



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Adeolu A. Bakare  
Direct Dial: 717.237.5290  
Direct Fax: 717.260.1744  
abakare@mwn.com

September 15, 2014

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**Re: Application of Lyft, Inc. (Experimental Service in Allegheny County); A-2014-2415045**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Answer of Lyft, Inc. to the Petition for an Interim Emergency Order of Kim Lyons and PG Publishing, Inc., d/b/a The Pittsburgh Post-Gazette, in the above-captioned proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

Adeolu A. Bakare

Counsel to Lyft, Inc.

/lmc

Enclosure

c:c: Administrative Law Judge Mary D. Long (via e-mail and First-Class Mail)  
Administrative Law Judge Jeffrey A. Watson (via e-mail and First-Class Mail)  
Frederick N. Frank, Esq. (via e-mail and First-Class Mail)  
Certificate of Service

**www.mwn.com**

HARRISBURG, PA • LANCASTER, PA • SCRANTON, PA • STATE COLLEGE, PA • COLUMBUS, OH • WASHINGTON, DC

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

### VIA E-MAIL AND FIRST-CLASS MAIL

David William Donley, Esq.  
JB Taxi LLC t/a County Taxi Cab  
3361 Stafford Street  
Pittsburgh, PA 15204  
[dwdonley@chasdonley.com](mailto:dwdonley@chasdonley.com)

Michael S Henry, Esq.  
Michael S. Henry LLC  
Executive Transportation Inc  
2336 S. Broad Street  
Philadelphia, PA 19145  
[mshenry@ix.netcom.com](mailto:mshenry@ix.netcom.com)

Samuel R. Marshall  
CEO and President  
Insurance Federation of Pennsylvania  
1600 Market Street, Suite 1720  
Philadelphia, PA 19103  
[dwatson@ifpenn.org](mailto:dwatson@ifpenn.org)



---

Adeolu A. Bakare

Counsel to Lyft, Inc.

Dated this 15<sup>th</sup> day of September, 2014, in Harrisburg, Pennsylvania.

**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 :

---

**ANSWER OF LYFT, INC.  
TO PETITION FOR AN INTERIM EMERGENCY ORDER  
OF KIM LYONS AND PG PUBLISHING, INC.  
D/B/A THE PITTSBURGH POST-GAZETTE**

---

**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Lyft, Inc. ("Lyft") files, pursuant to 52 Pa. Code § 5.342(g)(1), this Answer to the Petition for an Interim Emergency Order ("Petition") of Kim Lyons and PG Publishing, Inc. d/b/a The Pittsburgh Post-Gazette ("Petitioner") submitted on September 10, 2014, in the above-referenced proceeding. In support thereof, Lyft avers and argues as follows:

**I. BACKGROUND**

On April 3, 2014, Lyft, Inc. ("Lyft" or "Company") filed an Application at Docket No. A-2014-2415045 ("Allegheny County Application") requesting the issuance of a certificate of public convenience to operate as a Transportation Network Company ("TNC") and offer transportation network service facilitating transportation between points in Allegheny County, Pennsylvania.

The Application was published in the Pennsylvania Bulletin on April 19, 2014, with Petitions to Intervene and Protests due on May 5, 2014. On May 5, 2014, Executive Transportation Co., Concord Limousine Co. ("Concord"), and Black Tie Limousine ("Black Tie"), JB Taxi LLC ("JB Taxi"), the Insurance Federation of Pennsylvania ("Insurance Federation"), and the Pennsylvania Association for Justice ("PAJ") filed Protests.

Lyft filed Preliminary Objections to Protests on May 27, 2014. Between June 24 and June 27, 2014, Administrative Law Judges ("ALJs") Mary D. Long and Jeffrey A. Watson issued Interim Orders and Initial Decisions addressing Lyft's Preliminary Objections. The Initial Decisions dismissed protests filed by the Insurance Federation, the PAJ, Concord Limousine and Black Tie Limousine.

On July 3, 2014, the ALJs distributed a Notice of Prehearing Conference. The Notice directed parties to participate in a telephonic Prehearing Conference to be held on July 24, 2014. The ALJs subsequently served parties with a Prehearing Conference Order on July 7, 2014, which directed parties to prepare Prehearing Conference Memoranda for submission to the ALJs on or before July 23, 2014.

