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January 29, 2015

Chairman Robert F. Powelson
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
3rd Floor, Room N-304

Re: Lyft, Inc. Compliance Plan
A-2014-2415045
A-2014-2415047

Dear Chairman Powelson:

This letter will respond to the Compliance Plan submitted by Lyft, Inc. (“Lyft”) in response to the Commission’s order dated December 18, 2014, and will supplement our Answer to Lyft’s Motion for Reconsideration in the above matters.

First and foremost, Lyft is operating in defiance of the Commission’s directives will begin operating in Philadelphia on January 30. This alone should be enough to deny Lyft a Certificate of Public Convenience. Lyft’s Compliance Plan is wholly inadequate. The Plan ignores the concerns of the Commission and assumes a hands-off approach to what should be stringent regulatory compliance. The Commission should not permit Lyft to avoid standards that apply to all other motor carriers in Pennsylvania.

Driver Integrity

Lyft’s background check process faces the same issues as its rival, Uber, because the background check process cannot ensure that the information in the background check report is actually associated with the applicant.

Although not explicitly required in the Commission’s Order, not having in-person background checks makes the background check process meaningless. It does not matter how comprehensive your background check is if the information you obtain has nothing to do with the person signing on to be a driver.

Motor carrier service requires people to get into cars with strangers. For this reason, every motor carrier in Pennsylvania has a duty to properly vet its drivers and to maintain ongoing supervision over them. This is achieved by meeting with prospective driver in-person and verifying identity documents so that the motor carrier can be assured that an applicant’s criminal background check matches the applicant’s identity and vehicle registration. Frequent contact with drivers also enables motor carriers to identify potential problem drivers before they harm the public. Drivers may be strangers to the public, but they should not be strangers to a motor carrier if it is doing its job properly.

Although Lyft claims that it trains employees and mentors to conduct driving instruction exercises called “ride alongs” with new drivers as part of the registration process. Lyft’s Exc. at 25 (citing Tr. at 335), Lyft Compliance Plan states reported that the individuals responsible for complying with the Commission’s driver integrity requirements will be based in San Francisco. The “ride alongs” were one of the factors the Commission considered when it chose to conditionally grant Lyft its experimental license. Obviously, there will be no “ride alongs” in Pennsylvania to ensure driver integrity. This is a pure bait and switch by Lyft.

Lyft barely knows the people who drive its vehicles. All communications by Lyft with its applicants are conducted electronically. Lyft cannot possibly monitor all of its drivers from San Francisco and only communicating with drivers electronically is not enough. The Commission should reconsider allowing Lyft to act as an absentee motor carrier with no real connection to its drivers. The Commission will bear part of the responsibility for future attacks on the public if it grants special treatment to Lyft that allows it to avoid standards that apply to other motor carriers.

Vehicle Safety

Lyft’s plan fails to meet the vehicle safety requirements outlined in the Commission’s Order. The Commission explicitly stated that Lyft must ensure that drivers’ vehicles remain in continuous compliance with the Commission’s vehicle safety standards. Such compliance cannot be achieved remotely from San Francisco.

Vehicle safety is an everyday responsibility. Responsible motor carriers inspect their vehicles on a regular and frequent basis. Responsible motor carriers have multiple layers of protection to ensure vehicle maintenance and safety. They use the eyes and ears of their owners, managers, shift supervisors, mechanics and professional drivers to prevent problems before they happen. Many accidents and breakdowns are avoided with hands-on supervision.

Lyft never assumes custody of the vehicles that are used to provide its service (which is why they are not “motor carriers” under the Code). Nonetheless, Lyft’s plan fails to meet the vehicle safety requirements outlined in the Commission’s Order. Instead, Lyft shifts all responsibility for compliance onto its drivers rather than conducting its own vehicle safety checks. Lyft’s drivers are not certified or examined by the Commission, thus they cannot be expected to know the Commission’s rules and regulations. Lyft does not provide any indication that it will educate its drivers on these rules and regulations or ensure that drivers know such rules even exist.

Even if drivers are educated, it is Lyft, not drivers, that must be held responsible for ensuring vehicle safety. At a minimum, Lyft must detail how it will personally conduct vehicle safety checks. Drivers cannot be relied upon, especially because the Commission does not certify them. Sending a mere email to its drivers instructing them to comply with PennDOT and Commission regulations does not satisfy Lyft’s obligations to the public.

Additionally, Lyft’s plan for markings is wholly inconsistent with the Commission’s regulations. 52 Pa. Code § 29.71 provides that “A common carrier shall paint or affix on each side of each motor vehicle operated in certificated service by him in letters of at least 2 inches in height and at least 1/2 inch in width, the name or registered insignia, if approved by the Commission, of the carrier and the number of the certificate of public convenience as follows: “Pa.P.U.C. No. A—”.

Lyft’s proposed pink Lyft placard, i.e. a piece of paper in the windshield of the vehicle, is neither painted nor affixed and is located inside the vehicle, not on the outside of each side of the vehicle as contemplated by the statute. Additionally, Lyft makes no mention of painting or affixing its CPC number

on each side of drivers' vehicles. Drivers will be able to remove the proposed placard at-will, even when operating in Stages 1, 2 or 3, because it is not affixed. This may lead to drivers fraudulently asserting to the public, insurance companies and/or enforcement agencies that they were not operating in a commercial capacity, thus allowing Lyft to dodge its responsibilities. In addition to these deficiencies, Lyft does not provide how drivers will obtain markings or how Lyft will ensure that the markings are actually displayed. Yet again, Lyft proposal falls short.

