

November 18, 2014

VIA ELECTRONIC FILING

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

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

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is a Petition for Protective Order and Stay of Discovery on behalf of Lyft, Inc., in the above-captioned proceeding.

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

Sincerely,



Richard P. Sobiecki
Counsel for Lyft, Inc.
PA Attorney ID # 94366

Enclosures

- 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

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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Richard P. Sobiecki
Counsel for Lyft, Inc.

Dated this 18th day of November, 2014, in Washington, D.C.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, BUREAU OF
INVESTIGATION AND ENFORCEMENT

Complainant,

v.

LYFT, INC.

Respondent.

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Docket No. C-2014-2422713

**PETITION FOR A PROTECTIVE ORDER
AND STAY OF DISCOVERY**

Pursuant to 52 Pa. Code §§ 5.363, 5.365, Lyft, Inc. submits this Petition for a Protective Order and Stay of Discovery to protect Lyft’s highly confidential information and documents from being disclosed to the public, and more importantly, to Lyft’s competitors. In further support of its Petition, Lyft submits the witness statement of Joseph Okpaku (attached as Exhibit A).¹

INTRODUCTION

1. In the young but rapidly expanding ride-sharing industry, competition is fierce. Every Transportation Network Company (“TNC”) is seeking a way to not only improve its service, but to also gain an advantage over its competitors. While competition in a new industry is not unique, the way that TNCs compete is unique—they rely heavily, and almost exclusively, on data to assess and analyze their own performance against their competitors. For that reason,

¹ Lyft has conferred with I&E on this Petition and provided I&E with a copy of the proposed protective order (attached as Exhibit B). I&E has informed Lyft that it takes no position on whether the protective order should be entered.

TNCs zealously guard access to internal information and go to great lengths to prevent that information from being shared outside of the company.

2. Here, I&E has requested that Lyft produce highly confidential information and documents in discovery. Because all of the requested information and documents qualify for protection from disclosure under 52 Pa. Code § 5.365, Lyft respectfully requests that the presiding Administrative Law Judges (“ALJs”) enter the protective order attached as Exhibit B. As explained below, the requested information warrants protection because (i) Lyft has not shared the information with third-parties; (ii) Lyft goes to great lengths to prevent unauthorized access to the information; (iii) the information has significant value to both Lyft and its competitors (who would use it to seek a competitive advantage over Lyft); and (iv) it would be virtually impossible for a third-party to properly acquire or duplicate the information.

3. Further, if the requested protective order is not entered, and that decision is based in any part on the Order entered by the Pennsylvania Public Utility Commission (the “Commission”) on October 23, 2014 (the “October 23 Order”), then Lyft requests a stay of discovery pending final resolution of Lyft’s efforts to seek additional review of the October 23 Order.

FACTUAL BACKGROUND

4. Lyft is currently before the Commission in two proceedings: First, it has submitted an application for motor common carrier of persons in experimental service (“Experimental Proceeding”), and second, it is the respondent in this action brought by I&E (“Enforcement Proceeding”).

5. In the Experimental Proceeding, which serves a different purpose, has different parties, and has a different record than the Enforcement Proceeding, the Commission required

Lyft to provide information regarding “[t]he number of transactions/rides provided to passengers in Pennsylvania.” See Secretarial Letter at 2 (July 28, 2014). Lyft provided that information through live testimony on September 3, 2014. Although that testimony was initially sealed, on October 23, 2014, the Commission held that the testimony should be unsealed because, on the current record, Lyft had failed to show that the raw trip data disclosed at the hearing was highly confidential and proprietary. See October 23 Order at 17–20. Lyft petitioned for reconsideration of the October 23 Order, and on November 13, 2014, the Commission granted its petition. In addition to seeking reconsideration of the October 23 Order by the Commission, Lyft has sought relief in the Commonwealth Court of Pennsylvania to prevent disclosure of the September 3 testimony.²

6. In the Enforcement Proceeding, I&E has propounded two sets of Interrogatories and Requests for Production of Documents. The first two requests in each set are substantively identical; each request seeks the same information, but does so for different time periods. Request No. 1 asks Lyft to “identify the number of transactions and/or rides provided to persons between points within the Commonwealth of Pennsylvania” during various periods (“raw trip data”). Request No. 2 seeks “any and all invoices, receipt, e-mails, records and documents” sent by Lyft to individuals in connection with those trips (“customer contact data”). Lyft will refer to the raw trip data and customer contract data collectively as the “Requested Information.”