On July 23, 2014, Lyft submitted a Prehearing Conference Memorandum and received Prehearing Conference Memoranda from Executive Transportation and JB Taxi. ALJs Long and Watson presided over the Prehearing Conference on July 24, 2014 and developed a tentative litigation schedule, with hearings preliminarily scheduled for August 7-8, 2014.

On July 31, 2014, ALJs Long and Watson issued an Interim Order directing Applicant to provide information regarding rides offered in Pennsylvania in conjunction with Applicant's mobile software application or "platform."

At the ALJs' request, parties cancelled the hearings scheduled for August 7-8, 2014. Following numerous scheduling discussions, the ALJs issued a revised Hearing Notice scheduling hearings for August 27, 2014 and September 3, 2014.

Prior to the September 3, 2014 hearing, on August 29, 2014, Lyft filed a Petition for Protective Order seeking to protect certain trip data and the Company's insurance policies. On September 2, 2014, ALJs Long and Watson issued an Order partially granting and partially denying the Protective Order. Due to extended cross-examination of Lyft Witness Joseph

Okpaku at the September 3, 2014 hearing, additional hearings were scheduled for September 10, 2014.

During the September 3, 2014 hearing, the number of rides provided through Lyft's platform, which is proprietary information, was determined to be protected for the purpose of preserving Lyft's right to seek review of the ALJs' denial of Lyft's Petition for Protective Order. Therefore, the ALJs' removed the public from the September 3, 2014 hearing for only a few minutes while the information was presented by Mr. Okpaku. Prior to being excused, no member of the public made any objections. The Petitioner simply asked, "Your Honor, could you please state why we're being asked – this is a public hearing – why we're being asked to leave?" The ALJs responded they were considering the data requests from July 31 as proprietary information. The Petitioner did not object until after the portion of the hearing that was held *in camera*.

On September 10, 2014, the ALJs issued an Interim Order on Temporary Protective Order ("September 10 Protective Order") memorializing their September 3, 2014 decision to protect Lyft's ride information for the purpose of preserving Lyft's right to seek review of the ALJs' denial of Lyft's Petition for Protective Order.

Also on September 10, 2014, after the conclusion of the hearings, the Petitioner filed its Petition seeking interim emergency relief through the issuance of an Interim Emergency Order "directing the unsealing of the record of the September 3, 2104 hearing in its entirety, including the hearing transcript and all exhibits in the application of Lyft, Inc. at PUC Docket No. A-2014-2415045." Petition at 1.

In response to the Petitioner's Petition, Lyft provides the below answer demonstrating that the Petitioner failed to carry its burden for interim emergency relief.

## II. ANSWER

### A. *Petitioners Have Failed to Meet Their Burden for Interim Emergency Relief.*

As the Pennsylvania Public Utility Commission ("PUC" or "Commission") has consistently held, "[t]he purpose of an interim emergency order is to grant or deny injunctive relief during the pendency of a proceeding." *Petition of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission for an Interim Emergency Order Requiring Uber Technologies, Inc. to Immediately Cease and Desist from Brokering Transportation Service for Compensation Between Points within the Commonwealth of Pennsylvania*, Docket No. P-2014-2426846, at \*4 (Order entered July 24, 2014) ("*Uber*") (citing 52 Pa Code § 3.1). 52 Pa. Code § 3.6 lays out the standards that govern the issuance of interim emergency orders. Section 3.6 requires that a petition for interim emergency relief be supported by a verified statement of facts that establishes the existence of the need for emergency relief, including facts to support the following:

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 requested is not injurious to the public interest.

"The [C]ommission may issue an interim emergency order only when [the Commission] finds that *all* of the ... [above] elements exist." *Glade Park East Home Owners Association v. Pa. PUC*, 628 A.2d 468, 473 (Pa. Cmwlth. 1993) (emphasis in original).

The party seeking interim relief "bears the burden of proving that the facts and circumstances meet all four of the requirements of 52 Pa. Code § 3.6." *Uber* at \*5. Further, the burden of proof must be carried by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (1992).

As explained in detail below, not only has Petitioner failed to meet its burden for one requirement of 52 Pa. Code § 3.6, which is sufficient to deny the Petitioner's request for an interim emergency order, but Petitioner has failed to meet its burden for all four requirements of 52 Pa. Code § 3.6. As a result, the Commission should deny the Petitioner's request for an interim emergency order.

