BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Application of Lyft, Inc.	:	Docket Nos. A-2014-2415045 and
	:	A-2014-2415047

The Objections of the Insurance Federation to the Lyft, Inc. Compliance Plan

Introduction

Lyft, Inc. ("Lyft") has filed a Compliance Plan that largely mirrors that filed on December 24, 2014 by Rasier. Our objections are largely the same, too: This Compliance Plan fails to assure the public will be protected by the insurance terms the Commission established in its December 18, 2014 Order. Lyft professes much but offers little. Its Plan is so cursory, so presumptive and so incomplete that it can't be said to technically or minimally satisfy the Commission's Order with respect to insurance. And it certainly can't be said to comply with the overriding objective of protecting the public by making sure Lyft drivers and their cars will be properly, knowingly and accountably insured when operating in this Commonwealth.

The Commission should rule that Lyft's Compliance Plan is incomplete and inadequate with respect to the insurance conditions in its Order, and it should withhold issuing a Certificate of Public Convenience until Lyft files a Plan that clearly and meaningfully complies with those conditions.

The Shortcomings of Lyft's Compliance Plan
With Respect to the Commission's Insurance Conditions

1. **Insurance coverage during Stages 1 through 3 – primary and in what amounts**

The Commission's Order, at p. 43, says it "will accept Lyft's proposed insurance levels during Stages 2 and 3" and that "during Stage 1, Lyft shall comply with the minimum requirements for insurance coverage set forth in Section 32.11(b) of [the Commission's] regulations." The Order stresses that Lyft's coverage during all three stages "must be the primary coverage, *regardless* of any insurance coverage held by Lyft's driver." The Order also says, at p. 46, that Lyft must file a Form E certificate affirming this coverage.

Lyft's Compliance Plan claims it has done this, as evidenced by the Form E certificate filed on January 16 by James River Insurance Company, a surplus lines carrier.

The Form E certificate, however, does not outline the coverage in the underlying policies that purportedly satisfy the insurance the Commission requires. Unlike a similar Form E certificate James River filed on behalf of Rasier, this certificate doesn't even mention the policy's liability limits at any stage.

The Commission is left with Lyft's unsubstantiated and obtuse statement in its Plan that it "has obtained primary liability insurance coverage for its experimental transportation network service for Stage 1 at coverage liability levels equal to or in excess of Commission regulations for motor carriers, plus $1,000,000 coverage for Stages 2 and 3."

Granted, Lyft goes on to indirectly provide more detail on its coverage in its section outlining what it will tell its drivers about its coverage – but that raises more questions than it provides answers.

First, Lyft's descriptions do not match or exceed the minimum coverage required in Section 32.11(b) of the Commission's regulations. Just as Rasier did, Lyft ignores the second half of Section 32.11(b):

> This coverage shall include first party medical benefits in the amount of $25,000 and first party wage loss benefits in the amount of $10,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits shall conform to 75 Pa.S.C. Sections 1701-1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certified vehicles shall meet the requirements of 75 Pa.C.S. Section 1711 (relating to required benefits).

Second, Lyft's statement that its coverage will be primary leaves out a key term from the Commission's order – "*regardless* of any insurance coverage held by Lyft's drivers." Maybe that's what Lyft intends – maybe that is what the policy provides. But given how evasive Lfyt has been throughout this proceeding on the specifics of its insurance coverage, this needs clarification: "Primary" isn't always as sure as it sounds.

The Commission should examine the underlying James River policies and any endorsements. The Form E certificate Lyft has attached to its Plan is evidence of nothing more than that there is a policy, which may or may not provide the coverage the Commission and its regulations require. In fact, Lyft's brief and indirect "description" of

the coverage suggests the policy does not do that, or at least raises questions. Without looking at the policies themselves, the Commission has no way of verifying this.

2. Insurance coverage during Stage 0 – "valid and current liability insurance"

The Commission's Order, at p. 44, says "with respect to Stage 0, the Commission accepts Lyft's proposal to require its drivers to provide proof of valid and current liability insurance, consistent with 75 Pa.C.S. Sections 1702 and 1711, during this period."

Lyft states that it will require its drivers "maintain and provide proof of current personal liability insurance for Stage 0...." That's the right goal – but the point of a Compliance Plan is not just to set the goal, but to outline *how* it will be achieved. Lyft doesn't do that. Notably, it doesn't suggest any verification with its' drivers' insurers, which is the one sure way of knowing if the driver has the requisite insurance. As the Commission has noted, "trust but verify" is a fair standard, for Lyft's drivers as well as Lyft.

Lyft's failure to explain "how" – here and with the rest of its Compliance Plan - will mean not just an invitation to non-compliance by Lyft, but an inability for the PUC to effectively and efficiently monitor Lyft's compliance efforts. We are mindful of the Commission's limited enforcement resources, as is Lyft. The Commission should make sure Lyft's Compliance Plan is capable of being readily monitored. The Commission

can't determine that without knowing how Lyft intends to verify that its drivers have proper coverage during Stage 0.