7. After Lyft submitted objections to each set, and I&E moved to compel a response, the ALJs granted I&E’s motion to compel a response to Request Nos. 1 and 2.³ Lyft now seeks a

² See *Lyft v. Pa. Pub. Util. Comm’n*, No. 1980 C.D. 2014 (Nov. 3, 2014) (Petition for Review & Emergency Application for Stay).

³ Lyft did not object to Request No. 1 in Set I, and it provided a complete response to that Request on September 11, 2014. Lyft produced that information based on agreement with I&E

protective order to prevent disclosure of the highly confidential and proprietary information sought by Request Nos. 1 and 2.

ARGUMENT

I. A Protective Order Is Appropriate Because I&E's Discovery Requests Seek Trade Secrets And Highly Confidential Information And Documents.

8. The Commission's regulations provide that several factors should be considered when determining whether a protective order should be entered to protect disclosure of trade secrets and highly confidential business information: (i) the extent to which the disclosure would cause unfair economic or competitive damage; (ii) the extent to which the information is known by others and used in similar activities; (iii) the worth or value of the information to the party and to the party's competitors; (iv) the degree of difficulty and cost of developing the information; and (v) other statutes or regulations dealing specifically with disclosure of the information. 52 Pa. Code § 5.365. Here, those factors weigh heavily in support of a protective order, as discussed in detail in the attached statement of Joseph Okpaku, Director of Public Policy for Lyft.

9. Initially, Lyft notes that, although the Commission did address whether Lyft's raw trip data was proprietary in its October 23 Order, the October 23 Order is not dispositive here.⁴ The Commission's analysis was performed in a different proceeding, with different parties, on a different factual record, for a different purpose (as was the ALJs' analysis of this issue in their September 2, 2014 Interim Order). Unlike the Experimental Proceeding, this Enforcement Proceeding is more akin to civil or criminal litigation. In that context, as the Commonwealth

that it would be kept confidential. I&E has kept that information confidential, and it is Lyft's understanding that I&E will continue to do so pursuant to the parties' agreement.

⁴ Notably, whether the information sought in Request No. 2—customer contact data—is highly confidential and proprietary was not before the Commission and therefore the October 23 Order plainly has no bearing on that issue.

Court has explained, “discovery is an open process among the parties to litigation, but it is not an open process between the parties to litigation and the public.” *MarkWest Liberty Midstream & Res. v. CAC*, 71 A.3d 337, 345 n.15 (Pa. Cmwlth. 2013). Thus, “restraints placed on discovered, but not admitted, information are not a restriction on a traditionally public source of information.” *Id.* (citing *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 32 (1984)). For those reasons, the ALJs should not view themselves as bound by the October 23 Order and should assess Lyft’s Petition on the current record and the arguments before it. Based on that record, the ALJs should find that Lyft has satisfied its burden under Section 5.365.

10. First, the Requested Information has significant value to Lyft and its competitors for several reasons. Both the raw trip data and the customer contact data provide important insights into use of the Lyft app during a specific period of time—the initial roll out of the service, which is the most critical time when a TNC enters a new market. Lyft uses that information to assess its success, project potential revenue, analyze its marketing efforts, and to make decisions regarding additional resource deployment in that market. If the Requested Information is shared with Lyft’s competitors, they could use that information to not only mount a marketing campaign against Lyft, arguing that drivers and passengers should use their service instead, based on Lyft’s purported lack of success in Pittsburgh (regardless of whether their claims are accurate), but they could also use it readjust their own allocation of resources to better compete with Lyft in that market. And, with regard to customer contact data, that information would essentially provide Lyft’s competitors with a roadmap for attempts to poach drivers and passengers who use the Lyft app. It would also provide a tool for substantiating Lyft’s trip data,

