

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE:

APPLICATION OF

A-2014-24105045

LYFT, INC.

A-2014-24105047

PROTESTANTS' JOINT REPLY TO EXCEPTIONS OF LYFT, INC.

Protestants, Concord Limousine, Inc., and Executive Transportation Company, Inc. (“Limousine Protestants” (both matters)), and Protestants, Aceone Trans Co., AF Taxi, Inc. AG Taxi, Inc. AGB Trans, Inc., Almar Taxi, Inc. ATS Cab, Inc, BAG Trans, Inc., BNG Cab Co., BNA Cab Co., BNJ Cab, Inc., Bond Taxi, Inc., BSP Trans, Inc., Double A Cab Co., FAD Trans, Inc., GA Cab, Inc., GD Cab, Inc. GN Trans, Inc., God Bless America Trans, Inc., Grace Trans, Inc., IA Trans, Inc., Jarnail Taxi, Inc., Jaydan, Inc. LAN Trans, Inc., LMB Taxi, Inc. MAF Trans, Inc., MDS Cab, Inc., MG Trans Co., Noble Cab, Inc., Odessa Taxi, Inc., RAV Trans, Inc., Rosemont Taxicab Co., Inc., S&S Taxi Cab, Inc., SAJ Trans, Inc., Saba Trans, Inc., SF Taxi, Inc., Society Taxi, Inc., Steele Taxi, Inc., TGIF Trans, Inc., V&S Taxi, Inc., VAL Trans, Inc., VB Trans, Inc., and VSM Trans, Inc. (“Medallion Taxicab Protestants” (Pennsylvania application only)) and Protestants, BM

Enterprises, Inc., t/a A.G. Taxi, Bucks County Services, Inc., Dee Dee Cab Company, Germantown Cab Company, Ronald Cab, Inc., t/a Community Cab, Shawn Cab, Inc., t/a Delaware County Cab and Sawink, Inc., t/a County Cab (“Non-medallion Taxicab Protestants” (Pennsylvania application only)), hereby submit their Exceptions to the Recommended Decision of the Administrative Law Judges (ALJ’s) in this matter.

I. INTRODUCTION

In its Exceptions to the ALJ’s Recommended Decisions in the above matters, Lyft states that “Lyft is not proposing that the Commission lower its safety standards; rather, Lyft is encouraging the Commission to reevaluate the applicability [sic] regulatory schemes designed for traditional motor carriers like taxis, to ensure that the rules and regulations applied to TNC’s are appropriate and in the public interest.” Lyft Exceptions, p. 5. Protestants assert that what Lyft is encouraging the Commission to do is to go beyond the scope of its statutory powers and become a policy maker to change the regulatory scheme established by the General Assembly so that is better suited to accommodate Lyft’s business model. But the Commission does not have the power to do what Lyft is asking.

Granted, the Commission has broad latitude to adopt a scheme of classification for motor carrier service and has done so under 52 Pa. Code

§29.13. But any such classification must fall within the standard adopted by the General Assembly when it adopted the definitions of “public utility”, “common carrier”, “motor carrier.” Commission does not have the authority to adopt a scheme of classification for motor carrier service for an entity that does not function as a motor carrier. It simply lacks the power to grant a certificate of public convenience under such circumstances.

Lyft has no relief in this matter. It must seek legislative changes through the legislature and encourage the General Assembly to reevaluate the applicable regulatory schemes designed for traditional motor carriers like taxis, to ensure that the rules and regulations applied to TNC’s are appropriate and in the public interest.

Protestants have filed exceptions to the Recommended Decisions on the basis that the Commission has no jurisdiction to entertain an application for authorization for a TNC to provide service in this Commonwealth. Protestants hereby incorporate those exceptions by reference as if they were fully set forth herein at length.

