



July 22, 2016

VIA HAND DELIVERY

David P. Zambito
Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of Lyft, Inc. for Issuance of an *Ex Parte* Emergency Order; Docket No. P-2016-_____

LYFT, INC. PETITION FOR ISSUANCE OF *EX PARTE* EMERGENCY ORDER

Dear Secretary Chiavetta:

Enclosed for filing with the Commission please find Lyft, Inc.'s Petition for Issuance of an *Ex Parte* Emergency Order in the above-referenced proceeding. A copy of this document has been served in accordance with the attached Certificate of Service.

If you have any questions regarding this filing, please direct them to me. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for Lyft, Inc.

DPZ/kmg
Enclosure

cc: Honorable Gladys M. Brown, Chairman
Honorable Andrew W. Place, Vice Chairman
Honorable Robert F. Powelson, Commissioner
Honorable John F. Coleman, Vice Chairman
Honorable David W. Sweet, Commissioner
Per Certificate of Service

RECEIVED
2016 JUL 22 PM 2:40
PA PUC
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Lyft, Inc., For Issuance of an *Ex* : Docket No. P-2016 _____
Parte Emergency Order : _____

RECEIVED
2016 JUL 22 PM 2:40
PA PUC
SECRETARY'S BUREAU

PETITION FOR ISSUANCE OF *EX PARTE* EMERGENCY ORDER

Lyft, Inc. ("Lyft") petitions the Pennsylvania Public Utility Commission ("Commission") to issue an *ex parte* emergency order pursuant to the Commission's regulations at 52 Pa. Code §§ 3.2, 3.3.

I. INTRODUCTION

Southeastern Philadelphia is currently facing a regional rail crisis that limits the public's options for rail transportation into and out of the City. The limitation on regional rail transportation is expected to last through Labor Day. The crisis is exacerbated by the fact that the Democratic National Convention begins next week (July 25-28, 2016), and the City anticipates 50,000 visitors, all of whom will not have access to rail transportation that the City would otherwise have available.

In light of the rail crisis and the constriction on public transportation into and out of the City, Lyft requests that the Commission issue an *ex parte* emergency order before July 25, 2016, and temporarily waive the vehicle age and mileage requirements at 52 Pa. Code § 29.314(c) so that Lyft may increase the number of vehicles in its transportation network company ("TNC") services in four counties surrounding the City of Philadelphia ("City"), including Bucks, Chester, Delaware, and Montgomery Counties. In particular, Lyft requests that the Commission permit Lyft to operate vehicles (whether standard, electric, hybrid or alternative fuel vehicles) that (1) are up to fifteen model years old or (2) exceed 350,000 (but no more than 500,000) cumulative miles as registered on their odometers.

As described in more detail below, the Commission should promptly enter an *ex parte* emergency order. The rail crisis and resulting constriction on public transportation justify an *ex*

parte emergency order. In addition, Lyft's right to relief is clear – the Commission has the authority to waive its regulations and has already done so for other TNCs in light of the rail crisis. The need for immediate relief is clear given the pending influx of more than 50,000 visitors into the City who will not have access to regional rail transportation and the limitation on public transportation through the end of September. Without emergency relief, Lyft will be unable to increase its vehicle count to serve the needs of the public inside and outside the City in time to meet the transportation demands of the public from now through the end of September and particularly during the Democratic National Convention next week. Finally, by issuing an *ex parte* emergency order, the public will be better served by expanding the pool of available transportation choices during this period.

Accordingly, Lyft submits that it has met the requirements of 52 Pa. Code § 3.2 for emergency relief and requests that the Commission issue an order temporarily waiving/modifying both the vehicle age and mileage requirements at 52 Pa. Code § 29.314(c) until September 30, 2016, and permitting Lyft to operate vehicles in Bucks, Chester, Delaware, and Montgomery Counties (whether standard, electric, hybrid or alternative fuel vehicles) that are up to 15 years old or that exceed 350,000 (but no more than 500,000) cumulative miles.