which is exactly the reason I&E is requesting the information.⁵ Lyft is not alone in seeking to protect information regarding trip data. Uber apparently values its trip data so highly that it is willing to ignore the Commission's request for it. *See* Exceptions of Raiser PA LLC to Recommended Decision at 8, Docket No. A-2014-2416127 (Oct. 10, 2014). The fact that the two main competitors in a burgeoning market are fighting vigorously to prevent the other (and others) from obtaining certain information is all-but dispositive evidence that the information is valuable.

11. Second, Lyft has invested significant time and resources to prevent third-parties from accessing its raw trip data. Protecting the information is essential because it would be virtually impossible for a third-party to identify Lyft's raw trip data for any city, and even more difficult for a third-party to gain access to the information sought by I&E in Request No. 2, disclosure of which would result in a trove of information regarding every single trip taken in Pennsylvania being shared with Lyft's competitors.

12. Finally, even if disclosure of some or all of the Requested Information is ultimately necessary, forced disclosure at this time would be especially damaging to Lyft because it would be doing so unilaterally. It would be unfair and unjust for Lyft's competitors to have the benefit of Lyft's data while not having to suffer the cost of disclosing their own data.

II. In The Alternative, Discovery Should Be Stayed Pending A Final Determination Of Whether The Requested Information Is Entitled To Protection.

13. If the ALJs conclude that a protective order is not warranted based on the October 23 Order, Lyft requests a stay of discovery until Lyft's efforts to have that order reversed are exhausted. For reasons explained in Lyft's Petition for Reconsideration, filed with the

⁵ *See Pa. Pub. Util. Comm'n v. Lyft, Inc.*, Dkt. No. C-2014-2422713, ¶ 17 (Aug. 28, 2014) (I&E's Motion to Compel Answers to Set I, arguing that the requested information is "necessary for I&E to properly evaluate the extent of Lyft's transportation activities").

Commission on November 3, 2014, the October 23 Order was flawed, e.g., it based its conclusion that the trip data was not proprietary in part on the assertion that it was not confined to a particular market, when in fact it *was* confined to a particular market (Allegheny County, Pennsylvania), as confirmed by another portion of the October 23 Order, and Lyft is using all available process to correct it. If Lyft's information is disclosed before it can obtain such review, then the review becomes pointless, as the information can never be un-disclosed. The harm to Lyft from a disclosure that may ultimately be determined to have been erroneous would be plainly irreparable.

14. Conversely, a brief discovery stay will have no impact on I&E's ability to pursue this enforcement action. And, to the extent the public does have an interest in eventual disclosure, that interest is outweighed by the public's interest in protecting trade secrets and in affording parties like Lyft with meaningful process to protect them. *See Crum v. Bridgestone/Firestone N. Am. Tire, LLC*, 907 A.2d 578, 583–84 (Pa. Super. 2006) (“The right to confidentiality in matters involving propriety and trade secrets is rooted in public policy and impacts on individuals and entities other than those involved in the current litigation.”) (quoting *Dibble v. Penn State Geisinger Clinic, Inc.*, 806 A.2d 866, 870 (Pa. Super. 2002)).

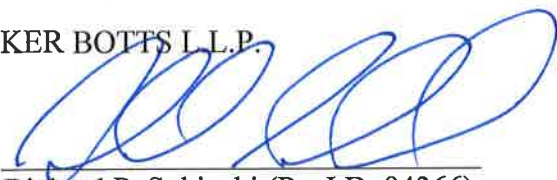
CONCLUSION

15. For the foregoing reasons, Lyft requests that its Petition for Protective Order and Stay of Discovery be granted.

Respectfully submitted,

BAKER BOTTS L.L.P.

