



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

October 6, 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 Protestant J.B. Taxi LLC's Motion to Strike 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 
Adeolu A. Bakare

Counsel to Lyft, Inc.

/lmc
Enclosure

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)
Certificate of Service

www.mwn.com

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

CERTIFICATE OF SERVICE

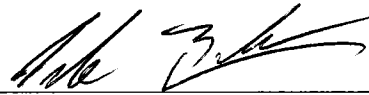
I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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

Michael S Henry, Esq.
Michael S. Henry LLC
Executive Transportation Inc
2336 S. Broad Street
Philadelphia, PA 19145
mshenry@ix.netcom.com

Samuel R. Marshall
CEO and President
Insurance Federation of Pennsylvania
1600 Market Street, Suite 1720
Philadelphia, PA 19103
smarshall@ifpenn.org
dwatson@ifpenn.org



Adeolu A. Bakare

Counsel to Lyft, Inc.

Dated this 6th day of October, 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 PROTESTANT J.B. TAXI LLC'S MOTION TO STRIKE**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Lyft, Inc. ("Lyft") files, pursuant to 52 Pa. Code § 5.61, this Answer to Protestant J.B. Taxi LLC's ("Protestant") Motion to Strike filed on September 26, 2014, in the above-referenced proceeding. In support thereof, Lyft avers and argues as follows:

I. BACKGROUND

1. On April 3, 2014, Lyft filed an Application at Docket No. A-2014-2415045 ("Allegheny County Application") with the Pennsylvania Public Utility Commission's ("Commission" or "PUC") requesting the issuance of a certificate of public convenience to operate as a Transportation Network Company ("TNC") and offer experimental service facilitating transportation between points in Allegheny County, Pennsylvania.¹ Specifically, Lyft offers a platform through which drivers can connect with passengers seeking transportation.

2. On August 29, 2014, after informally circulating copies of a draft Protective Order among parties to the proceeding, Lyft filed a Petition for Protective Order seeking to

¹ On April 3, 2014, Lyft also filed an Application at Docket No. A-2014-2415047 ("Statewide Application") requesting the issuance of a certificate of public convenience to operate as a TNC and offer a platform facilitating transportation throughout the Commonwealth of Pennsylvania.

protect its trip data as highly confidential, proprietary, and trade secret information that must be protected from public disclosure.

3. On September 2, 2014, Administrative Law Judges ("ALJs") Mary D. Long and Jeffrey A. Watson issued an Interim Order on Motion for Protective Order ("September 2 Interim Order") denying Lyft's request to protect the data related to the rides provided to passengers via Lyft's mobile application platform.

4. On September 3, 2014, ALJs Long and Watson presided over evidentiary hearings in the above-captioned proceeding. At the evidentiary hearings, the ALJs denied Lyft's request for a continuance of the hearing pending resolution of a pending Petition for Interlocutory Review of the September 2 Interim Order, but granted temporary protection of the trip data for purposes of the evidentiary hearing and the pending recommended decision, thereby allowing the hearing to continue while preserving Lyft's opportunity to file a Petition for Interlocutory Review of the September 2 Interim Order. The ALJs memorialized the grant of temporary protection in an Interim Order on Temporary Protective Order issued on September 10, 2014 ("September 10 Interim Order"). Under the terms of the September 10 Interim Order, the trip data "shall be protected only until the Commission renders a final decision on the above-captioned [Allegheny County and Statewide] applications or until the Commission renders a final decision on the proprietary status of the trip data." September 10 Interim Order, p. 2.

5. On September 23, 2014, Lyft filed a Petition for Interlocutory Review and Answer to a Material Question ("Petition") seeking review of the ALJs' September 2 Interim Order as necessary to prevent substantial harm and prejudice to Lyft resulting from expiration of the protective treatment granted by the September 10 Interim Order.

6. On September 26, 2014, Protestant filed a Motion to Strike, alleging that Lyft failed to comply with the procedural requirements of 52 Pa. Code § 5.302(a) and the ALJs' Interim Order issued on September 17, 2014, closing the record. For the reasons discussed below, the Commission should reject the Protestant's Motion to Strike.

