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September 15, 2014

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

Docket Nos. A-2014-2415045, Application of Lyft, Inc.
and
A-2014-2415047, Application of Lyft, Inc.

Dear Secretary Chiavetta:

Transmitted herewith for filing is Protestant J.B. Taxi LLC's Brief in the above-referenced proceedings.

Very truly yours,

/s/ electronically filed

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET A-2014-2415045
APPLICATION OF LYFT, INC

DOCKET A-2014-2415047
APPLICATION OF LYFT, INC

PROTESTANT JB TAXI's BRIEF

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Statement of the Case

Lyft, Inc. seeks to operate in experimental service as a regulated public utility providing a ride-sharing network service and submits for Commission approval two applications. One application is limited to service between points in Allegheny County; the other application extends to all points in the Commonwealth. Following preliminary review and acceptance of the applications with the designation of “experimental,” notice was published in the Pennsylvania Bulletin. Numerous protests were filed, including that of J.B. Taxi LLC t/a County Taxi Cab. Additional matters related to Preliminary Objections, Exceptions and Appeals seeking Interlocutory Review have been concluded.

The parties have filed Prehearing Memoranda setting forth the issues to be resolved at the hearings, and by Interim Order entered July 31, 2014, the Commission determined that additional issues were relevant to the consideration of the applications. That order directed the parties to submit evidence on the issues enumerated in the July 31st Interim Order. Hearings were convened at which Applicant offered the testimony of its principal witness, Joseph Okpaku, Public Policy Director, who offered testimony and supporting exhibits on the business model, public need, regulatory compliance and operations. Testimony included support for modified applications intended to substitute for the original applications. Applicant also offered the testimony of its Director of Insurance Solutions, Emily Sampson, in rebuttal testimony limited to insurance policy documents.

During the course of the hearings, Applicant declined to provide the evidence it was required to provide under the Commission’s interim order without the issuance of a protective order which was entered over the objections of Protestant on September 3, 2014.

Protestants (the medallion carriers, the partial-rights carriers and other certificated carriers operating in the eastern part of the Commonwealth) offered testimony from two witnesses focusing upon the regulatory requirements under which they are required to operate, the innovative services currently available to the public and their perception of the unfair competition they are currently facing and fear for the future. Those protestants as well as The Insurance Federation of Pennsylvania offered the testimony by insurance experts in opposition to Applicant’s suggestion that its insurance arrangements will be adequate.

Summary of Argument

The applications should be denied because the services proposed fail to recognize the requirements of the Public Utility Code which regulate public utilities providing passenger broker services as well as the corresponding requirements which regulate contract motor carriers. The self-styled description of “experimental” is not appropriate once the details of the proposed operations are examined, and they are in fact the operations of a passenger broker.

The technology available to Applicant’s drivers and customers does not excuse compliance with the Commission’s safety and insurance regulations which are set forth for the purpose of protecting the traveling public. Applicant’s business model which is premised upon so-called “prime-time pricing” and fares insulated from review and approval Commission and not available to the public in advance of the time they are assessed do not meet the minimum requirements of the Public Utility Code. That code requires that the Commission approve the level of fares, the manner in which they are assessed, and all of the terms of service relevant to the services provided for those fares.

Applicant has failed to provide any credible testimony or evidence demonstrating a public need for any service beyond a very limited part of the Commonwealth in which Applicant has been able to generate an opinion from several prospect user. Applicant fails to provide any meaningful testimony or evidence that it has the financial ability to provide the services proposed. The failures to demonstrate any public need commensurate with the scope of the applications and to demonstrate through credible evidence of its financial ability suggests that Applicant has failed to sustain a prima facie case as is required of businesses proposing to serve the traveling public as public utilities.

As a result of Applicant’s failure to demonstrate a public need, financial ability and the capability to comply with the statutory requirements under which public utilities may provide service to the public, the applications should be denied.