The Commission simply cannot expect that Lyft's vehicle safety plan will succeed if it grants Lyft special treatment that allows it to operate as an absentee carrier. Lyft cannot, as the Commission's regulation require, certify that the vehicles that provide its service are safe for use on the highways because it never assumes custody over the vehicles or even sees the vehicles being used. Custody and hands-on regulatory compliance equals responsibility and is the essence of motor carrier service under the Code.

Insurance

Lyft's proposed insurance plan does nothing to address the insurance concerns of the Commission. To start, individual drivers and their vehicles are not listed on the Form E filed with the Commission, so it is unclear whether Lyft's insurer will even cover drivers utilizing Lyft's digital platform.

Adding to the confusion is Lyft's practices when it comes to reporting accidents. According to a Forbes article dated January 18, 2015, when another car sideswiped a Lyft' driver's while he was carrying a passenger, the driver reported the accident to Lyft and expected the company to handle the claim. But a customer service representative told him that if he wanted to use Lyft's collision coverage, he had to report to the accident to his personal insurance. 'If your personal insurance denies your claim, then Lyft's contingent collision policy will step in,' the rep wrote. Lyft actually emailed the driver three or four times saying, '[C]an you report to your personal insurance and see if they'll cover?' The Commission cannot let such activities go unchecked.

Additionally, requiring drivers to provide proof of liability insurance once per year is insufficient. A driver could easily provide Lyft with proof of insurance on January 1, cancel his policy the next day and then drive without insurance for the remainder of the year without any consequences. Lyft does not provide any details as to how it will ensure that drivers maintain insurance coverage. Because the Commission does not have authority over the drivers, and thus cannot sanction them for failing to maintain coverage, Lyft must be held responsible if its drivers do not carry proper insurance. Lyft should be required to periodically spot check drivers to make sure they are adequately insured. Such an important issue should not be left to chance.

Lyft does not outline how it will educate its drivers on what to do in the event of an accident. Lyft also does not state whether drivers will carry proof of Lyft's commercial policy in their vehicles or how they will obtain such proof of insurance. Lyft must be required to provide insurance cards to its drivers and instruct its drivers to present proof of Lyft's insurance policy in the event of an accident. Lyft's plan also does not provide where and how insurance claims should be filed. Because the Commission does not have the authority to penalize drivers, Lyft must be held responsible for drivers' actions.

Also, simply asking drivers to verify that they will review the terms of their insurance policies with their personal insurers is unsatisfactory. Lyft must outline how it is going to ensure that drivers report their commercial activities to their insurance companies and comply with the Commission's regulations. Having a driver certify that he will do so isn't enough. For example, how will anyone find

out if a driver does not speak to his insurer? Lyft must be responsible for obtaining independent verification from insurers that the drivers did in-fact report their commercial use.

Lyft also does not provide for repercussions if drivers fail to contact their personal insurers. At a minimum, drivers who fail to comply with this requirement should not be permitted to use Lyft's platform and Lyft should be held responsible if such a driver is permitted to use the platform. Again, because the Commission is not licensing these drivers, the drivers have no duty to comply with the Commission's regulations. In order to be held accountable to the public, Lyft must be held responsible for the failures of its drivers.

The Commission is playing with fire and putting the public at risk if it grants special treatment to Lyft and approves this insurance plan. The Commission cannot guess about insurance coverage for authorized service or facilitate insurance fraud. The Commission requires each insurance carrier that covers a vehicle providing authorized service to file proof of insurance. This ensures that required coverage will be in place or that insurance fraud is not being committed. Every other carrier must meet this requirement and so should Lyft. Requiring E-Form filings for drivers will ensure that every insurance carrier knows it is underwriting motor carrier service and that the Commission is notified when coverage is cancelled so that it may take appropriate action to protect the public.

Waiver of Regulations

Lyft does not state how it will ensure that transportation services are not provided in areas where Lyft does not hold authority. The burden of such compliance should be on Lyft, not on its drivers.

If Lyft is not licensed to operate in certain counties in PA, Lyft should be required to program its App so that consumers requesting rides in un-certificated areas cannot do so. i.e. since Philadelphia County is excluded from Lyft's CPC, the App must be programmed so that customers cannot request rides from within Philadelphia County. Lyft, not its drivers, should be tasked with operating within the confines of its CPC.

Additionally, Lyft should be required to program its App such that drivers who reside outside of the Commonwealth cannot pick up passengers in Pennsylvania. For example, many of the drivers that were fined by the Philadelphia Parking Authority for operating TNCs illegally in Philadelphia resided outside of Pennsylvania. These drivers are subject to an entirely different set of laws and Lyft does not have the Commission's authority to use these drivers to provide transportation services in Pennsylvania. Accordingly, the Commission should require that the Lyft App be programmed in such a way that out-of-state drivers cannot pick up passengers in Pennsylvania.

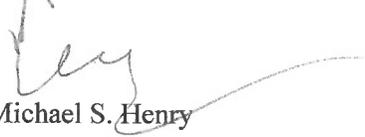
Lyft must be held accountable for ensuring that the activities of its drivers comply with the Commission's regulations.

Conclusion

Time and time again Lyft has proven itself untrustworthy and unreliable. Its attempt to deceive the public and thwart the efforts of regulators should not be rewarded. Instead of taking responsibility for its actions, Lyft attempts to shift the burden of regulatory compliance onto its drivers while asking the Commission for special treatment. If the Commission grants Lyft authority pursuant to its Compliance Plan, the Commission will expose the public to great potential harm.

Thank you for your time and attention.

Respectfully submitted,



Michael S. Henry

cc: Vice Chairman John F. Coleman, Jr.
Commissioner Pamela A. Witmer
Commissioner James H. Cawley
Commissioner Gladys M. Brown

All parties of record