II. ANSWER

7. Protestant argues that Lyft's "Petition fails to comply with the procedural requirements both as to time and as to conciseness, the latter to be measured as not more than three pages." Motion to Strike, p. 5 *citing* 52 Pa. Code § 5.302(a). In making this argument, Protestant fails to explain how Lyft's Petition is untimely. It is Lyft's understanding that its Petition was timely filed in compliance with 52 Pa. Code § 5.302(a), particularly as the September 10 Interim Order grants protected status through the Commission's final disposition of the Allegheny County Application which, based on the Commission's traditional Exception periods and the 2014 Public Meeting schedule, would not occur before the Commission's November 13, 2014 Public Meeting.² Pursuant to the 30-day review period set forth in 52 Pa. Code § 5.303, the Petition for Interlocutory Review would be decided at the October 23, 2014 Public Meeting, well in advance of the final disposition of the Application and as necessary to prevent harm and prejudice that would result absent a resolution of the Petition for Interlocutory Review before expiration of the temporary protection granted by the September 10 Interim Order.

8. As for Protestant's assertion that Lyft's Petition does not comply with the conciseness requirement of 52 Pa. Code § 5.302(a), Lyft recognizes that the Petition exceeded the three-page limit provided for in 52 Pa. Code § 5.302(a). However, the fact that Lyft omitted a formal request to waive the page limit does not support dismissal of the Petition. Section 1.2

² The Commission established an October 9, 2014 deadline for the Recommended Decision on the Allegheny County Application. The standard 15-day Exception period would extend beyond the October 23 Public Meeting, making November 13, 2014, the earliest possible date for final disposition of the Application.

of the Commission's Regulations explicitly authorizes and encourages the Commission to waive procedural requirements "if the waiver does not adversely affect a substantive right of a party." See 52 Pa. Code § 1.2. In this case, the additional information does not prejudice other parties, as they have an opportunity to file briefs in opposition to the Petition. To the contrary, the information set forth in the Petition furnishes critical provides critical context to assist the Commission in its disposition of this important matter. Therefore, Lyft requests that the Commission, pursuant to 52 Pa. Code §§ 1.91 and 5.43, waive the three-page limit set forth in 52 Pa. Code § 5.302(a) and accept Lyft's Petition. Alternatively, Lyft requests that the Commission accept pages 1-3 of the September 23, 2014 filing as the Petition for Interlocutory Review and consider the remainder of the filing as the supportive brief, which Lyft would be authorized to file pursuant to Section 5.302(b) of the Commission's Regulations. 52 Pa. Code § 5.302(b).

9. Lyft further avers that the Commission is not required to reject a filing for non-compliance. Specifically, 52 Pa. Code § 1.38 states that "[t]he Commission may reject a filing if it does not comply with any applicable statute, regulation or order of the Commission." (Emphasis added). Therefore, the Commission has discretion regarding whether or not to reject a filing for non-compliance. As described in detail above, Lyft's Petition does not prejudice other parties because all parties have an opportunity to file a responsive brief. 52 Pa. Code § 5.302(b). Lyft respectfully requests that the Commission exercise its discretion and accept Lyft's Petition or grant the alternative relief referenced in Paragraph 8, *supra*.

10. Protestant next claims that Lyft's Petition should be dismissed for failure "to comply with the requirements of the Rules of Administrative Practice and for failure to observe the Commission's Interim Order entered September 17, 2014, closing the record." Motion to Strike, p. 4. Protestant avers that Lyft's Petition fails to comply because Lyft "places additional

evidence in the form of an Affidavit of Joseph Okpaku, a witness who previously testified in these proceedings." *Id.* at 3. Protestant further alleges that this supplementation of the record after the record is closed would prejudice the other parties, especially because they no longer have an opportunity to cross-examine Mr. Okpaku. *Id.* at 6-8.

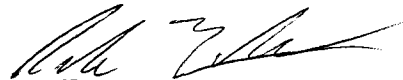
11. Protestant's assertions should be rejected by the Commission because Protestant misunderstands the purpose of Mr. Okpaku's Affidavit. The Affidavit does not become a part of the record for purposes of deciding the merits of the Application. Rather, the Affidavit is, and should be, reviewed by the Commission for the sole purpose of its ruling on Lyft's Petition. The Affidavit verifies the facts contained in Lyft's Petition consistent with 52 Pa. Code § 1.36. Therefore, contrary to Protestant's assertions, the other parties are not prejudiced by the Affidavit. The Affidavit simply provides verified information for the Commission to consider in determining whether Lyft's proprietary trip data should be protected from public release. Because the Affidavit does not become a part of the record for purposes of rendering a decision on the Application, Lyft's Petition does not disregard the ALJs' Interim Order closing the record in the Application proceeding, and the Commission should reject Protestant's arguments.

III. CONCLUSION

WHEREFORE, Lyft, Inc. respectfully requests that the Pennsylvania Public Utility Commission deny Protestant J.B. Taxi LLC's Motion to Strike.

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: October 6, 2014