Argument

I. The services proposed require a passenger broker’s license.

Although they are incorrectly characterized by Applicant as experimental, the services proposed are those specifically described in the Public Utility Code as the operation of a passenger broker. Words should be given their plain meaning when construing a statute, and Applicant's reliance upon any contrary but unstated opinion by Applicant's management should be rejected by Commission unless and until a witness competent to testify on subject materializes and is available for cross-examination. The Public Utility Code provides,

"Broker." Any person or corporation not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, or group of such carriers, who or which, as principal or agent, sells or offers for sale any transportation by a motor carrier, or the furnishing, providing, or procuring of facilities therefor, or negotiates for, or holds out by solicitation, advertisement, or otherwise, as one who sells, provides, furnishes, contracts, or arranges for such transportation, or the furnishing, providing, or procuring of facilities therefor, other than as a motor carrier directly or jointly, or by arrangement with another motor carrier, and who does not assume custody as a carrier 66 Pa. C.S. § 2501 (b).

Applicant will advertise the availability of its drivers' transportation services. Applicant disclaims that it is a transportation carrier. Should the application be approved, Applicant will disclaim any intention to provide transportation services.

Lyft does not provide transportation services, and Lyft is not a transportation carrier. It is up to the driver or vehicle operator to decide whether or not to offer a ride to a rider contacted through the Lyft Platform, and it is up to the rider to decide whether or not to accept a ride from any driver contacted through the Lyft platform. Any decision by a user to offer or accept transportation once such user is matched through the Lyft Platform is a decision made in such user's sole discretion. Lyft offers information and a method to connect drivers and riders with each other, but does not and does not intend to provide transportation services or act in any manner as a transportation carrier, and has no responsibility or liability for any transportation services voluntarily provided to any rider by any driver using the Lyft Platform. Protestant JB Taxi Exhibit 2, page 9 third paragraph.

Although it disclaims any responsibility for the transportation services to be sold to passengers, Applicant will determine the amount of the fare which will be due and which will be collected. Applicant's drivers will not determine or collect fares.

Charges. As a Rider in all other markets that are not Donation Markets, You agree that any mandatory amounts charged following a ride (a "Charge") are due immediately. Lyft reserves the right to determine pricing. In all markets, no Charge or Donation may exceed five hundred dollars (\$500). Protestant JB Taxi Exhibit 2, page 9 Payments, second bullet point

And, Applicant's tariff, Experimental Pa. P.U.C. No.1 provides,

The above rates are illustrative and subject to change within the minimum and maximum range. Lyft reserves the right to adjust pricing as necessary to: (1) ensure compliance with applicable safety standards or regulations; or (2) respond to market signals such as passenger demand or driver participation. Protestant JB Taxi Exhibit 1 page 2.

These activities fall squarely within the statutory definition of a passenger broker operation under the Public Utility Code. Applicant will upon request estimate a fare for the passenger. For all trips Applicant will collect the fare and disburse a portion of it to the driver as compensation for the driver's services, the maintenance and use of the vehicle, and to advertise and promote the driver's services. Applicant's terms of service specify its business is to arrange for compensation travel by passengers via drivers under contract to Applicant.

The Lyft Platform provides a means to enable persons who seek transportation to certain destinations ("Riders") to be matched with persons driving to or through those destinations ("Drivers"). For purposes of this Agreement these services shall collectively be defined as the "Services". This Agreement describes the terms and conditions that will govern Your use of and participation in the Lyft Platform. Protestant JB Taxi Exhibit 2, page 8.

II. Applicant's drivers are contract motor carriers.

In the rhetoric of so-called "Transportation Carrier Networks" and "ride sharing" Applicant's drivers are to assume all of the liability and responsibility for highway operations, because Applicant will assume none under its binding contract with passengers and drivers.

Passengers and drivers are required to consent to the following protocol,

...Driver owns, or has the legal right to operate, the vehicle such Driver uses when accepting Riders, and such vehicle is in good operating condition and meets the industry safety standards and all applicable statutory and state department of motor vehicle requirements for a vehicle of its kind.

...Driver is named or scheduled on the insurance policy covering the vehicle such Driver uses when accepting Riders.

...Driver has a valid policy of liability insurance (in coverage amounts consistent with all applicable legal requirements) for the operation of such Driver's vehicle to cover any anticipated losses related to such Driver's provision of rides to Riders.