Stage 0 coverage is not an afterthought, or icing on the cake. It is the starting point: Unless a driver has insurance coverage during this stage, it may not matter what coverage Lyft provides in the other stages, because the driver and his vehicle are operating unlawfully. That goes to the importance of ascertaining from Lyft what happens with its coverage at Stages 1 through 3 if a driver fails to have Stage 0 coverage: Will Lyft still cover accidents during those stages if a driver turns out not to have valid coverage during Stage 0? That question was never fully answered in the administrative hearing, with Lyft suggesting it was moot because its drivers would always have that Stage 0 coverage. That's great – but that requires a true plan for ongoing monitoring, not just a restatement of the goal.

3. Clear and adequate information to the drivers of their Rasier-provided insurance coverage in Stages 1 through 3

The Commission's Order requires, at p. 44, that "Lyft must notify drivers, *in writing*, of the levels of insurance coverage it is providing during all three stages, including whether it is providing comprehensive and collision coverage during service." The Commission's Appendix A makes the logical clarification that "Lyft clearly and adequately inform drivers" of this.

As with everything else related to the Commission's insurance conditions, Lyft's Compliance Plan is so cursory as to be nonresponsive. It says it will inform its drivers of its insurance coverage "in writing through electronic notification" "during the driver on-boarding process." The coverage it outlines is awash in technical terms – perhaps correct, but without any explanation. It is more likely incomplete, too, at least based on what Lyft has shared so far.

That isn't clear or adequate. First, the "driver on-boarding process" may itself be convoluted, or at least complex in terms of various documents, waivers, requirements and the like. Absent an illustration of how and when Lyft intends to share this insurance information during that process, and an illustration of that process itself, it is impossible to evaluate its clarity or adequacy, as it could easily be lost in the shuffle of other documents.

Second, Lyft's description of its coverage for Stages 1 through 3 is anything but clear or adequate. It has offered an outline, not an explanation, of its coverage, and it has used terms unlikely to be understood by its drivers. That is in contrast to how insurance policies issued to consumers work, where the regulatory structure is designed to ensure genuine clarity of terms and conditions. The Commission should require the actual documents Lyft intends to use, and how it intends to share them with its drivers, and decide for itself how clear and adequate they are.

Third, Lyft apparently does not intend to give its drivers printed or printable documentation of this insurance. It makes no mention of providing them with certificates of insurance or copies of the insurance policies themselves, or of telling them who the insurer is. It offers nothing about how the drivers can review those policies for themselves. Its drivers are counting on this coverage (it seems the only thing Lyft is providing them beyond a faux pink mustache - the drivers bear all the other costs). Lyft should explain how its drivers will know the details of this coverage and any limits.

The Commission should be especially vigilant in light of Lyft's past conduct: At the administrative hearing, it didn't produce its insurance policy until the day of the hearing, and even then only after objecting. It wasn't a simple policy, to say the least. A driver will want access to more than the incomplete outline in Lyft's Compliance Plan, especially if he wants to run this by his own insurer to avoid any gaps or personal liability exposure.

4. Instructing drivers on what to do in the event of an accident

The Commission's Order requires, at p. 44, that Lyft "instruct drivers regarding the appropriate protocol to be followed in case of an accident."

Lyft's Compliance Plan is laughably minimalist: It says only that it will inform its drivers, during the on-boarding process and only electronically and as one of four

insurance-related subparagraphs, that "in the event of an accident during Stages 1, 2 and 3, drivers shall produce evidence of Lyft's insurance."

What are the drivers to produce? It does not appear they are given any meaningful "evidence" of their Lyft-provided coverage. Lyft makes no mention, by way of example, of giving its drivers an insurance card with a policy number or other identifiable contact information. This needs more disclosure – to the Commission, to its drivers, to law enforcement and accident claimants, and ultimately to consumers.

From what Lyft has filed in this Compliance Plan, all a driver has is some electronic notification of hard-to-understand coverage that was given to the driver at some point during the on-boarding process. From that, Lyft suggests the driver has readily-accessible evidence of his Lyft insurance? That wouldn't satisfy a police officer or accident victim. It shouldn't satisfy the Commission, either.

More glaring, Lyft's Compliance Plan offers nothing in the way of actual instruction of its drivers on appropriate accident-related protocol. If the only "instruction" is that they produce evidence (albeit non-existent evidence) of their Lyft insurance, drivers and accident victims will be ill-served. Lyft should be required to give true instruction to its drivers – who they should call, within what time frame, what they should say and do with their other insurance, what information they should collect from passengers or other vehicles or accident victims, and how they are to file a report of the accident with Lyft and with James River.

