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October 29, 2014

OCT 29 2014

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

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VIA FEDERAL EXPRESS

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Lyft, Inc.; Docket No. C-2014-2422713

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Lyft, Inc.,'s Answer to the Motion to Compel the Response of Lyft, Inc. to the Bureau of Investigation and Enforcement's Interrogatories and Requests for Production of Documents – Set II in the above-captioned proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please return a date-stamped copy in the envelope provided. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By

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)
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

OCT 29, 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, BUREAU OF
INVESTIGATION AND ENFORCEMENT
Complainant

v.

LYFT, INC.
Respondent

Docket No. C-2014-2422713

**ANSWER TO MOTION TO COMPEL THE RESPONSE OF LYFT, INC. TO THE
BUREAU OF INVESTIGATION AND ENFORCEMENT'S INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS – SET II**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Lyft, Inc. ("Lyft") files, pursuant to 52 Pa. Code § 5.342(g)(1), this Answer to the Bureau of Investigation and Enforcement's ("I&E") October 24, 2014 Motion to Compel ("Mot.").

BACKGROUND

On August 8, 2014, I&E propounded Interrogatories and Requests for Production of Documents – Set I ("Set I"). Set I consisted of two requests. Set I-Request No. 1 requested that Lyft "identify the number of transactions and/or rides provided to persons between points within the Commonwealth of Pennsylvania via connections made with drivers through [Lyft]'s website on the Internet, [Lyft]'s mobile application or [Lyft]'s digital software" during various periods. Set I-Request No. 2 sought "invoices, receipt, e-mails, records and documents" sent by Lyft to individuals in connection with those trips.

On August 18, 2014, Lyft filed objections to Set I-Request No. 2.¹ On August 29, 2014, I&E filed an Amended Motion to Compel Lyft's Response to Set I, and on September 3, 2014, Lyft opposed that motion. Lyft's primary opposition to Set I-Request No. 2 was that the requested documents may contain extensive personal information of Lyft customers, such as personal email addresses, telephone numbers, credit card information, and other highly sensitive information. Because Lyft did not object to Set I-Request No. 1, the parties engaged in discussions regarding a protective order that would cover Lyft's response to that request, and on September 10, 2014, I&E agreed to enter into a protective order.

On October 3, 2014, the Commission granted I&E's Motion to Compel with respect to Set I-Request No. 2 subject to several limitations. Notably, the Commission encouraged Lyft to negotiate a protective order with I&E that would address Lyft's concerns about disclosure of confidential information. On that same day, I&E propounded Interrogatories and Requests for Production of Documents - Set II ("Set II"). Set II included the same first two requests as Set I, and also added three additional requests seeking information relating to any cease and desist orders that Lyft has received in *other jurisdictions*. Lyft filed objections to Set II on October 14, 2014.

In light of the Commission's Order and the parties' prior agreement to enter into a protective order, Lyft informed I&E that it was in the process of redacting confidential information from documents responsive to Set I-Request No. 2 and would produce them as soon as possible. I&E agreed to that approach.

On October 24, 2014, I&E filed a motion to compel a response to Set II. In that motion, I&E made clear that it had no objection to entering into a protective order that would cover

¹ Lyft did not object to Set I-Request No. 1, and has produced the information requested, as evidenced by the fact that I&E amended its Complaint in this matter based on that production.

responses to Set II—“Simply, Lyft could easily designate its responses as ‘Confidential’ and provide the information pursuant to a Protective Order that limits the availability and public disclosure of such information.” Mot. to Compel Set II ¶ 22; *id.* ¶ 28 (“Additionally, the production of the requested documents in I&E Interrogatory Set II – No. [sic] can be made subject to a Protective Order that limits the availability and public disclosure of such information.”). Based on I&E’s representations in its Motion to Compel Set II, Lyft approached I&E to inform I&E that it was preparing to present the agreed-upon Protective Order to the ALJs.

However, in a shocking reversal, I&E informed Lyft on October 28, 2014, that it was no longer willing to support the protective order as to any documents produced in this matter—I&E waited until the day before Lyft’s response to the Motion to Compel Set II was due to share that information.

ANSWER

In response to Set II-Request Nos. 1 and 2, Lyft incorporates by reference the arguments raised in its Opposition to I&E’s Motion to Compel Set I, dated September 3, 2014, to preserve those arguments. Lyft recognizes that the Commission did not accept those arguments in its October 3, 2014 Order.

Accordingly, as I&E is fully aware, Lyft remains ready and willing to produce documents in response to Set II - Request Nos. 1 and 2 subject to a protective order, consistent with the terms previously agreed to by the parties.² But the recent conduct by I&E in this matter raises serious concerns with Lyft regarding the credibility of I&E. Lyft is simply unable to provide

² As explained in Lyft’s Petition for Interlocutory Review filed on October 10, 2014, responding to Set II-Request No. 2 would be a tremendous burden. Although Lyft, in good faith, is willing to begin that process, it maintains its burden arguments and will continue to seek to have that unnecessary burden lifted through the interlocutory review process. Nothing in this submission should be read as waiving or conceding points previously made.

