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September 26, 2014

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SEP 26 2014

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**VIA OVERNIGHT DELIVERY & EMAIL**

Secretary's Bureau  
Attn: Secretary Rosemary Chiavetta  
Pennsylvania Public Utilities Commission  
Commonwealth Keystone Building  
2nd Floor, Room-N201  
400 North Street  
Harrisburg, Pennsylvania 17120

**RE: *Kim Lyons and PG Publishing, Inc. d/b/a The Pittsburgh Post-Gazette v. Lyft***  
**PUC Dkt. No. P-2014-2442001**  
**PUC Ref. Dkt. No. A-2014-2415045**

**Application of Lyft, Inc. (Experimental Service in Allegheny County)**  
**PUC Dkt. No. A-2014-2415045**

Dear Secretary Chiavetta:

On September 10, 2014, The Post-Gazette brought a Petition for an Interim Emergency Order ("Petition"), seeking the unsealing of the record of the September 3, 2014 hearing at PUC Dkt. No. A-2014-2415045 in its entirety, an Order granting The Post-Gazette the right to intervene, and requesting that if any party sought to close the hearings or seal any portion of the record, 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. The Post-Gazette's Petition was docketed at PUC Dkt. No. P-2014-2442001.

By letter dated September 10, 2014, in your capacity as Secretary for the Pennsylvania Public Utility Commission ("PUC"), you indicated that Lyft's Answer to

The Post-Gazette Petition must be filed by September 15, 2014 and must address all relevant factors, as set forth in 52 Pa. Code § 5.365,<sup>1</sup> regarding orders to limit the availability of proprietary information. The Post-Gazette was also provided the ability to file a Response to Lyft's Answer by September 18, 2014.

Lyft filed its Answer on September 15, 2014. The Post-Gazette filed its Response to Lyft's Answer on September 18, 2014, addressing specifically the issues raised in Lyft's Answer

Recently, on September 23, 2014<sup>2</sup>, Lyft filed a Petition for Interlocutory Review and Answer to a Material Question ("Petition for Interlocutory Review") with the PUC at PUC Dkt. No. A-2014-2415045, seeking review of the Administrative Law Judges' September 2, 2014 Interim Order on Motion for Protective Order ("Interim Order").<sup>3</sup> Lyft seeks review of the Interim Order that the data related to rides provided to passengers via Lyft's mobile application platform was not confidential or proprietary information for which a protective order should be entered. Lyft's Petition for Interlocutory Review contained substantial discussion of Lyft's reasons for continued sealing of the September 3, 2014 transcript at PUC Dkt. No. A-2014-2415045 and addressed the relevant factors in 52 Pa.Code § 5.365.<sup>4</sup>

Shortly after the filing of Lyft's Petition for Interlocutory Review, counsel for The Post-Gazette was contacted by Mr. Herzog, who indicated that in light of Lyft's filing, due to the Petition for Interlocutory Review's interrelated nature with The Post-Gazette's Petition, the PUC would, in essence, be considering the petitions together.

The Post-Gazette strenuously objects to any consideration by the PUC of extraneous pleadings in ruling on The Post-Gazette's Petition. Consideration of extraneous information which The Post-Gazette has not had the ability to respond to is a severe violation of The Post-Gazette's due process rights. As such, The Post-Gazette requests that the PUC refuse to consider Lyft's Petition for Interlocutory Review in ruling on The Post-Gazette's Petition.

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<sup>1</sup> Your letter cites to 52 Pa.Code § 5.423, which was repealed in 2013. It is believed you were referring to 52 Pa. Code § 5.365, titled "Orders to limit availability of proprietary information," which replaced the repealed section.

<sup>2</sup> The Petition for Interlocutory Review was published on the electronic docket on September 24, 2014.

<sup>3</sup> The Post-Gazette was not served with the Petition for Interlocutory Review.