By



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Counsel to Lyft, Inc.

Dated: November 18, 2014

EXHIBIT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, BUREAU OF
INVESTIGATION AND ENFORCEMENT

Complainant,

v.

LYFT, INC.

Respondent.

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Docket No. C-2014-2422713

**VERIFIED STATEMENT IN SUPPORT OF PETITION
FOR PROTECTIVE ORDER AND STAY OF DISCOVERY**

I, Joseph Okpaku, declare as follows:

1. I am the Director of Public Policy for Lyft, Inc. (“Lyft” or the “Company”). The following statement is based on my personal knowledge and is correct to the best of my knowledge.

Introduction

2. I understand that Lyft has been ordered to produce to the Bureau of Investigation and Enforcement (“I&E”) two sets of information.

3. First, Lyft must 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 certain periods. I will refer to this information as “raw trip data.”

4. Second, Lyft must identify and produce any and all invoices, receipts, e-mails, records and documents that Lyft sent to individuals in relation to rides they received 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 certain periods. I will refer to this information as "customer contact data," and will refer to both raw trip data and customer contact data as the "Requested Information."

5. Lyft began operating in Allegheny County, Pennsylvania in February 2014, which in effect means that Lyft began operating in Pittsburgh in February 2014. The Lyft app has never been used outside of Allegheny County. The Requested Information thus concerns specific data for a specific mid-sized city during a specific period of time, i.e., the initial roll out of the Lyft app. I am submitting this statement to explain why the Requested Information is highly confidential to Lyft.

The TNC Model

6. To best describe why the trip data is highly confidential, I must first discuss the emerging Transportation Network Company ("TNC") industry.

7. The TNC model, which helps drivers connect to passengers, is a new concept. Although informal ride sharing, through the use of bulletin boards and websites like Craigslist, has existed for years, there has never before been a mobile service that enables drivers and passengers to be matched instantly. This model represents a stark change from the more familiar call-and-demand service that taxicabs provide. But change does not happen overnight. TNCs are in a constant effort to educate the public on the benefits of their service and on how they operate. Further, unlike cab companies, which are located in nearly every city and town in the United States, TNCs are present in a very small fraction of cities and their existence is known by an even smaller fraction of people in those cities. TNCs fiercely compete for their business.

8. In terms of gaining market share, it is well-known that individuals are more likely to stay with what they know first. As a result, TNCs, including Lyft, place great importance on

their initial roll out in a city. Those first few months are key to assessing the success of their marketing efforts and of the service itself, which then informs future roll outs.

9. The decision to enter a market is not a minor one. Lyft is not Starbucks; it does not have the resources to saturate multiple markets at one time. Lyft carefully selects each market in which it offers its service and creates a detailed plan for how it intends to succeed in that market.

10. Most TNCs initially began operating in major cities, such as Chicago and Los Angeles, for obvious reasons—the greater the population, the greater the number of potential drivers and passengers. Although the size of those cities did not prevent stiff competition among TNCs, their size left more room for multiple TNCs to operate. In mid-sized cities like Pittsburgh, however, which have a fraction of major cities' population and population density, the lower number of potential drivers and passengers means that it may not be possible to support multiple TNCs, placing particular emphasis on being the first established TNC in the market. That is exactly the scene that is playing out across the country right now, including in Pennsylvania. TNCs are battling each other to claim significant market share in “uncontacted” mid-sized cities.

11. One result of that competition is that TNCs are constantly assessing their distribution of limited resources. If a TNC senses that it may be at risk of losing or failing to capture market share in a mid-sized city, then it may decide to increase its efforts to improve its market share or it may conclude that its resources would be better used elsewhere.

12. It is important to note that, while every city is different, many cities share important similarities. TNCs, just like countless other businesses, use information gained in one city to help inform their business decisions in other, similar cities.