***1. The Petitioner Failed To Demonstrate That Petitioner's Right to Relief Is Clear.***

In deciding whether a petitioner's right to relief is clear, "the Commission has determined that it is not necessary to determine the merits of a controversy in order to find that a petitioner's right to relief is clear; rather, the basis for determining whether this standard has been met is whether a petitioner has raised 'substantial legal questions.'" *Uber* at \*4 (citing *Core Communications, Inc. v. Verizon Pennsylvania, Inc. and Verizon North LLC*, Docket No. P-2011-2253650 (Order entered September 23, 2011); *Level 3 Communications, LLC v. Marianna & Scenery Hill Telephone Company*, Docket No. C-20028114 (Order entered August 8, 2002); *cf. T.W. Phillips Gas and Oil Company v. The Peoples Natural Gas Company*, 492 A.2d 776 (Pa. Cmwlth. 1985). In the instant proceeding, the Petitioner fails to raise "substantial legal questions." As described in detail below, the law is clear that proprietary information can be protected from public disclosure. The data protected by the ALJs is proprietary, because it could be used by Lyft's current and prospective competitors to model and forecast Lyft's activities in other markets. Lyft and its competitors are not traditional transportation companies, but are highly sophisticated technology companies providing technology services that facilitate consumer transportation. To analyze market activity and growth forecasts, Lyft utilizes data-intensive market analytics based on proprietary usage data available only through its platform, such as the number of rides provided in a particular market or the concentration of pick-ups and drop-offs in specific segments of that market. Such data

would be extremely valuable to Lyft's primary competitor, particularly in light of recent aggressive tactics used to gain market share in the TNC industry. While the Commission may claim a right to review the data in order to further its regulatory obligations under the Public Utility Code, the statute also empowers the Commission with authority to protect documents containing trade secret or proprietary information from public release. *See* 66 Pa. C.S. § 335(d).

The Petitioner in the instant proceeding claims its right of access to the sealed pages of the hearing transcript is supported by due process rights, the common law right of access, the First Amendment of the United States Constitution, the Pennsylvania Constitution, the experience and logic test, the constitutional right to gather news, and the Sunshine Act. Petition at 8-15. Because courts have consistently held the Commission is a quasi-judicial body, meaning that Commission hearings are fundamentally judicial proceedings, no need exists to address the Petitioner's arguments regarding the experience and logic test and the Sunshine Act. *Duquesne Light Co. v. Pa. PUC*, 715 A.2d 540, 547, n.13 (Pa. Cmwlth. 1998); *see City of Pittsburgh v. Pa. PUC*, 20 A.2d 869, 870 (Pa. Super. 1941). Further, the Petitioner's due process and "constitutional right to gather news" arguments are duplicative of the First Amendment argument, and therefore shall not be separately addressed. Also, the Pennsylvania Constitution does not grant access to the press beyond that granted by the First Amendment. *See Storms v. O'Malley*, 779 A.2d 548, 568-569 (P. Super. 2001). Therefore, Lyft addresses the Petitioner's arguments based on the First Amendment and the common law right of access below.

While the Pennsylvania courts have made clear that "[i]n Pennsylvania, the common law, the first amendment, and the Pennsylvania Constitution, all support the principle of openness," the courts have also made it clear that "the presumption of public access is rebuttable." *Storms v. O'Malley*, 779 A.2d at 568-569 (citing *Commonwealth v. Fenstermaker*, 515 Pa. 501, 504

(1987); *Bank of America Nat'l Trust and Sav. Ass'n. v. Hotel Rittenhouse Associate*, 800 F.2d 339, 344 (3d Cir. 1986).

When evaluating Petitioner's constitutional arguments, the law holds that in order to restrict access 'there must be a showing that the denial [of access] serves an important governmental interest and there is no less restrictive way to serve that governmental interest."<sup>1</sup> *Storms*, 779 A.2d 569 (quoting *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1070 (3d Cir. 1984)). To meet this burden, "it must be established 'that the material is the kind of information that courts will protect and that there is good cause.'" *Id.* (citing *Publicker*, 733 F.2d at 1071). "Good cause is established on a showing that disclosure will work a clearly defined and serious injury to the party seeking closure." *Publicker*, 733 F.2d at 1071. "[P]rotection of a party's interest in confidential information" is sufficient to meet this standard. *US Investigations Services, LLC v. Callihan*, 2011 WL 1157256 at \*1 (W.D. Pa. 2011).

