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**Remarks Expanding on August 28, 2014 Testimony
Before the Pennsylvania Public Utility Commission *En Banc* Transportation Hearing**

This submission is written on behalf of the Pennsylvania Taxicab and Paratransit Association on the question of whether this Commission's current transportation regulations should be updated. The short answer to the question is: Yes. The PTPA recognizes that recent technological innovation presents our industry with a tremendous opportunity to provide better service to the many communities our members serve. Implemented the right way, digital dispatch platforms, combined with mobile app technology, should prove to be a useful tool for taxi companies looking to expand and contract vehicle availability, so we can more efficiently meet passenger demand.

That being said, we at the PTPA also recognize that the recent history of Transportation Network Company, or "TNC," expansion into out-of-state markets paints a disturbing picture. Multimillion-dollar, and even multibillion-dollar, companies are ignoring regulatory requirements designed to protect the public from, among other things, price gouging, inadequate insurance, dangerous drivers, dangerous vehicles, and discrimination. The PTPA strongly believes that Pennsylvania can, at the same time, embrace innovation and avoid the problems of lawless TNC expansion other states have suffered, but only if regulation reform is done the right way.

TNCs as "Ride Sharing" vs. as Common Carriers

Of course, we will not solve any of the problems faced by other states, if we fail to describe those problems accurately. So let's be clear about what is, and is not, happening in Pennsylvania. We are not facing an expansion of "ride sharing." We all know what ride sharing

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means. We all know what it means to share a ride, and the cost of gas, with a friend. We all know what a carpool is. Neither includes a dispatch service that sends drivers to pick up paying passengers, who have requested a ride. The only difference between traditional taxi service, and TNC service is the use of a mobile app instead of a phone call. TNCs are not ride sharing networks. They are taxi industry competitors working in the same markets. So it is not surprising to learn that, like any taxi company looking for drivers, a TNC recently placed an ad in the Philadelphia market promising almost anyone with a car “a secure, stable way to make a living,” pulling in “over \$20/hour and over \$1,000/week.” That is not ride sharing. That is a business looking to hire drivers to collect revenue from paying customers.

In other words, TNCs are common carriers. They are commercial enterprises that hold themselves out to the public as offering to transport passengers for a fee. All of the advantages TNCs offer, and all of the problems they present are the advantages and problems of common carriers. Accordingly, TNC's should be regulated as common carriers.

Protection Against Dangerous Drivers

The PUC's mission to protect the public in the regulation of common carriers begins with insuring that customers know they can trust the people driving them to their destination. Pennsylvania requires all cab companies to complete criminal and driving record background checks on all cab drivers. TNCs, like Uber, claim to run background checks on their drivers, but the their record so far has been shockingly poor. Unlike Pennsylvania cab companies, Uber and Lyft, because they are unlicensed transportation companies in most communities, are unable to access local public safety databases, relying instead on cheaper, less expensive computer searches. Here are only a few of the results:

- **Kidnapping in Washington, D.C.¹**

On July 8, 2014, the CEO of a New York based company was kidnapped by his Uber driver, held against his will, and involved in a high-speed chase across state lines. The CEO and two colleagues were attempting to take an Uber car from downtown Washington, D.C. to the company's offices in Tyson Corners, Virginia. As the trio approached the Uber car they saw a Washington, D.C. taxi inspector speaking with the driver and the driver handing the inspector some documents. After the passengers climbed into the Uber vehicle, the driver took off. The inspector began pursuing in his own vehicle. At one point, the CEO/passenger physically attempted to force the driver's foot down on the brake. Eventually, the driver pulled onto an exit ramp and the inspector used his vehicle to block the Uber driver from progressing further.

- **Kidnapping in Hollywood, California**

On June 3, 2014, an Uber driver was arrested on suspicion of kidnapping a drunk woman and taking her to a hotel for the purpose of sexual assault. In that case, a valet at a popular West Hollywood, California nightclub asked an Uber driver to take a 26-year-old woman home after she had too much to drink. Instead, the driver decided to take advantage of the situation by driving the woman to a nearby motel, carrying her into a room, and sleeping with her that night. The woman awoke the next morning to find the driver, shirtless, lying next to her on the motel bed. He made a physical gesture to suggest sexual activity, but she rebuffed him, left the room and called police. Because the trip was initiated at the nightclub without the use of the Uber app, Uber has distanced itself from any liability, announcing immediately after the driver's arrest that "[t]he facts are unknown at this stage and it's certainly unclear that this is an Uber-related

¹ All descriptions of incidents showing Uber's poor safety record are taken from "Who's Driving You" at www.whosdrivingyou.org. Descriptions of TNC insurance practice are taken from the same source.

incident, as the driver in question was not logged in, connected to or operating on the platform at the time.”

- **Uber Hires Felon with 20-year Rap Sheet**

In May 2014, an NBC news affiliate in Los Angeles completed an investigation into Uber’s safety record in part by testing whether Uber would hire a driver with a 20-year rap sheet that included convictions for burglary, cocaine possession, and making criminal threats with the intent to cause death or bodily injury. As to the last of those crimes, the driver explained that she had “pulled a girl out of a car and almost beat her to death.” Despite her record, Uber’s so-called criminal background check cleared her for driving Uber customers. The driver told investigative reporters that, although she had put her criminal past behind her, she could see how picking up passengers bound for an out-of-town trip could make for an easy target: “I would pick somebody up, take them to the airport, and my second thought would be go back to that house and see what’s in there.”