II. BACKGROUND

1. Lyft is a certificated TNC.
2. The Commission granted Lyft permission to operate within the City of Philadelphia pursuant to Article XVI-M of Act 85 of 2016, until September 30, 2016.
3. The Commission also granted Lyft the ability to offer TNC services in the counties surrounding the City, including Bucks, Chester, Delaware, and Montgomery Counties. *Application of Lyft, Inc., a corporation of the State of Delaware, for the right to begin to transport, by motor vehicle, persons in the experimental service of Transportation Network Company for passenger trips between points in Pennsylvania*, Docket A-2014-2415047 (Opinion and Order entered December 18, 2014) (“Lyft Approval Order”).

4. On Sunday, July 3, 2016, the Southeastern Pennsylvania Transportation Authority (“SEPTA”) issued a release that provides in relevant part as follows:

SEPTA has identified a defect with its Silverliner V Regional Rail cars that has resulted in these trains being taken out of service for the immediate future. This will impact customers starting Tuesday, July 5, as SEPTA’s passenger capacity for weekday travel will be reduced.

All 120 Silverliner Vs, which SEPTA received between 2010 and 2013 and comprise approximately one-third of the Regional Rail fleet, are out of service.

Where possible, SEPTA also encourages Regional Rail riders to use transit modes, including buses, trolleys and subways.

See www.septa.org/media/releases/2016/7-3-16.html (last visited July 22, 2016).

5. The crisis is expected to last at least through Labor Day.¹

6. The loss of regional trains has severely impacted the availability of transportation services in the greater Philadelphia area, including the Philadelphia suburbs, and has created, as Commissioner Powelson described it, a “transportation quagmire.”²

7. In addition, the 2016 Democratic National Convention begins on Monday, July 25, 2016 and runs through July 28, 2016.

8. The City of Philadelphia estimates that 50,000 people will attend the convention.³

9. In response to the crisis, Lyft has taken steps to mitigate the effect of the lack of rail transport by increasing the number of vehicles in its TNC services.

10. Lyft has increased its recruiting efforts in the Philadelphia area through promotions and monetary incentives designed to increase driver referrals and activations, advertising opportunities to become a driver on the Lyft platform, and informing drivers of increased demand

¹http://www.philly.com/philly/business/transportation/20160722_PUC_allows_older_Ubers_to_relieve_SEPTA_rail_crisis.html.

²*Id.*

³ <https://alpha.phila.gov/news/mayor/dnc-frequently-asked-questions>.

in the Philadelphia area in the coming weeks and months due to the convention as well as the SEPTA improvements underway.

11. However, Lyft is unable to maximize the number of vehicles in its TNC services in the City and surrounding counties identified above given the Commission's regulations that prohibit the operation of vehicles that are more than 10 model years old and that may exceed 350,000 cumulative miles based on their odometers. 52 Pa. Code § 29.314(c).

12. The age and mileage restriction is preventing Lyft from contracting with drivers who own and operate clean, dependable, and currently inspected vehicles which happen to be more than 10 years old or possibly exceed 350,000 cumulative miles.

III. REQUEST AND BASIS FOR *EX PARTE* EMERGENCY RELIEF

13. Pursuant to 52 Pa. Code § 3.3, Lyft requests that the Chairperson, a Commissioner, the Commission's Director of Operations, or the Commission's Secretary take immediate action to protect the public and issue an *ex parte* emergency order temporarily waiving or modifying both the vehicle age and mileage requirements at 52 Pa. Code § 29.314(c) until September 30, 2016, and permitting Lyft to operate vehicles within its TNC platform in Bucks, Chester, Delaware, and Montgomery Counties and the City of Philadelphia (whether standard, electric, hybrid or alternative fuel vehicles) that are up to 15 years old or that may exceed 350,000 (but no more than 500,000) cumulative miles as registered on their odometers.