...Driver will be solely responsible for any and all liability which results from or is alleged as a result of the operation of the vehicle such Driver uses to transport Riders, including, but not limited to personal injuries, death and property damages.

...In the event of a motor vehicle accident such Driver will be solely responsible for compliance with any applicable statutory or department of motor vehicles requirements, and for all necessary contacts with such Driver's insurance carrier.

...Driver will obey all local laws related to the matters set forth herein, and will be solely responsible for any violations of such local laws.

Protestant JB Taxi Exhibit 2, page 13.

The driver's independence which Applicant highlights as the hallmark of its experimental service establishes clearly that the transportation services made available to Applicant and its customers by Applicant's drivers are those of a contract carrier within the meaning of the Public Utility Code.

The term "contract carrier by motor vehicle" includes any person or corporation who or which provides or furnishes transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes, with or without drivers, any motor vehicle for such transportation, or for use in such transportation, other than as a common carrier by motor vehicle. 66 Pa. C.S. § 2501 (b)(1).

The exclusions set forth at 66 Pa. C.S. § 2501 (b)(2) as to what constitutes contract carriage are not pertinent to the service proposed by Applicant.

In its business arrangements with its drivers, Applicant does not propose to limit its pool of drivers to those who have complied with the Public Utility Code's requirements for motor contract carriers. So to Applicant fails to propose any restriction as to the equipment to be

provided as limited to that driven or furnished by authorized contract carriers. Protestant believes that Applicant's lax oversight into compliance with the Public Utility Code's requirements will facilitate a business model designed to minimize supervision of drivers, investment in the bricks-and-mortar and rolling stock required to sustain public utility services.

III. The services proposed are not ride sharing.

The legislature has addressed the concept of shared rides arranged for or provided by persons not in the transportation business as:

Ridesharing arrangement defined

As used in this act, "ridesharing arrangement" shall mean any one of the following forms of transportation:

- (1) The transportation of not more than 15 passengers where such transportation is incidental to another purpose of the driver who is not engaged in transportation as a business. The term shall include ridesharing arrangements commonly known as carpools and vanpools, used in the transportation of employees to or from their place of employment.
- (2) The transportation of employees to or from their place of employment in a motor vehicle owned or operated by their employer.
- (3) The transportation of persons in a vehicle designed to hold no more than 15 people and owned or operated by a public agency or nonprofit organization for that agency's clientele or for a program sponsored by the agency.

55 P.S. § 695.1

If the service proposed by Applicant is ride sharing, the applications must be dismissed for want of Commission jurisdiction over ride-sharing arrangements. 55 P.S. § 695.2

IV. Technology does not insulate its users from the requirements of law.

Applicant disclaims any purpose to provide passenger transportation service to users of its smartphone application. Yet Applicant's proposed service will not be provided by any other means or through any other public utility resource save that software. Applicant seizes this technology arrangement, standing alone, as the basis to enter the western Pennsylvania market without first adhering to the requirements of the Public Utility Code.

In the judgment of Applicant management, a business is entitled to provide a public utility service without advance compliance with the Public Utility Code by suggesting its service

is "...a pioneer intrastate transportation program between limited points... [in the market Applicant seeks to enter]. Applicant demands no compensation for this service. Applicant is providing coupons that enable prospective riders to obtain transportation on certain routes, as service may be available." Application, paragraph 10 "Certification" submitted under the verification of Applicant's President, John Zimmer. This declaration apparently is a substitute for compliance with the law.

Applicant has declined to present a witness or testimony that might shed any public light on its contention that the proposed services may be provided without Commission authority. See Docket No. P-2014-2426847, *Petition of the Bureau of Investigation and Enforcement (I&E) for Interim Emergency Relief*, Order entered July 24, 2014, at page 6.

Protestant understands that these related proceedings are not to be resolved in the context of this proceeding, but naturally Protestant is vitally interested in the outcome. That outcome will likely provide the point of reference for "experimental" operators in areas of the state beyond Allegheny County who may wish to argue that technology generates the basis for a significant departure from the Public Utility Code and the conventional requirement that new entrants may serve customers only after receiving Commission approval of their service proposals.