The Requested Information is Highly Confidential

13. Lyft is not alone among TNCs in seeking to protect its raw trip data. In a noteworthy event last year, Uber's trip data, along with other data, was leaked to the media. *See* TechCrunch, *Leaked Uber Numbers, Which We've Confirmed, Point to Over \$1B Gross, \$213M Revenue* (Dec. 4, 2013) (attached as Exhibit 1). According to that article, Uber's CEO took aggressive action to prevent the information from being published.

14. The main reason that Lyft goes to such great lengths to protect its raw trip data is because of the significant value it has to Lyft and to Lyft's competitors. The information is valuable on both a micro- and macro- level.

15. On a micro-level, the raw trip data for the roll out in a given city, especially a mid-sized city, is valuable because it tells Lyft's competitors how Lyft is doing in that city, how successful Lyft's marketing efforts have been (and whether they should be replicated), and how (and where) its resources can be better allocated to compete with Lyft. Thus, while the fact that Lyft operates in Pittsburgh is public, the extent of Lyft's success in mid-sized cities like Pittsburgh—where TNCs' competition is currently fiercest—is kept decidedly non-public. If Lyft's competitors were to gain insight into the success of Lyft's service in a new, mid-sized city, I have no doubt that the information would be used to place Lyft at a competitive disadvantage, not just in that city, but in other cities around the country. As discussed above, Lyft's competitors, among other things, could use the Requested Information to reallocate their own resources and also to target drivers and passengers using the Lyft app.

16. Customer contact data involves an even greater degree of confidentiality because it involves disclosing specific information such as departure and arrival points. If competitors of Lyft were able to discern the specific travel patterns of drivers and passengers who use the Lyft app, they could easily use that information to gain a competitive advantage—for example, a

competitor could seek to flood a certain area at a certain time in an attempt to undercut Lyft's success in that area. Lyft also has reason to believe that other TNC employees have in the past used fake rides to harm users of the Lyft app. Greater insight into the location of the users of the Lyft app would allow such attacks to be that much more successful.

17. On a macro-level, Uber and Lyft are new companies using a revolutionary technology. For that reason, pundits have questioned the long term viability of the industry along with potential revenue and profit. There is widespread curiosity among the media, tech analysts, and others for insight into the success (or lack thereof) of TNCs. *See* TechCrunch, *Hey Uber, Lyft Is Growing Faster Than You* (Dec. 18, 2013) (attached as Exhibit 2). But, as is the case with many new industries and companies, a snapshot of a moment of time is unlikely to paint an accurate picture of the company's past successes or future prospects. That fact does not, however, prevent the media and analysts from speculating wildly as to the significance of that snapshot. And, unfortunately, for drivers, passengers, investors, and competitors, perception is often more important than reality. If Lyft is forced to disclose one small piece of its overall puzzle, it could lead to unfounded speculation as to Lyft's overall success, harming Lyft's interests. It could also assist analysts and Lyft's competitors in gaining insight into highly confidential financial information through their potential ability to extrapolate activity in Pittsburgh to other cities and the country as a whole.

18. Absent forced disclosure, it would be highly difficult, if not impossible, for a third-party to independently determine raw trip data and customer contact data in Pittsburgh.

Unilateral Disclosure Would Be Especially Harmful to Lyft

19. While disclosure of the Requested Information would itself harm Lyft, disclosure would be even more damaging if Lyft's competitors were not required to disclose at the same time. I can envision a scenario where one of Lyft's competitors would attempt to use Lyft's

disclosure as a way to build up its own brand. For example, a rival TNC could attempt to recruit drivers who currently use the Lyft app by asserting that it has connected more drivers and passengers than Lyft in Pittsburgh, and therefore, drivers should use it because it dominates the market. As it stands, Lyft would have no ability to rebut such claims because it would not have its competitors' trip data or customer contact data. A rival TNC could also attempt to dissuade drivers and passengers from using Lyft based on Lyft's disclosure of the data, arguing that it reflects a lack of concern for customer privacy. Although such an allegation would not be true, Lyft would still be harmed by simply having to rebut it, especially when the TNC would not be susceptible to the same claim because it would not have provided any trip data.