Facts of the instant proceeding indisputably meet the criteria to restrict access to the press. First, the proprietary information to which the Petitioner is restricted access to is the kind of information that the Commission will protect. Pursuant to 52 Pa. Code § 5.362(7), the Commission has established protection for proprietary information. The information at issue in this proceeding is proprietary because the information could be used by Lyft's competitors to model and forecast Lyft's existing and potential activities in other markets. Further, pursuant to 66 Pa. C.S. § 335(d), the Commission can limit the release of a document that contains proprietary information, such as a transcript of a proceeding, "if the Commission determines that the public release of this information will cause substantial harm." Again, because the

---

<sup>1</sup> The ALJs' decision to hold only a few minutes of the hearing *in camera* and sealing only six pages of over 230 pages of transcript for the sole purpose of the evidentiary hearing and the recommended decision to preserve Lyft's right to seek review of the ALJs' denial of its request for a protective order was clearly the least restrictive way to protect Lyft's rights and its proprietary information.

information could be used to the advantage of Lyft's competitors and to the disadvantage of Lyft, the information is correctly considered proprietary, and its release was appropriately limited.

Second, the ALJs properly determined good cause to restrict access of Lyft's proprietary information. Specifically, and among other reasons, the ALJs found that releasing information Lyft seeks to protect as proprietary would foreclose Lyft's opportunity to seek review of the ALJs' denial of Lyft's Petition for Protective Order. September 10 Protective Order at 2. Further, the ALJs' September 10 Protective Order limits protection of the information solely for purposes of the evidentiary hearing and the recommended decision. This extremely limited protection only excludes Petitioner from 6 pages of over 230 pages of transcript and from just a few minutes of the hearings. Precedent supports limited *in camera* procedures during a hearing, so the ALJs acted within their authority when ordering the public to leave the hearings for a couple of minutes.<sup>2</sup> *Callihan*, 2011 WL 1157256 at \*1. The Petitioner provides neither precedent nor facts to dispute the above law or to demonstrate that Lyft would not suffer serious injury were its proprietary information to be made public. Therefore, the Petitioner has not met its burden of showing by a preponderance of the evidence that its right to relief is clear. Because the Petitioner has failed to carry this burden, its request for interim emergency relief should be denied.

The common law right of access establishes a lower burden than the First Amendment standard. *Commonwealth v. Long*, 922 A.2d 892, 897 (Pa. 2007). In order for the Commission to restrict access to information under the common law right of access, the Commission must

---

<sup>2</sup> As noted above, Petitioner's due process rights were not violated prior to the ALJs' decision to remove the public from the hearing because Petitioner never objected to the hearing being closed prior to being asked to leave the hearing. Per the transcript, prior to the Petitioner being asked to leave the hearing, the Petitioner simply asked, "Your Honor, could you please state why we're being asked – this is a public hearing – why we're being asked to leave?" The ALJ responded that they were considering the data requests from July 31 as proprietary information. At no point did the Petitioner object to being asked to leave the hearing prior to the *in camera* portion of the hearing. The Petitioner did not object to the *in camera* portion of the hearing until after this portion of the hearing was held, which is inapposite to the precedent relied on by the Petitioner in *Commonwealth v. Buehl*. 462 A.2d 1316, 1321-22 (Pa. Super. 1983).

simply determine that "the interest in secrecy outweighs the presumption [of access]." *Bank of America*, 800 F.2d at 344. Clearly, the ALJs made this determination when they issued their September 10 Protective Order. Had the ALJs determined that Lyft's interest in protecting its proprietary information was less important than public access to the information, the ALJs would not have held that portion of the hearing *in camera*, nor would the ALJs have issued the September 10 Protective Order.

The Petitioner provides no evidence to refute the ALJs' decision and merely provides precedent stating that "'weak assertions involving trade secrets' that function as 'a ruse to prevent public exposure' will not constitute good cause [to restrict access]." Petition at 10 (citing *PA ChildCare LLC v. Flood*, 887 A.2d 309, 313 (Pa. Super. 2005)). Lyft's request that its proprietary information be protected is hardly a "ruse to prevent public disclosure." The Commission provides Lyft with the right to petition the ALJs' decision denying Lyft's Petition for Protective Order; releasing the information prior to granting Lyft the opportunity to petition the ALJs' decision would unnecessarily take this right away from Lyft. Lyft filed a Petition for Protective Order on August 29, 2014, providing a factual basis for the request. As further evidenced by the additional detail set forth in Section II.A.1, *supra*, Lyft has provided credible support for its request to restrict access to the trip data. Therefore, the decision to protect Lyft's proprietary information was hardly a "ruse" based on "weak assertions involving trade secrets."