I&E with highly confidential documents when I&E is willing to so wantonly abandon its prior representations—representations that it made to this Commission in its Motion to Compel Set II. Given that I&E is apparently unwilling to commit, for example, to not providing these documents to the media and to Lyft’s competitors, Lyft must protect its interests and will not produce any additional documents—in response to Set I or Set II—until it receives confirmation that I&E will comport itself consistent with the Commission’s October 3 Order and the statements it made in its Motion to Compel Set II.

With regard to Set II-Request Nos. 3 through 5, this case involves one question: did Lyft violate the laws or regulations of *Pennsylvania*? Yet I&E’s contested discovery requests demand information about cease and desist orders Lyft may be subject to in “other jurisdictions.”³ Mot. to Compel Set II ¶ 32. I&E claims that such information “will assist the Court in determining the appropriate civil penalty,” in part by showing Lyft’s “propensity” to comply with other jurisdictions’ regulations. *Id.* ¶ 33. That is not so. Lyft’s conduct outside of this Commission’s jurisdiction has no bearing on any question before the Commission in this case, including possible penalties. And, if I&E wants to place such conduct before the Commission anyways, I&E is more than capable of collecting the public documents it thinks it needs without conscripting Lyft to do its legal research.

First, Lyft’s conduct in other jurisdictions is by definition irrelevant to the Commission’s penalty determination in this case. The Commission would, respectfully, exceed its authority (and the Commerce Clause) if it were to assess a civil penalty based on Lyft’s conduct outside the Commonwealth. *See* 66 Pa. Con. Stat. §§ 2501, 2502. And even if the Commission had such authority, the discovery I&E seeks—particularly regarding Lyft’s “propensity” to comply with

³ Subject to objections raised in response to I&E’s First and Second sets of Interrogatories and the parties’ protective order, Lyft intends to produce documents responsive to Interrogatories I and II. The sole contested interrogatories are therefore Interrogatories III–V.

other regulators—has no relevance to any issue before the Commission, including whether I&E’s proposed penalty is patently unreasonable. To be clear, Lyft’s position has been and continues to be that I&E’s proposed penalty is patently unreasonable *under Pennsylvania law* (i.e., 66 Pa. Cons. Stat. Ann. § 3301).⁴ That is a question to be resolved under Pennsylvania law.⁵ I&E’s proposed discovery is therefore irrelevant and should not be compelled.

Second, if I&E is nonetheless determined to place Lyft’s experiences with other regulators before this Commission, it may attempt to do so. But it should be a burden borne by I&E, not Lyft, particularly as it relates to I&E’s irrelevant legal arguments.

CONCLUSION

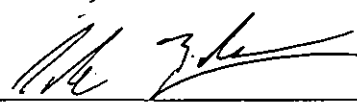
For these reasons, Lyft respectfully requests that I&E’s Motion to Compel be denied.

⁴ Specifically, the penalty is patently unreasonable because I&E improperly seeks to assess penalties on a per-violation instead of a per-day basis, as is required if the Commission finds a violation of its July 24, 2014 Opinion and Order. 66 Pa. Cons. Stat. Ann. § 3301(b).

⁵ The Commission may consider, for example, Lyft’s compliance history with regard to *the Commission’s* rules and regulations. 52 Pa. Code § 69.1201.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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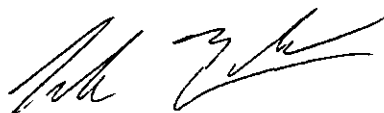
Dated: October 29, 2014

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

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Adeolu A. Bakare
Counsel to Lyft, Inc.

Dated this 29th day of October, 2014, in Harrisburg, Pennsylvania.

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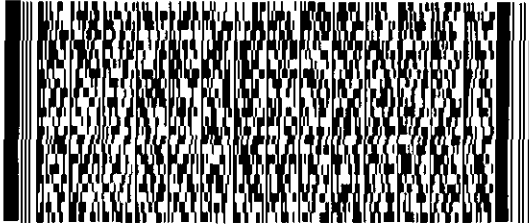
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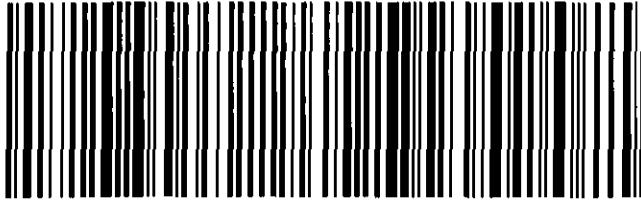
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