20. Lyft would also be harmed by unilateral disclosure because it would have no ability to assess its performance in Pittsburgh against a rival TNC's performance. Whatever differences there may be, rival TNCs will be given a head start in analyzing and responding to the Requested Information. Regardless of whether Lyft obtains the same data at some point in the future, it may not matter because the damage will have already been done in the interim.

I hereby verify that the statements made in this Verification are true and correct to the best of my knowledge and belief. The undersigned understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

November 14 2014



Joseph Okpaku

EXHIBIT B

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

Complainant,

V.

Lyft, Inc.

Respondent.

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Docket No. C-2014-2422713

[PROPOSED] PROTECTIVE ORDER

IT IS ORDERED THAT:

1. This Protective Order is hereby granted with respect to all materials and information produced in this action (“Produced Material”), by any party to the above-captioned action (“Party”) or nonparty thereto (collectively, the “Producing Party”). All persons granted access to Produced Material shall use and disclose such information only in accordance with this Protective Order.

2. The Producing Party may designate as “Highly Confidential” any Produced Material that the Producing Party in good faith represents not to be in the public domain and either to contain any trade secrets as that term is defined under Pennsylvania law, or to contain other confidential or proprietary information, including, without limitation, financial, strategic, research, development, manufacturing costs or other costs of doing business, technical, personal or commercial information, or any other information not normally revealed to third parties or, if revealed to third parties, is such that the Producing Party would require that the Produced Material be held in confidence.

3. Nothing in this Protective Order shall be construed to require a Party to produce or disclose documents or information not otherwise required to be produced under applicable rules or orders. Production or disclosure of "Highly Confidential" material under this Protective Order shall not prejudice the right of any Producing Party to maintain the trade secret status or confidentiality of that information in other contexts.

4. Nothing in this Order shall restrict in any way a Producing Party's use or disclosure of its own information and material for any purpose, regardless of how such information or material is designated under this Protective Order. Nothing in this Order shall restrict in any way the use or disclosure by the party receiving any Produced Material (the "Receiving Party") of: (i) any information which is lawfully in the public domain; (ii) any information which lawfully becomes part of the public domain as a result of publication not involving a violation of this Order; (iii) any information that was received by a Receiving Party whether before or after the disclosure, from a source who obtained the information lawfully and under no obligation of confidentiality to the Producing Party; (iv) any information that was independently developed by it after the time of disclosure by personnel who have not had access to the Producing Party's material; (v) any information used or disclosed with the consent of the Producing Party; or (vi) any information used or disclosed pursuant to a court order or an order of this Commission.

5. Highly Confidential material shall be made available to the Commission and Commission Staff (including I&E) for use in this proceeding. For purposes of filing, to the extent that Highly Confidential material is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Highly Confidential

material is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Highly Confidential material shall be permitted or prohibited only as set forth in this Protective Order.

6. Highly Confidential material shall be made available to counsel of record in this proceeding pursuant to the following procedures.

a. "Highly Confidential" material shall be produced for inspection by a Party's counsel of record only, except that the Commission and Commission Staff shall have access to it. No person who may be entitled to receive, or who is afforded access to any Highly Confidential material shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

b. No other persons may have access to the Highly Confidential material except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Highly Confidential material shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

7. Prior to making Highly Confidential material available to any person as provided in Paragraph 4 of this Protective Order, counsel for the Producing Party must receive a written acknowledgment from that person in the form attached to this Protective Order and designated as Appendix A.

8. A Producing Party shall designate data or documents as constituting or containing Highly Confidential information by affixing an appropriate “Highly Confidential” or proprietary stamp or typewritten designation on such data or documents. To the extent feasible, where only part of data compilations or multi-page documents constitutes or contains Highly Confidential Information, the Producing Party shall designate only the specific data or pages of documents which constitute or contain Highly Confidential information.