V. Applicant has not demonstrated the proposed service is consistent with the public's interest.

The Commission's policy in evaluating evidence offered in passenger application proceedings is set forth at 52 Pa. Code § 41.14. Applicant fails to address several essential elements set forth in that policy. The record contains no credible evidence as to public need for the proposed services consistent with the scope of the applications. At all times it is Applicant's responsibility to demonstrate a public need. While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001). In the important aspect of establishing a public need Applicant relies principally upon public opinion drawn from a very narrow yet vocal

segment of the public dissatisfied with certificated carriers serving Pittsburgh. The record does not support any finding beyond the written statements not subject to challenge about needs of some specially-equipped, tech-savvy and risk tolerant Pittsburgh users.

The record contains no credible evidence related to Applicant's assets, liabilities, income, or expenses that might support a finding that Applicant has the financial ability to support the service proposed. Applicant ignores the Commission's policy, and as a result, has failed to offer a *prima facie* case upon which its application might be adjudicated. See 52 Pa. Code § 41.14(b).

Protestant also challenges the very generalized finding with respect to mobile applications suggesting that they may result in a "wider ranging, faster and more user-friendly scheduling of transportation services" when compared to more traditional means of scheduling service. This finding should be carefully evaluated in the context of Applicant's proposed service. It should not be brought forward from prior proceedings which have not afforded the opportunity to develop a record on this question. The characterization of "wider ranging, faster and more user-friendly" may be traced to the recent decision involving experimental service proposed for Allegheny County customers. Docket A-2014-2410269, *Application of Yellow Cab Company of Pittsburgh, Inc. t/a Yellow X*, Order entered May 20, 2014, at page 6. At the time, Yellow Cab had as yet to unveil publicly its mobile application.

The finding and characterization, "wider ranging, faster and more user-friendly" is next repeated with reference to Applicant's proposed service in 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, pages 13-14, as well as parroted in the contemporaneous decision in Docket No. A-2014-2429993 *Application of Rasier-PA LLC, a Wholly Owned Subsidiary of Uber Technologies, Inc., For Emergency Temporary Authority to Operate An Experimental Ride-Sharing Network Service Between Points in Allegheny County, PA*, Order entered July 24, 2014, at page 13

The generalized finding appears to exclude the convenience of a large segment of the traveling public. It would be arbitrary, for example, to find that a service that does not permit a

patron to schedule a trip to a 8:00 AM doctor's appointment in the afternoon or evening prior to that appointment. Other considerations important to passengers should also be examined, including the needs of

- patrons who do not have access to the required technology at the time service is needed,
- patrons who do not wish to use credit cards and do not wish to disclose sensitive information identifying their checking accounts,
- patrons who have not received a favorable passenger profile in Applicant's data base because of disagreements with a driver,
- patrons who require handicap accessible vehicles.

More critically, the characterization of "user-friendly" appears to discount substantially Applicant's reliance upon the technology, that is, the mobile application, to force casual, occasional, or careless patrons into an onerous contract extending 12 pages in length if a printed version would be available to the customer. See Exhibit A JB Taxi LLC. Protestant argues that "user-friendly" is not be an appropriate characterization for services to be scheduled only upon a consumer's consent to the fine-print that accompanies the technology.

The availability of Applicant's services, if authorized, will bring a substantially unfriendly set of terms and conditions to consumers of passenger transportation services. Pennsylvania consumers purchasing a wide range of public services other than those subject to Commission oversight have protections from contracts such as that here proposed by Applicant as a condition of using its service. The legislature may have intended the Commission would play a role in protecting consumers. See the Plain Language Consumer Contract Act at Section 2204,

§ 2204. Application of act and interpretation

(a) General rule.--This act applies to all contracts that are made, solicited or intended to be performed in this Commonwealth after the effective date of this act.

(b) Exclusions.--This act does not apply to the following:

...

(7) Contracts subject to examination or other supervision by the Pennsylvania Public Utility Commission or by the Federal Energy Regulatory Commission.