<sup>4</sup> Lyft also refers to 52 Pa.Code § 5.423.

In the event the PUC declines The Post-Gazette's request, The Post-Gazette must be allowed the ability to file a responsive pleading to Lyft's Petition for Interlocutory Review for consideration by this Court. In your September 10, 2014 letter, you indicated that Lyft must address the factors prescribed under 52 Pa. Code § 5.365 in its Answer to The Post-Gazette's Petition. Lyft failed to do so in its Answer, to which The Post-Gazette filed a Response.

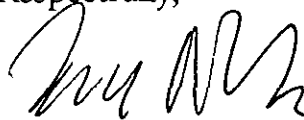
Subsequently, Lyft filed its Petition for Interlocutory Review addressing the factors prescribed under 52 Pa. Code § 5.365. Effectively Lyft has been allowed to circumvent the rights of The Post-Gazette to respond to its arguments.

Further, in its Petition for Interlocutory Review, Lyft includes the affidavit of Joseph Okpaku, Director of Public Policy for Lyft, as its basis for its claims of confidential and proprietary information. Notwithstanding the fact that the affidavit is conclusory in the extreme and provides no basis for why Mr. Okpaku is qualified to make such claims, it is the antithesis of due process to allow such an affidavit to be considered by the PUC without any opportunity for the opposing party to respond thereto.

If Lyft's Petition for Interlocutory Review is considered with respect to the issues raised in the Post-Gazette's Petition, consideration of the Okpaku affidavit is violative of The Post-Gazette's due process rights. As a result, a hearing should be scheduled by the PUC by which The Post-Gazette is afforded the opportunity to cross-examine Mr. Okpaku and to present evidence and testimony to dispute Lyft's claims in its Petition for Interlocutory Review.

As such, The Post-Gazette requests the PUC enter an order directing that it will not consider Lyft's Petition for Interlocutory Review in ruling on the merits of The Post-Gazette's Petition. In the alternative, The Post-Gazette requests the PUC enter an order allowing The Post-Gazette to file a response to Lyft's Petition for Interlocutory Review and scheduling a hearing on The Post-Gazette's Petition by which evidence and testimony can be presented by the parties.

Respectfully,



Frederick N. Frank

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cc: Administrative Law Judge Mary D. Long (via e-mail and First Class Mail)

Secretary Rosemary Chiavetta

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Administrative Law Judge Jeffrey A. Watson (via e-mail and First Class Mail)

Adeolu A. Bakare, Esquire, *counsel for Lyft, Inc.* (via e-mail)

Bohdan R. Pankiw, Esquire, *Chief Counsel for the PUC* (via email)

Michael S. Henry, Esquire, *counsel for Executive Transportation, Inc.* (via email)

David William Donley, Esquire, *counsel for JB Taxi LLC t/a Country Taxi Cab*  
(via email)

Samuel Marshall, *CEO & President of Insurance Fed. Of Pennsylvania* (via email)

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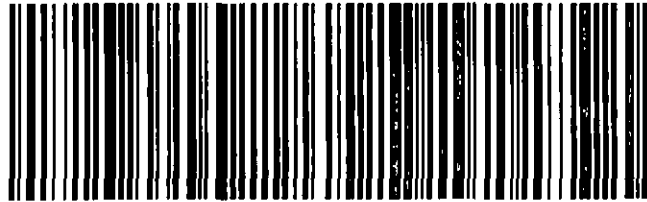
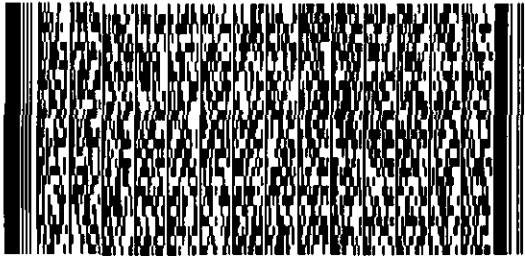
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