9. Any public reference to Highly Confidential information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Highly Confidential information to understand fully the reference and not more. The Highly Confidential information shall remain a part of the record, to the extent admitted, for purposes of administrative or judicial review.

10. Parts of any record in this proceeding containing Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as mentioned in ordering Paragraph 9 above, shall be sealed for all purposes, including administrative and judicial review, unless such Highly Confidential Information is released from the restrictions of this Order, either through the agreement of the Parties or pursuant to order of the Administrative Law Judge or the Commission. Unresolved challenges arising under Paragraph 9 shall be decided, on motion or petition, by the presiding officer or the Commission as provided by 52 Pa. Code § 5.365(a).

11. The Parties affected by the terms of this Order shall retain the right to question or challenge the admissibility of Highly Confidential information; to refuse or object to the production of Highly Confidential information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Highly

Confidential information beyond that allowed in this Order; and to seek additional measures of protection of Highly Confidential information beyond those provided in this Order.

12. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Highly Confidential information shall be immediately returned upon request to the Party furnishing such Highly Confidential information. In the alternative, Parties may provide an affidavit of counsel affirming that the materials containing or reflecting Highly Confidential information have been destroyed.

13. A Party shall use commercially reasonable efforts, including restrictions in engagement letters and employment policies and the filing of appropriate legal actions, to prevent its employees, former employees, counsel, expert witnesses, and consultants who were involved in this proceeding from unlawfully disclosing or otherwise misusing, both during and after this proceeding, Highly Confidential information furnished during the course of this proceeding.

14. In the event that a Producing Party inadvertently or unintentionally fails to mark qualified Highly Confidential material, the Producing Party shall, promptly upon discovery of the failure, notify the Receiving Party and take the following corrective action:

- a. The Producing Party promptly shall notify all persons who have received the Highly Confidential material that the materials are designated Highly Confidential, and must be treated as designated in this Protective Order;
- b. The Producing Party shall take all reasonable steps to place the applicable “Highly Confidential” label on the designated material; and

- c. The Receiving Party shall treat all copies of the newly designated materials (regardless of the designations they formerly bore) as set out in this Protective Order.
- d. If the Receiving Party disagrees with the redesignation of the Produced Material it may challenge the confidentiality designation pursuant to and in the manner prescribed in Paragraph 11.

15. Any violation of this Protective Order will be presumed to result in irreparable harm to the Producing Party.

16. If any Party (i) is subpoenaed in another action, (ii) is served with a demand in another action to which it is a party, or (iii) is served with any other legal process by one not a party to this litigation, seeking Produced Material that was designated as Highly Confidential (the "Subpoenaed Party"), under this Protective Order, the Subpoenaed Party shall transmit a copy of such subpoena, demand, or legal process within five (5) business days of receipt of such subpoena, demand or legal process, to the Producing Party that produced the Produced Material and shall reasonably cooperate with the Producing Party in maintaining the status of the information, pursuant to the terms of this Protective Order.

17. Any Party may, on motion or other request to the Court and for good cause shown, seek a modification of this Protective Order, and, by its agreement to this Protective Order, no Party shall be deemed to have waived the right to modifications later sought by such Party.

Dated: _____, 2014

Mary D. Long
Administrative Law Judge

Jeffrey A. Watson
Administrative Law Judge

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

Complainant,

V.

Lyft, Inc.

Respondent.

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Docket No. C-2014-2422713

TO WHOM IT MAY CONCERN

The undersigned is the _____ of _____ (the retaining Receiving Party) and is not, or has no knowledge or basis for believing that he/she is: (1) an officer, board member, stockholder, partner or owner other than stock of any competitor of _____ (the "Producing Party") or an employee of any competitor of the Producing Participant who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the Producing Participant; or (2) an officer, board member, stockholder, partner, or owner other than stock of any affiliate of a Competitor of the Producing Participant.

The undersigned has read and understands the Protective Order that deals with the treatment of Highly Confidential information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order.

SIGNATURE

PRINT NAME

ADDRESS

DATE

EMPLOYER