Although Applicant's business model is premised upon a thorough screening, road testing and background check of its drivers, Applicant concedes that its business model and the Commission's insurance, if applied in the conventional fashion required of certificated passenger carriers, would be ripe for fraud and abuse. N.T. 266. Applicant's solution is to transfer risk to its customers and the motoring public through its customized insurance arrangements for contingent coverage. Applicant provides no adequate basis for a business model serving the on-demand needs of Pennsylvania's citizens without protections afforded by conventional commercial auto liability policies.

VI. Unintended results are likely to follow in many locations where unfair competition is encouraged.

The Commission should reject a business model which allows one public utility premised upon surge-pricing to compete for customers with other public utilities as to which surge pricing has been prohibited because it is not in the public's interest. The Public Utility Code requires Commission oversight of Applicant's fares and related terms of Applicant's service affecting those fares. They must be found in advance to be just and reasonable. 66 Pa.C.S. §1301 *et seq.*

Applicant proposes to provide a public utility service without publicly disclosing its fares in the manner required by law. Experimental Pa. P.U.C. No. 1, supporting Applicant's operations under emergency temporary authority fails to meet the minimum requirements for public disclosure. See Applicant's Exhibit 3. Section 1302 of the Public Utility Code requires,

... every public utility shall file with the commission, within such time and in such form as the commission may designate, tariffs showing all rates established by it and collected or enforced, or to be collected or enforced. 66 Pa.C.S. §1302.

Applicant's Experimental Pa. P.U.C. No.1 does not allow the Commission or the public to estimate or determine the fare to be applied for any trip Applicant proposes to provide. There are no rates in the publication. (See Applicant's Exhibit 3, pages 4 and 5.)

Protestant and protestant's competitors are each required to comply with the disclosure and subject to Commission oversight in advance of the time fares are published. 52 Pa.Code §23.11. Additionally, the Commission has found that the public's interest requires passenger transportation providers with which Applicant now proposes to compete to conform their practices related to the level of fares and the circumstances in which that level may be adjusted. The regulatory scheme includes public disclosure as well as the opportunity for Commission oversight in a very specific manner, including

- public notice in advance of changes in fares, 52 Pa.Code§ 23.41,
- advance approval of fare changes, 52 Pa.Code§ 23.42,
- public notice of proposals affecting fares, 52 Pa.Code§§ 23.62 and 23.63, and
- restrictions on reducing fares based upon factors such as supply and demand, 52 Pa.Code§ 23.71.

Additionally the Public Utility Code may prohibit Applicant from refusing to accept currency as payment for Applicant's tariff charges because that prohibition would constitute an unreasonable disadvantage to a large segment of the traveling public. 66 Pa. C.S. § 1304.

With the past year the Commission has determined specifically with respect to Allegheny County users of on-demand transportation that the public's interest does not permit an increase in current fare levels in the case of the county's principal call-and-demand providers. Applicant's competitors will not enjoy the fare flexibility implemented under Experimental Pa. P.U.C. No. 1. See Docket R-2013-2379460, *Pennsylvania Public Utility Commission v. Cranberry Taxi, Inc. d/b/a Veterans Taxi*, Order entered February 20, 2014, denying a proposed fare increase filed February 13, 2013, and pending Commission evaluation under the public-interest standard for over a year. The Commission has also found that the public's interest will not be served where current Allegheny County providers do not abide by specific yet unstated requirements in recapturing cost increases. See R-2013-2365656, *Pennsylvania Public Utility Commission v. Yellow Cab Company of Pittsburgh*, Order entered September 23, 2013. There, the Commission determined, pursuant to 66 Pa.C.S. §1301, that it is required to ensure that all rates charged by a public utility are just and reasonable, and that

the formula relied upon by the carrier to address the expenses associated with fuel was not unacceptable under the public-interest requirement of the Public Utility Code.