With regard to the other aspects of the Recommended Decision, Protestants asserted that, notwithstanding the lack of authority to act, the ALJ’s have properly recommended denial of the applications for the reasons set forth in therein. Lyft took many of the evidentiary requirements that the

Commission has adopted under 52 Pa. C.S.. §41.14 for granted in presenting its case in these matters. But second-hand reports produced by a well-orchestrated public relations campaign is not a substitute for real evidence. And Lyft presented very little real evidence in these matters.

REPLY TO EXCEPTION NO. 1

Lyft believes that the need for its services is self-evident and does require the formality of proof in accordance with the Commission's well-established procedures. Lyft seems to rely heavily on the fact that it is a technology company with a new and innovative product that enables transportation service to be provided as never before and that this fact alone is enough to make it impossible to conclude that the public wants and needs its service. But the evidence in this case demonstrated that "traditional" motor carriers use many of the same technological innovations Lyft proposes to use and has been using them for quite some time. The evidence demonstrates that Lyft is not so unique and innovative as to mandate a conclusion of public need in its favor.

There was no live public need testimony to support the application. This is puzzling in light of the broad claims of widespread demand for the service. It should have been easy for Lyft to produce a multitude of public witness demand approval of its application, yet no one appeared on its

behalf. Moreover, the documentary evidence submitted by Lyft did not comply with the Commission's rules regarding request evidence and should be given little, if any, weight.

REPLY TO EXCEPTIONS 2, 3, AND 4

With regard to the insurance issue, the ALJ's Recommended Decision properly raises concerns about the existence and adequacy of liability insurance coverage sufficient to protect the riding public that may use Lyft's service. All motor carriers authorized by the Commission to provide transportation service to the public provide liability coverage that insures the service vehicles on a continuous basis. Vehicles must be covered 24 hours a day, 7 days a week, 365 days per year, without exception. Liability for vehicles used in commercial transportation service may arise at any time in a multitude of ways that may not always be foreseen. The public is entitled to rely on the fact that they will have some recourse against any carriers authorized by the Commission no matter how or when a claim arises.

This is just part of the cost of providing a public service and the Commission should not lower its standards to accommodate Lyft's business model in this regard. Rather, Lyft should modify its business model to provide the level of protection provided by every other carrier and meet the heightened standard of care owed to the public by common carriers.

In any event, the Commission should not approve an insurance coverage scheme that depends on the actions of a driver to determine when and if coverage applies. In addition, it is unwise to approve a coverage scheme that will inevitably result in coverage disputes as the initial phase of almost every claim. Injured members of the riding public should not have to wage a battle over who is covering what before any addresses their legitimate losses.

Coverage should be clear, understandable and reliable. Lyft has not proposed to offer such coverage and its application should be denied on this basis. Lyft simply wants to avoid the costs that every other motor carrier authorized by the Commission must incur as requirement of doing business in this Commonwealth.

REPLY TO EXCEPTION 5

The ALJ's correctly decided that Lyft lacks technical fitness to provide the proposed service. Lyft's proposed inspection regime for vehicles is not adequate to protect public safety and does not reflect the standard of care owed to the public under the Commission's regulations to certify that the vehicles used to provide transportation service under the authority are safe for operation on the highways.

REPLY TO EXCEPTION NO. 6

The ALJ's correctly concluded that Lyft did not meet its burden regarding financial fitness as it presented no evidence on the issue.

REPLY TO EXCEPTION NO. 7

The ALJ's correctly concluded that Lyft had not demonstrated a commitment to providing safe, legal service. Lyft proposes to rake the profits from licensing its smartphone application without undertaking any of the responsibilities associated with running a transportation business. All of the burden of complying with safety standards and regulatory compliance fall on everyone other than Lyft. The ALJ's properly recommended denial of the application for these reasons.

CONCLUSION

For all of the foregoing reasons, the Applications should be denied.

Respectfully submitted,

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Date: November 3, 2014

CERTIFICATE OF SERVICE

I, Michael Henry, hereby certify that I mailed by first class mail, postage prepaid, a copy of the foregoing Brief to all parties on the Commission Service list.

Michael S Henry

Michael S. Henry

Date: November 3, 2014