The Petitioner further claims that "[t]he alleged 'proprietary' information was given to ... one of ... Lyft['s] [natural competitors], while the public was barred." Petition at 11. The Petitioner claims that this "strains all logic." *Id.* at 10. Contrary to the Petitioner's claim, Lyft did not provide the proprietary information to a competitor. JB Taxi is a traditional taxicab company and is not a competitor in the TNC or peer-to-peer ridesharing market in which Lyft operates. Moreover, Lyft did not furnish the data to JB Taxi; the disclosure was limited to

counsel for JB Taxi under agreement that counsel is prohibited from disclosing the information to JB Taxi. Lyft is concerned with its industry-specific competitors receiving the information because the information could be used by Lyft's competitors to model Lyft's existing and potential activities in other markets. That the information sought by the Petitioner could be used to Lyft's detriment demonstrates that the information is proprietary, and there is good cause to bar the information from public disclosure.

Therefore, the Petitioner's claims provide no facts nor any evidence showing why there was not good cause to restrict access to the proprietary information. The Petitioner has not met its burden of proof by a preponderance of the evidence to show that the ALJs incorrectly restricted the release of the proprietary information and, therefore, has not raised "substantial legal questions." As such, the Petitioner has failed to carry its burden for interim emergency relief.

***2. The Petitioner Failed To Demonstrate that the Petitioner's Need for Relief Is Immediate.***

The Petitioner provides no evidence at all to demonstrate that the Petitioner's need for relief is immediate because no such evidence exists. The Petitioner simply makes naked assertions that "[f]ailure 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." Petition at 15. The Petitioner further claims that immediate relief is necessary because if the ALJ denies the Petitioner the opportunity to be heard when a request is made to close the proceedings or to seal the record, the Petitioner will suffer immediate harm. *Id.* At 15-16. This point made by the Petitioner is moot because the hearings have concluded and the decision to hold a small portion of the hearings *in camera* and to seal a small six-page portion of the transcript was made in the presence of the Petitioner and before the Petitioner objected to the restriction of any of the

proprietary information. It was not until well after the *in camera* portion of the hearing was held that the Petitioner decided to object to the protection of the proprietary information.

In the instant proceeding, the need for relief is not immediate "because the time constraints present in this matter are not consistent with the time constraints present in prior cases where the Commission determined that an immediate need for relief was present." *Petition of Service Electric Telephone Company, LLC for Interim Emergency Order or, in the Alternative, a Motion to Expedite the Schedule for Decision of Complaint*, Docket Nos. P-2013-2349801 (Order issued April 4, 2013) ("*Service Electric*"). The Commission tends to conclude that the need for relief is immediate only under tight time constraints. *Americus Centre, Inc. v. PPL Electric Utilities Corporation*, Docket No. C-20077427 (Order entered May 15, 2007) (need for relief immediate where electric wiring in a hotel had become defective and dangerous); *Core* (interim emergency relief granted where, absent payment, petitioner would have had to cease service within six weeks).

In this proceeding, the facts are clear that there is no immediate need for relief. The information that the Petitioner seeks has been restricted for the limited purpose of allowing Lyft to seek review of the ALJs' decision to reject Lyft's Petition for Protective Order. Therefore, this information is only restricted pending Lyft's forthcoming petition for interlocutory review and a subsequent Commission decision on the matter. There is no need to release the information at this time, as Lyft would lose its right to petition the ALJs' decision. Therefore, the time constraints for the Petitioner are not tight and do not support an immediate need for relief. Because the Petitioner provides no evidence that its need for relief is immediate, the Petitioner has failed to carry its burden by a preponderance of the evidence, and its request for interim emergency relief should be denied.

**3. *The Petitioner Failed To Demonstrate that the Petitioner's Injury Would Be Irreparable If Relief Is Not Granted.***

The Petitioner has also failed to demonstrate that the Petitioner's injury would be irreparable if relief is not granted. First, the Petitioner has failed to enumerate what injury the Petitioner would or has experienced. Rather, the Petitioner merely claims that it would be injured because "The Post-Gazette will be denied access to a public record." Petition at 15. The Petitioner provides no demonstration of harm that satisfies the type of harm that the Commission has concluded constitutes irreparable harm. For example, the Petitioner has provided no evidence that the Petitioner would lose existing customers and may never be able to recover such losses. *See Service Electric; Core Communications, Inc. v. Verizon Pennsylvania, Inc. and Verizon North LLC*, Docket No. P-2011-2253650 (Order issued September 12, 2011).

