explained:

The current version of the Sunshine Act was enacted in 1998. Section 702 of the Sunshine Act, 65 Pa.C.S. § 702, declares that it is the public policy of this Commonwealth to insure the right of its citizens to have notice of and the right to attend all meetings of agencies at which any agency business is discussed or acted upon as provided in the statute. To that end, section 704 of the Sunshine Act, 65 Pa.C.S. § 704, provides that all official agency action and all deliberations by an agency shall take

place at a meeting open to the public unless the agency is in closed executive session or another exception to the Act applies.

53. The closing of the courtroom was the functional equivalent of an executive session under the Sunshine Act. There are extremely limited bases under which an executive session can be held. *See* 65 Pa.C.S.A. §708(a). The discussion in a public hearing of alleged “proprietary” information does not even begin to attach to any of those limited bases. Further, before holding an executive session, the presiding officer must announce the reason for holding the executive session, referencing one of the limited bases for doing so. *See* 65 Pa.C.S.A § 708(b). No such required announcement occurred.

54. As such, The Post-Gazette’s right to relief is clear.

II. The Need for Relief is Immediate and the Injury Will Be Irreparable if Relief is Not Granted

55. Failure to unseal the entirety of the record from the September 3, 2014 hearing will irreparably harm The Post-Gazette as it will be denied access to a public record as discussed *supra*.

56. Further, if The Post-Gazette is not allowed to intervene and protect its right of access to further PUC hearings in the above-captioned matter, great injury will occur which cannot be adequately remedied by damages or fines.

57. Relief is necessary to prevent immediate and irreparable harm to the public that will be caused by the Administrative Law Judge denying The Post-Gazette

the right to be heard when a request is made to close the proceedings or to seal the record; and by the Administrative Law Judge improperly closing the proceedings or sealing the record. Further, Lyft and the PUC's interests will not be substantially harmed by the granting of The Post-Gazette's requested relief as it will prevent both from engaging in actions in violation of the rights of The Post-Gazette noted aforesaid.

III. The Relief Requested is Not Injurious to the Public Interest

58. To the contrary, the relief requested is the sole avenue to prevent injury to the public interest. As discussed *supra*, the General Assembly explicitly set forth that PUC hearings, and the related record, are to be open to the public. Denying The Post-Gazette's requested relief runs directly counter to that stated governmental interest.

59. Further, if The Post-Gazette is not allowed to intervene and protect its right of access to further PUC hearings in the above-captioned matter, great injury will occur which cannot be adequately remedied by damages or fines.

V. Statement of Relief Sought

WHEREFORE, The Post-Gazette, Petitioner, respectfully requests that the Commission enter an Order:

a. unsealing the record of the September 3, 2014 hearing in its entirety, including the hearing transcript and all exhibits in the application of Lyft, Inc. at PUC Docket No. A-2014-2415045.

b. directing the Administrative Law Judge conducting the continued hearing on September 9, 2014, and any continued hearing thereafter, on the application of Lyft Inc. at PUC Docket No. A-2014-2415045 to grant The Post-Gazette the right to intervene for the limited purpose of opposing any attempts to close the hearings or seal the record in the above-captioned matter, and other relief as set forth herein.

c. directing that if any party seeks to close the hearings or seal any portion of the record in the above-captioned matter, that the party so seeking must provide reasonable notice of two business days to all parties, including The Post-Gazette, as intervenor, of their intent to seal. Thereafter, an Administrative Law Judge shall schedule a hearing on the request in which The Post-Gazette is allowed to participate in.

Due to the emergency nature of the within matter, The Post-Gazette Scheduling requests a hearing on this matter be held before a duty commissioner no later than **September 10, 2014**.

Respectfully submitted,

FRANK, GALE, BAILS,
MURCKO & POCRASS, P.C.

By: 

Frederick N. Frank, Esq.
PA. I.D. # 10395
3300 Gulf Tower, 707 Grant St.
Pittsburgh, PA, 15219
(412) 471-3000
Attorneys for Kim Lyons and
The Pittsburgh Post-Gazette

DATED: September 10, 2014

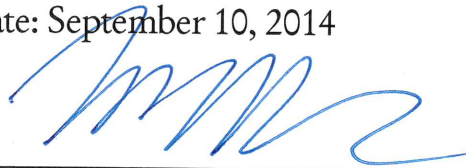
Proof of Service

I hereby certify that I am this day serving the foregoing Petition for an Interim Emergency Order upon the person via the manner set forth below, in accordance with 52 Pa.Code § 1.54.

Lyft, Inc.
James P. Dougherty
Barbara A. Darkes
Adeolu A. Bakare
McNees Wallace & Nurick LLC
100 Pine St., P.O. Box 116
Harrisburg, PA 17108
(via email)

Bohdan R. Pankiw, Chief Counsel
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(via e-mail)

Date: September 10, 2014



Frederick N. Frank
Pa. I. D. No. 10395
Frank, Gale, Bails, Murcko & Pocrass, P.C.
Firm I. D. No. 892
33rd Floor, Gulf Tower
Pittsburgh, Pa. 15219
(Attorneys for Petitioners, Kim Lyons and *The Pittsburgh Post-Gazette*)
(412) 471-5912

VERIFICATION

I, Frederick N. Frank, Esquire, counsel for The Pittsburgh Post-Gazette, verify that I am authorized to make this verification upon behalf of PG Publishing, Inc., d/b/a The Pittsburgh Post-Gazette and that the statements made in the foregoing Petition for Interim Emergency Order are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

9/30/14

Date



Frederick N. Frank, Esquire

**BEFORE THE
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| LYFT, INC. | : | |
| Respondent | : | |

ORDER OF COURT

And now this ___ day of _____, 2014, upon consideration of the aforesaid Petition for an Interim Emergency Order of Kim Lyons and PG Publishing, Inc. d/b/a The Pittsburgh Post-Gazette, it is ordered adjudged and decreed:

1. The record of the September 3, 2014 hearing in the application of Lyft, Inc. at PUC Docket No. A-2014-2415045 is unsealed in its entirety, including the hearing transcript and all exhibits.

2. The Administrative Law Judge in the application of Lyft, Inc. at PUC Docket No. A-2014-2415045 shall grant The Post-Gazette the right to intervene for the limited purpose of opposing any attempts to close the hearings or seal the record at the continued hearing on September 9, 2014, and any continued hearing thereafter.

3. If any party seeks to close the hearings or seal any portion of the record in the above-captioned matter, the party so seeking must provide reasonable notice of two business days to all parties, including The Post-Gazette, as intervenor, of their intent to seal. Thereafter, an Administrative Law Judge shall schedule a hearing on the request in which The Post-Gazette is allowed to participate in.

By the Court,

_____, J.