Beyond Allegheny County considerations, the Commission has also found that the public's interest requires the Commission routinely to review and to approve all fare increases on the basis of the public utility's operating revenues and expenses. These requirements are in stark contrast to the flexibility that Applicant proposes to enjoy. With respect to existing providers the Commission has found the public's interest necessarily involves a requirement to justify fare adjustments; delay is typically experienced. Rate increases considered in calendar year 2014 for existing providers operating outside of Allegheny County average 186 days of Commission review before the public-test is satisfied.¹

With respect to surge-pricing, it is also important to consider that the Commission lacks jurisdiction to determine retroactively that the level of a fare collected after it is published does not meet the just and reasonable standard. Because of this limitation, consumers will remain

¹Docket R-2013-2355682 *Pennsylvania Public Utility Commission v. Ernest S. Lantz*, Proposed increase received March 25, 2013, Order entered approving increase February 20, 2014; public interest analysis 332 days.

Docket R-2013-2378623 *Pennsylvania Public Utility Commission v. Corry Cab Company*, filed August 8, 2013, Order entered February 20, 2014; public interest analysis 196 days.

Docket R-2013-2398500 *Pennsylvania Public Utility Commission v. Noga Ambulance Service, Inc.*, Filed December 10, 2013, Order entered April 23, 2014; public interest analysis 134 days.

Docket Docket R-2014-2403135 *Pennsylvania Public Utility Commission v. Delbo Associates, Inc., t/a Shamokin Yellow Cab*, filed January 28, 2014, Order entered April 23, 2014; public interest analysis 85 days.

Docket R-2014-2403141, *Pennsylvania Public Utility Commission v. Black Diamond Cab Co., Inc.*, filed 1-28-2014, Order entered April 23, 2014; public interest analysis 85 days.

Docket R-2013-2391690, *Pennsylvania Public Utility Commission v. Premium Taxi, LLC*, Filed 11-7-2013, Order entered May 22, 2014, denying any fare adjustment until the carrier is in compliance with the Commission's regulations; public interest analysis 196 days.

Docket R-2013-2367228 *Pennsylvania Public Utility Commission v. Corry Ambulance Service, Inc.*, filed June 5, 2013, Order entered June 19, 2014; public interest analysis 379 days.

Docket R-2013-2394430, *Pennsylvania Public Utility Commission v. Choice Cab Company*, filed 11/25/2013, Order Entered June 19, 2014; public interest analysis 206 days.

Docket R-2014-2428255, *Pennsylvania Public Utility Commission v. MTR Transportation, Inc., t/a K-Cab Co.*, filed June 18, 2014, Order entered August 21, 2014; public interest analysis 64 days.

unprotected, and fare refunds will not be available in the case of surge pricing that rises to a level beyond that which would be adjudicated as just and reasonable. No remedy would be available in the event of price gouging.

Of particular concern to Protestant is Applicant's apparent intention to enter western Pennsylvania with a flourish of predatory pricing practices designed to attract customer's away from existing providers. These practice include free transportation, vouchers for substantially discounted fares, and an overall business model to keep revenues substantially below the level required to break even. See Applicant's Exhibit 2 suggesting a purpose to incur substantial revenue shortfalls beginning in August 2014. The legislature has set forth a regulatory requirement that the Commission include among its considerations in rate matters policies which will "...promote safe, adequate, economical, and efficient service by common carriers by motor vehicle and forwarders, and just and reasonable rates therefor, without unjust discrimination, and unfair or destructive practices." 66 Pa.C.S.2501.

Proposed Findings of Fact

Dockets A-2014-5045and A-2014-5047

1. Applicant, Lyft, Inc, is a foreign corporation registered to conduct business in Pennsylvania. (Application)
2. Applicant seeks authorization under the Public Utility Code to operate as a commercial business providing passenger common carrier services to the public as in experimental operations. (Application at attachment A, paragraphs I and II)
3. Applicant promotes and sells its services as "ride sharing network" offering the services of "Transportation Network Carriers" through its proprietary software. (Application, paragraph II)
4. Applicant's services are described by Applicant to be a platform which provides a means to enable persons who seek transportation to certain destinations to be matched with persons driving to or through those destinations. (Protestant JB Taxi LLC Exhibit 2, page 8, last paragraph)
5. Applicant has no office, facilities, personnel or vehicles in the Commonwealth. (N.T. 294-5)

