

December 17, 2014

VIA ELECTRONIC FILING

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

Rich Sobiecki
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Re: NOTICE OF SUPPLEMENTAL AUTHORITY

Application of Lyft, Inc. (Experimental Service in Allegheny County) (A-2014-2415045)

Application of Lyft, Inc. (Experimental Service in Pennsylvania) (A-2014-02415047)

Application of Lyft, Inc., For Emergency Temporary Authority to Operate An Experimental Transportation Network Service Between Points in Allegheny County, PA (A-2014-2432304)

Dear Secretary Chiavetta:

I am writing on behalf of Lyft to respectfully notify the Commission of recent authorities that are relevant to the Commission's consideration of the above-captioned pending proceedings.

First, on October 27, 2014, Lyft filed a Petition for Partial Reconsideration of the Commission's October 10 Order, which extended Lyft's emergency authority to operate in Allegheny County. That Petition remains pending. Lyft requested, in part, that the Commission revisit its decision to prohibit drivers using the Lyft app from using vehicles that are more than 8 years old or have more than 100,000 miles on the odometer. *See* Lyft Petition for Partial Reconsideration ¶¶ 35-41. In support of its decision to impose that requirement, the Commission cited Title 52, Section 29.314 of the Pennsylvania Code, which at that time imposed an 8-year age limit on taxis (but imposed no mileage restriction).

However, as of November 19, 2014, the Commission amended Section 29.314 such that it now only prohibits the use of taxis that are (a) more than 10 years old or (b) have more than 350,000 miles on the odometer. *See* Annex A to Final Rulemaking Order, Dkt. No. L-2013-2349042 (Nov. 19, 2014). At the same time, the Commission also amended section 29.333 to eliminate the age limit for limousines and to instead impose a limit of 350,000 miles.

Given that the Commission emphasized the need to regulate Lyft “consistent with current regulatory requirements,” *see* Order Regarding Emergency Temporary Authority at 4, Dkt. No. A-2014-2432304 (Oct. 10, 2014), Lyft requests that the Commission take into account the current versions of section 29.314 and section 29.333 when considering Lyft’s Petition for Partial Reconsideration and its applications for experimental temporary authorization. While Lyft maintains its position that any age/mileage restrictions are unnecessary and counterproductive, at the very least, Lyft submits that only the ten-year age limitation should apply.

Second, in its Petition for Partial Reconsideration, Lyft requested that the Commission revisit its decision regarding Lyft’s obligation to require drivers using the Lyft app to notify their insurance companies of that fact. *See* Petition for Partial Reconsideration ¶¶ 20–34. In the interim, with respect to an application for experimental temporary authorization submitted by Raiser-PA (Uber), the Commission held that Uber must provide primary coverage during “Stage One,” i.e., the period during which a driver is using the application and can be matched with a passenger but has yet not been so matched.¹ Opinion and Order at 57, Dkt. No. A-2014-2416127 (Dec. 5, 2014). Such a requirement, if also applied to Lyft, would obviate any possible need for Lyft to require communications between drivers and their insurance companies because Lyft will affirm that drivers have *primary* insurance anytime they are using the Lyft platform to accept or deliver rides.

Third, on November 3, 2014, Lyft sought reconsideration of the Commission’s October 23 Order, which held that Lyft’s raw trip data should not be protected from disclosure because it was not proprietary information. On November 13, 2014, the Commission agreed to reconsider the October 23 Order. Two events since November 13 are relevant to the Commission’s reconsideration.

In an order entered December 5, 2014, the Commission held that Raiser-PA (Uber) could submit its trip data to the Commission on a confidential basis and the Commission would treat it as such. *See* Opinion and Order, Appendix A, Dkt. No. A-2014-2416127 (Dec. 5, 2014). Given that the Commission has now agreed to treat Uber’s trip data as confidential, consistency dictates that Lyft be afforded the same treatment. Further, in a separate proceeding brought against Lyft by the Bureau of Investigation and Enforcement (“I&E”), the presiding Administrative Law Judges (the “ALJs”) recently held that Lyft’s trip data, *inter alia*, was proprietary and entered a protective order preventing disclosure of that information. The ALJs acknowledged that disclosure of the trip data (i) would cause Lyft to suffer a competitive disadvantage, (ii) was developed at cost, and (iii) has value to Lyft’s competitors. *See* Interim Order on Motion for Protective Order at 4, Dkt. No. C-2014-2422713 (Dec. 3, 2014). The ALJs also found it to be “clear that the information [requested by I&E from Lyft] is not generally shared by

¹ Lyft currently provides primary insurance coverage in Stages 2 and 3.

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transportation network companies,” citing Raiser-PA (Uber)’s refusals to turn over similar information. *See id.*

Accordingly, Lyft requests that the Commission take into account its treatment of Raiser-PA (Uber) and the ALJs’ Order granting Lyft’s motion for a protective order when reconsidering the October 23 Order.

To the extent that the Commission believes further information on these matters would facilitate its consideration, Lyft is prepared to make an additional submission at the Commission’s request. If the Commission believes that others should be provided with an opportunity to respond to this letter, Lyft has no objections to postponing the Commission’s consideration of Lyft’s pending applications.

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

cc: Robert F. Powelson, Chairman (via e-mail and First Class Mail)
John F. Coleman, Jr., Vice Chairman (via e-mail and First Class Mail)
James H. Cawley, Commissioner (via e-mail and First Class Mail)
Pamela A. Witmer, Commissioner (via e-mail and First Class Mail)
Gladys M. Brown, Commissioner (via e-mail and First Class Mail)
Jan H. Freeman, Executive Director (via e-mail and First Class Mail)
Mary Beth Osborne, Directory of Regulatory Affairs (via e-mail and First Class Mail)
Paul Diskin, Director of Bureau of Technical Utility Services (via e-mail and First Class Mail)
Bohdan R. Pankiw, Chief Counsel of Law Bureau (via e-mail and First Class Mail)
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)
Counsel of Record
Certificate of Service

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Given that the Commission emphasized the need to regulate Lyft “consistent with current regulatory requirements,” *see* Order Regarding Emergency Temporary Authority at 4, Dkt. No. A-2014-2432304 (Oct. 10, 2014), Lyft requests that the Commission take into account the current versions of section 29.314 and section 29.333 when considering Lyft’s Petition for Partial Reconsideration and its applications for experimental temporary authorization. While Lyft maintains its position that any age/mileage restrictions are unnecessary and counterproductive, at the very least, Lyft submits that only the ten-year age limitation should apply.

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