Lyft should also explain how drivers and other claimants are to access its policy. Lyft has been resistant and obtuse in sharing details of its policy with the Commission. But after an accident, the policy becomes the controlling document. The Commission needs to ensure that Lyft has it readily available as part of its instructing its drivers on what to do after an accident.

Lyft is offering an obscure notice to its drivers about producing evidence it doesn't give them. That's not a Compliance Plan – that an Avoidance Plan, and thwarts the need for consumer protection when it is most intense, right after an accident.

5. Requiring drivers to verify they contact their insurers

The Commission's Order states at p. 44, "we will require Lyft to direct all drivers, conspicuously in written or electronic form, to notify their insurer, *in writing*, of their intent to operate in Lyft's service" – with drivers verifying that they will do so within a specified period of time. The Commission explained that such notification "serves a critical purpose for drivers and the public by ensuring that the driver's services with Lyft do not result in circumstances of lapsed personal coverage and uninsured motorists on our highways."

Lyft's Compliance Plan again circumvents meaningful compliance. It says it will give a potential driver this notice during the on-boarding process, with the driver's verification not due until 30 days after he has been approved by Lyft and gets activated. That's it for explaining how Lyft plans to comply with this condition, one it is still fighting in this proceeding and one it purported to accept but subsequently ignored under the Commission's July 24, 2014 ETA Order – conduct which should make the Commission look for more detail, not the ambiguous and incomplete window-dressing Lyft offers here.

Lyft doesn't provide the documents or an example of the notice it plans to give its drivers. It doesn't even repeat the Commission's requirement that this be conspicuous and in written or electronic form, and it makes no mention of the driver stating his intent is to be a Lyft driver, so there is no way of evaluating whether its direction satisfies the Commission's Order. Unlike Rasier's Compliance Plan, Lyft at least has its drivers notifying their insurers, not just their agents – although that distinction should be clarified. This is a case where seeing is the only means of believing: The Commission needs to see the notice Lyft will provide and how and when it will do so.

The Commission also recognized this direction, and the driver's verification that he has notified his insurers, should be a precondition to becoming a Lyft driver, not an afterthought. The time-frame Lyft proposes invites the types of problems the Commission wants solved. Who knows how much time may pass between when Lyft informs its drivers of this (it happens sometime in the "on-boarding process," whatever

that means) and when the driver becomes activated. That could be fairly long – and on top of that, Lyft wants an additional 30 days. That frustrates the purpose behind this notification: Drivers and the public should know of possible ramifications on their personal insurance coverage "prior to the time that insurance coverage may be necessary." Commission's December 18, 2014 Order at p. 45.

Lyft's drivers – the people it professes are its partners – and the public deserve more, and the Commission's Order asks for more. Absent verification from the drivers' personal insurers, not just the drivers, some gaps in this notification may be inevitable. But they are greatly curtailed if the Commission requires that Lyft set the time a driver verifies he has talked to his insurer as prior to his becoming activated by Lyft.

Finally, Lyft's Compliance Plan makes no mention of what it will do if a driver fails to provide verification that he notified his insurer of his intent to be a Lyft driver. Presumably, a driver's failure to provide such notification will mean immediate deactivation from Lyft's platform – but if these proceedings have shown anything, it is that presumptions are a false promise with Lyft.

6. The problem of current Lyft drivers

The Commission's Order applies to all Lyft drivers, not just future ones. That is the only logical result, since the insurance conditions provide protections that are essential for all

drivers, passengers and consumers, not just those who may have dealings or claims with only the subset of future Lyft drivers.

Lyft's Compliance Plan, however, seems prospective only, applying only to drivers it will obtain in later "on-boardings." We know from the administrative hearing that it hasn't given its current drivers much information, whether on insurance coverage, accident protocol or notice to their personal auto insurers – so there can be no argument that current drivers should be "grandfathered." Applying the Commission's Order to current drivers is not only logical but long overdue.

7. Identifying the people responsible for implementation

The Commission's Order, at p. 57, requires that the Compliance Plan identify "who will be responsible for implementing each condition" – the necessary ingredient of accountability.

Lyft has named two individuals, both working out of its San Francisco office. That's a lot of work for two people a continent away, both of whom have other functions, too. That goes to a deficiency throughout the Compliance Plan: It is unduly limited in what it discloses, and suggests minimal attention. These two individuals may be qualified leaders within Lyft – but to get a true of how committed Lyft is to compliance, the

Commission needs to know how much staffing Lyft is prepared to devote. That will presumably take more than two people with much broader responsibilities.

Conclusion

Enough is enough. Lyft's Compliance Plan leaves the Commission, its drivers, its passengers and the public in the dark on the Commission's insurance conditions. It isn't so much a hollow promise of compliance as a thinly-veiled attempt to evade those conditions. It should be rejected.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

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