6. Applicant will control the terms of service and its fares under which under which its services are to be provided to passengers. (Protestant JB Taxi LLC Exhibit 2, pages 3, 8-10)
7. Applicant's drivers will be compensated for their work and the use of their vehicles only upon their consent to a binding contract known as Lyft Terms of Service. (Protestant JB Taxi LLC Exhibit 2, pages 3 and 8)
8. Prior to any trip passengers are required to consent to all terms, conditions, fares and fees of a binding contract set forth in a 10,200 word agreement consisting of over 800 lines of text. (Protestant JB Taxi LLC Exhibit 2)
9. Applicant proposes to provide public utility services under terms, conditions and at costs to the consumer that may be changed by without prior notice, review or approval of the Commission. (Protestant JB Taxi LLC Exhibit 2, page 9, Payments, second bullet-point)
10. Applicant proposes to provide public utility services under terms, conditions and at costs to the consumer that may be changed by without prior notice to passengers. (Protestant JB Taxi LLC Exhibit 1, page 9, first paragraph last sentence; Protestant JB Taxi LLC Exhibit 2, page 9, Payments, second bullet-point)
11. Under its terms of service, Applicant will receive protection against all costs and liabilities arising from the proposed services, such protection, costs and liabilities to be the responsibility of the Applicant's patrons and drivers. (Protestant JB Taxi LLC Exhibit 2, page 9 third paragraph and page 18, Indemnity, first paragraph and item 2.)
12. Passengers are to be transported in vehicles operated by Applicant's drivers without any requirement that any driver hold a Certificate of Public Convenience conforming to Section 2502(b)(1) of the Public Utility Code, 66 Pa. C.S. §2502(b)(1). (Application pages 4 and 5; Protestant JB Taxi LLC Exhibit 2, page 13.)
13. Passenger fares will be collected by Applicant or for Applicant's benefit but will not be collected by the driver. (Protestant JB Taxi LLC Exhibit 1 page 2; Protestant JB Taxi LLC Exhibit 2, Payments, pages 9 and 10)

14. Each driver will be paid by Applicant for services he or she provides and for use of the transport vehicle at a level of compensation determined by the Applicant. (Protestant JB Taxi LLC Exhibit 2, Payments, pages 9 and 10)

Proposed Conclusions of Law
In Dockets A-2014-2415045 and A-2014-2415047

1. The Commission has jurisdiction over the subject matter, the Applicant and the protestants holding operating authorities issued by the Commission.
- 2.
3. The Commission has jurisdiction over the subject matter, the Applicant and the protestants holding operating authorities issued by the Commission.
4. The application is properly before the Commission following the oral hearings and submission of briefs. Applicant was required to demonstrate a technical and financial ability to provide the proposed service.
5. Applicant failed to produce any probative evidence demonstrating through credible testimony a public need commensurate with the scope of the services proposed, and thereby, failed to sustain a prima facie case upon which the Commission might approve the application.
6. Applicant failed to produce any probative evidence demonstrating its financial ability, and thereby, failed to sustain a prima facie case upon which the Commission might approve the application.
7. Applicant has no facilities, no personnel and no presence in territory it wishes to serve.
8. The record demonstrates that Applicant will rely exclusively upon the resources of that parent and independent contractors to provide all of the facilities to be used in provided the proposed services.
9. Applicant has demonstrated a contumacious refusal to abide by the requirements of the Public Utility Code and Commission orders, and accordingly, is likely to manage and

control Applicant without a requisite condition to provide service in the public's interest.

10. Applicant's exclusive means of providing the services proposed would rely upon independent contractors who are not required by Applicant to hold Certificates of Public Convenience, a requirement under the Public Utility Code.
11. The record fails to show the experimental services proposed would serve a useful public purpose.

Proposed Ordering Paragraphs

It is ordered: That the applications of Lyft, Inc. to begin providing passenger transportation service as a common carrier operating in experimental service is denied.

Conclusion

For the foregoing reasons, Protestant requests that applications seeking authority to operate in experimental service be denied and that all relief sought by Applicant be denied.

Respectfully submitted,

electronically filed

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12. Pa ID 19727

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)

By first-class mail, postage prepaid

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Dated this 15th day of September, 2014

electronically filed
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