In evaluating requests for interim emergency relief, the Commission has traditionally focused on the harm to a petitioner. *See Core*. However, the Commission has also focused on the irreparable harm to the respondent and will balance the harm to the respondent with any harm to the petitioner when deciding whether the petitioner will suffer irreparable harm. *See id.*

In the instant proceeding, it is Lyft that faces irreparable harm. First, the information is proprietary and its release would cause great harm to Lyft as public disclosure would reveal operational information that would not otherwise be provided to the public and could be used by Lyft's competitors to model Lyft's existing and potential activities in other markets. Second, as Lyft explained above, the proprietary information has been restricted to provide Lyft with an opportunity to exercise its right to a review of the ALJs' decision to reject Lyft's Petition for Protective Order. Therefore, Lyft, not the Petitioner, faces irreparable harm through the loss of its right to seek review of the ALJs' initial decision. The Petitioner will have the opportunity to challenge the restriction of the proprietary information once Lyft files its petition for

interlocutory review; Lyft would altogether lose its right to file a petition for interlocutory review were the information to be released to the Petitioner.

Because the Petitioner has provided no evidence that it would be irreparably harmed if the Petitioner's request for relief is not granted, the Petitioner has failed to meet its burden by a preponderance of the evidence. As a result, the Commission should deny the Petitioner's request for interim emergency relief.

***4. The Petitioner Failed To Demonstrate that the Relief Requested Is Not Injurious to the Public Interest.***

Finally, the Petitioner failed to demonstrate that the relief requested is not injurious to the public interest. The Petitioner merely states that "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." Petition at 16. Therefore, the Petitioner claims that "the relief requested is the sole avenue to prevent injury to the public interest." *Id.* Again, mere naked statements are insufficient to meet the Petitioner's burden for interim emergency relief.

First, the Petitioner fails to recognize, as explained in detail *supra*, that the law provides exceptions to public disclosure for proprietary information. Further, it has been determined that "the public interest is an amorphous concept that may be applied where public policy is clearly better served by one course of action than another." *Uber* at \*14. Business interests are considered when determining injury to the public interest. *See id.* In the instant proceeding, the public interest would be harmed by the Petitioner's requested relief because Lyft's proprietary information would be disclosed before Lyft had the opportunity to fully exercise its rights to have the information declared proprietary. The public interest is best served by allowing parties to fully exercise their rights prior to dissemination of information that is proprietary. Therefore, the public interest is not served through the Petitioner's requested relief, but rather through

protecting the information until Lyft files a petition for interlocutory review and the Commission makes its final determination on the proprietary nature of the information at issue in the Petitioner's Petition.

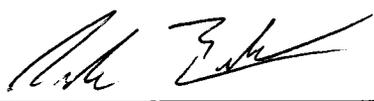
Again, because the Petitioner has provided no facts or evidence to support its claim that its requested relief is not injurious to the public interest, the Petitioner has failed to carry its burden by a preponderance of the evidence. As such, the Commission should reject the Petitioner's request for interim emergency relief.

### III. CONCLUSION

WHEREFORE, Lyft, Inc. respectfully requests that the Pennsylvania Public Utility Commission deny the Petition for an Interim Emergency Order of Kim Lyons and PG Publishing, Inc. d/b/a The Pittsburgh Post-Gazette because the Petitioners failed to carry their burden of proving that the facts and circumstances meet *all* four of the requirements for interim emergency relief.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By   
James P. Dougherty (Pa. I.D. 59454)  
Adeolu A. Bakare (Pa. I.D. 208541)  
Barbara A. Darkes (Pa. I.D. 77419)  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300

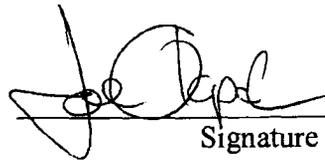
Counsel to Lyft, Inc.

Dated: September 15, 2014

**VERIFICATION**

I, Joseph Okpaku, Director of Public Policy, Lyft, Inc., hereby state that the facts set forth in the Answer to Petition for an Interim Emergency Order are true and correct to the best of my knowledge, information, and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

9.15.14  
Date

  
Signature