- **Death of Six-Year-Old Girl**

Uber is currently involved in a wrongful death lawsuit as the result of an Uber driver killing six-year-old pedestrian Sofia Liu in San Francisco. A key element of the wrongful death suit is that California is a hands-free state and Uber’s business model requires drivers to handle their phones frequently in order to respond to app requests. The suit alleges that the driver of the Uber vehicle was logged on to the company’s UberX app when he fatally struck Sofia, and was waiting to receive and accept a ride request. Sofia’s mother has described how the last thing she saw before her daughter was killed was Uber driver Syed Muzzaffar looking at his smartphone.

Uber has refused to compensate Sophia's family, asserting that its insurance had no coverage for the period while the driver was cruising around waiting to be contracted.

The death of Sofia Liu underscores the importance of imposing regulations on TNCs that address the unique dangers they currently pose, including the problem of uninsured drivers and the problem of distracted driving.

TNCs Lack of Insurance Coverage

TNC's like Uber and Lyft operate with significant insurance gaps. Personal automobile policies contain exclusions that forbid people from turning their cars into commercial taxis. As a result, there is likely no coverage on a driver's personal auto policy for injuries or damages resulting from an accident that happened while the driver was working for either Uber or Lyft.

Uber and Lyft claim to offer an *umbrella policy, rather than primary coverage*. Primary coverage, according to Uber and Lyft, is provided by the private policies of their drivers. In taking this position (possibly in the mistaken belief that TNC drivers are merely "ride sharing"), TNCs like Uber and Lyft show that they do not know, or do not care, that insurance companies expressly exclude coverage, under their private auto policies, for commercial use of their insureds' vehicles. Unless and until Uber and Lyft convince the insurance industry that their drivers are not providing a commercial service, innocent victims of TNC driver negligence will face injury and the death of loved ones with little to no chance of receiving compensation for their damages.

These companies also offer different amounts of coverage at different times, depending on whether a driver has the app on or has a passenger in the car. Such provisions are a source of *confusion for drivers and passengers, who either erroneously believe that the driver's personal auto policy will provide coverage, or realize that it does not and are simply hoping for the best,*

all of which is likely to result in costly coverage disputes and delay, or denial, of compensation to accident victims.

The PTPA fully supports the recommendation made by the Insurance Federation of Pennsylvania that all TNCs operating in Pennsylvania should require insurance coverage from the time their drivers turn on their mobile applications and are open for business. Pennsylvania currently requires cab companies across the Commonwealth to provide primary, commercial insurance coverage for all of their cabs. There is no rational reason for allowing TNCs to shirk this responsibility. As indicated by the statistics below, without proper insurance requirements, the question is not whether Pennsylvania citizens will be injured by an uninsured TNC driver, but when.

Distracted Driving

According to the complaint in the wrongful death case brought by the parents of Sofia Liu, the Uber driver who killed their daughter was distracted while he checked his mobile phone. The U.S. Census Bureau's 2012 Statistical Abstract of the United States reported the following sobering numbers for 2009 nationally:

- 10,800,000 motor vehicle accidents on our nation's roadways;
- 33,800 motor vehicle related deaths, and 2,217,000 motor vehicle related injuries;
- Of those 2,217,000 injuries, 448,000 involved distracted driving.
- Of those 444,000 injuries from distracted driving, 4,898 were fatal.

The dangers of distracted driving are real and well-documented, and Pennsylvania is not exempt from these dangers. As a result, in 2012, Pennsylvania passed legislation aimed to decrease distracted driving by prohibiting operation of a motor vehicle "while using an interactive wireless communications device to send, read or write a text-based communication

while the vehicle is in motion.” However, because the use of a TNC app does not involve texting, these rules will not protect Pennsylvanians from distracted TNC drivers looking for their next customer on their mobile device.

Protecting Small Cab Companies and Equal Access to Public Transportation

Another important step in reforming transportation regulations the right way is to invite input from everyone who is affected by it. This Commission needs to hear from all Pennsylvania taxi companies, whose livelihoods stand to be hugely affected by the reforms being considered here, especially from the over 180 small taxi companies operating throughout Pennsylvania. The PTPA does not represent all of the cab companies in this Commonwealth. Before rushing to implement new reforms, this Commission should allow for an adequate public comment period, and it should invite input from all of the small taxi businesses that might be destroyed by reforms, which fail to give them a fighting chance against much larger companies.

It is clear from the Commission’s agenda that instead of reforming and improving the need standard and geographic scope of authority, you are considering abolishing both of them to allow TNCs the freedom to move into whichever market they choose, however they choose to do it. If you do that, you also need to consider the impact on small, rural taxi companies. The elimination of need and geographic scope will, among other things, allow large taxi companies to run rough shod over small companies. Large taxi companies have the capital to move in with non-competitive pricing, wipe out the little guy, and take over the small-town market. So instead of having regulated, price-controlled, geographic monopolies, which serve the public interest like other public utilities, you will instead create unregulated, straightforward, “Standard Oil” type monopolies, with all the problems they are known to create.

And it would be a mistake to assume that TNCs will rush into these small communities to solve the problem. A large portion of small, rural taxi businesses depend on service to people, many elderly, who use taxis as an essential part of their daily routine – to complete errands or make appointments. These trips typically don't generate much profit. TNC's avoid these customers, targeting more affluent communities instead. Healthy competition is welcomed by the PTPA, but no company should be allowed to pick and choose when and where they operate, or who they serve. So if you hope to use TNCs to protect against monopolies in deregulated, rural communities, you will have to require them to accept less lucrative fares in those same communities.

In sum, the PTPA welcomes regulatory reform. We only ask that you allow fair competition between the Pennsylvania taxi industry and TNCs, and that you preserve the public service mission of all common carriers throughout the Commonwealth. TNCs like Uber and Lyft should have to play by the same rules as cab companies, and those rules should be designed to protect public safety and to ensure equal access to all Pennsylvania citizens.