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March 28, 2016

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

**RE: COMMENTS TO PROPOSED RULEMAKING**  
**52 Pa. Code Chapters 1, 3, 5, 23 and 29**  
**Docket No. L-2015-2507592**  
**Our File No.: 04527**

Dear Ms. Chiavetta:

The within comments are submitted on behalf the Pennsylvania Taxi and Paratransit Association (PTPA) by its undersigned counsel Ray F. Middleman and Malone Middleman, P.C.

**INTRODUCTION**

The Proposed Rulemaking by the Public Utility Commission is disfavored by the members of the PTPA for the following basic reasons: (1) the proposed regulations functionally deregulate an already competitive and difficult industry; (2) requiring tariff approval while opening entry into the marketplace creates a situation which is not conducive to "free market" pricing reaction by the carriers; (3) deregulation has not successfully worked in any other jurisdiction; and (4) the proposed rulemaking creates geographic and operational problems for carriers.

**COMMENT**

1. **Deregulation of a saturated industry**

As the PUC acknowledges, there are 1,127 certificated taxi carriers in the Commonwealth. Outside of Philadelphia and Pittsburgh, many small town and rural taxi companies can barely survive in the best of times. Competition is fierce between the carriers that have invested in their taxi business. When the fuel surcharge was in effect several years ago, many of the carriers competing in smaller markets refused to implement the surcharge for fear that other local carriers would effectively be charging less by not adding the surcharge to their tariff. The mid-sized and smaller carriers do not support the

contention that more competition is needed in their market areas. They believe that more regulation and more PUC enforcement is required to keep jitney service and other types of carriers on the same level playing field. In the smaller markets, opening the taxi business to more potential operators will cause destructive competition. The PTPA incorporates by reference the 3 academic studies attached hereto in support of why open entry into the taxi market is not favored.

The PUC has to take into account the fact that Uber and Lyft have had a significant impact, already, in the marketplace. If you consider small market operators, with significant investment (usually via personal rather than corporate funds) in their business now having to deal with neighbors (literally) driving their mini-vans (at no cost) as Uber or Lyft drivers – the impact of further competition is a death blow to some operators.

The PTPA strongly urges the PUC not to allow open entry.

## 2. Tariff approval

The PTPA suggests to the PUC that the “short form” tariff change mechanism is not helpful to its members if there is to be entry deregulation. While limousines, movers and TNC companies have freedom to set their own rates without PUC involvement, taxi operators will have to wait months for submission of forms; review of financial information; analysis of rationale of the tariff change; and approval by the PUC. It is a huge burden and cost to the carriers and to the PUC.

Further, the fact that there is tariff approval required at all puts taxi carriers at a huge disadvantage to TNC carriers. Taxis and TNCs serve the same basic markets. To allow TNCs to surge price or rate adjust at their whim – while taxis wait months for PUC approval - is simply anti-competitive. Overall, there seems to be no consideration of integration between taxi and TNC regulations. They should, arguably, have nearly the same regulations. They service the same basic marketplace, and the two types of service should not be treated so differently as to give TNC carriers an advantage in setting their own rates and tariff while taxi cannot.

## 3. Deregulation does not work

Deregulation has not worked in any area where it has been implanted. (See studies attached hereto). The truth is that deregulation has had the following impact:

- a. increased costs for processing the applications for service;
- b. increased costs for processing more tariff changes;

- c. increased costs of enforcement of regulations against small operators who are undercapitalized – there will be more carrier violations, not fewer;
- d. increased costs of protests as more carriers protect their shrinking tariff; and
- e. more destructive competition over the same number of fares.

Historically, the consumer suffers from deregulation and the carriers suffer the loss of, potentially, over 50 years of regulated service. Regulation has been the cornerstone upon which PTPA members have invested millions of dollars. Knowing that every carrier had to play by the same rules facilitated investment in vehicles; technology; staff; and the like. History, as set forth in the attached studies, shows us that existing carriers face financial loss; loss of control over the quality of service they can deliver; loss of price control; and loss of investment. The carrier loses and the consumer loses.

By taking “need” and “demand” considerations out of the application process, the PUC contends that protests will become non-existent. The Commission asserts that there will be a savings of \$4.5 million as a result of there being no protests. The PTPA believes that there will be more protests based upon criteria such as “fitness” and “propensity for safe operations.” There would seem to be an increase in the urgency that protests be filed because the service areas will be more vigorously defended by those who have been certificated.

#### 4. Geographic and operational challenges

The PUC proposes that all carriers be granted Commonwealth wide operating rights unless they specifically request less. It is the PTPA’s position that the applicant should specify the area(s) in which they seek to operate. If authority is granted, then the authority extends only to the areas requested. Once certificated, if a carrier wishes to expand or contract their area(s) of service, all they need to do is advise the PUC that they wish to redefine their service area(s).

No carrier can service the entire Commonwealth. Carriers, obviously, are now required to service all calls. If a Carrier has Commonwealth wide authority, then they can be fined for a Code violation if they refuse service – even if the passenger is hundreds of miles away. This issue needs to be addressed.

Of primary concern to PTPA members is that their interests and investments be protected. Uber and Lyft (TNC companies) have changed the playing field and marketplace significantly. In small towns, a family operated taxi business, built over years of investment with PUC regulation, instantly suffered competitive disadvantage by the advent of uncertificated TNC operators. It has been difficult enough for

most taxi carrier to adjust to the TNC invasion – let along a deregulated marketplace with open entry for other taxi companies.

**CONCLUSION**

The PTPA urges the PUC to forego market entry deregulation. In fact, rather than doing away with “need” and “demand” the PATPA would suggest that criteria be developed to define empirical guidelines as to what constitutes “need” and “demand”. In this way, the marketplace for taxi and TNC carriers can be controlled so that the consumer and the carriers are protected from destructive competition.

One of the most serious concerns of PTPA members is that the PUC keep the regulation of taxi and TNC companies on a level playing field. Pending legislation in the form of Senate Bill 984 appears to attempt to bring taxi and TNC carrier regulation into a realm of consistency. The legislation does not contemplate deregulation.

The PTPA believes that market entry deregulation should not be sought at this time because it conflicts with the legislative direction seen in Senate Bill 984.

Respectfully submitted,



Ray F. Middleman

RFM/kjb  
Enclosures