14. An *ex parte* emergency order is necessary because the next regularly-scheduled Commission Public Meeting is August 11, 2016, *i.e.* after Democratic National Convention.

15. The Commission may issue an emergency order in a "situation which presents a clear and present danger to life or property" when the petitioner's right to relief is clear, the need for relief is immediate, the injury would be irreparable if relief is not granted and the relief requested is not injurious to the public interest. 52 Pa. Code §§ 3.1-3.2.

16. The Commission has already issued an emergency order waiving the vehicle age requirements in light of the current regional rail crisis in the Philadelphia area. *See Petition of*

Raiser-PA, LLC for Issuance of an Emergency Order; Temporary Waiver/Modification of the Vehicle Age Requirements Established by 52 Pa. Code § [29.]314(c), Docket No. P-2016-2556598 (Order entered July 21, 2016) at 4 (“*Raiser-PA*”).

17. As described below, Lyft submits that it has met the requirements of 52 Pa. Code § 3.2 for granting emergency relief consistent with the Commission’s rationale in the *Raiser-PA*.

A. *The regional rail crisis justifies an emergency order.*

18. First, the regional rail crisis presents a clear and present danger to life or property.

19. The Commission has already concluded that the current transportation crises in the greater Philadelphia area meets the clear-and-present-danger standard for issuing an emergency order. The Commission stated:

SEPTA’s constriction of its regional rail fleet has created significant transportation issues in regard to the ability of carriers to meet customer demand in Bucks, Chester, Delaware and Montgomery Counties. Those issues will be exacerbated by the Democratic National Convention in Philadelphia. These circumstances demonstrate that there is a clear, immediate need for relief.

Raiser-PA at 4.

B. *Lyft’s right to relief is clear.*

20. Second, Lyft’s right to relief is clear.

21. Lyft is a certificated TNC like *Raiser-PA*.

22. In *Raiser-PA*, the Commission waived the vehicle age restriction at the TNC’s request based on the well-settled principle that the Commission may waive its regulations for good cause shown. See 52 Pa. Code § 5.43 (relating to waiver of Commission regulations); *Township of Collier v. Pa.-American Water Co.*, Docket No. C-20016207, 2004 Pa. PUC LEXIS 26 (2004).

23. As in *Raiser-PA*, Lyft has demonstrated good cause to waive the vehicle age and mileage requirements temporarily so that Lyft has the necessary flexibility to help further mitigate the regional rail transportation crisis particularly given the imminent influx of 50,000 visitors to the City and the inability of people to travel to and from the City and surrounding counties. There

is an immediate and compelling need for more transportation alternatives in Philadelphia and surrounding counties identified above.

C. *Lyft has demonstrated a need for immediate relief.*

24. Third, Lyft has demonstrated a need for immediate relief.

25. In *Raiser-PA*, the Commission stated that the regional rail crisis created a “clear, immediate need for relief.” *Raiser-PA* at 4.

26. To illustrate, the limitation on public transportation adversely affects the ability of the public to access transportation for the foreseeable future.

27. In addition, the expected influx of 50,000 visitors attending the Democratic National Convention in Philadelphia next week exacerbates the constriction on regional rail transportation. *See Raiser-PA* at 4.

28. Permitting Lyft to contract with drivers operating vehicles that are up to fifteen model years old or exceed 350,000 (but no more than 500,000) cumulative miles will significantly alleviate the transportation emergency that currently exists in the Philadelphia area and surrounding counties.

29. If the Commission does not grant *ex parte* emergency relief, it will be too late to address the public transportation crisis caused by the constriction on regional rail transportation and the Democratic National Convention.

D. *An ex parte emergency order is necessary to prevent irreparable harm.*

30. Fourth, Lyft has shown that irreparable harm will result if the Commission does not grant emergency relief.

31. The public will have inadequate or no access to transportation, resulting in their inability to get to their destinations, including work, school, and doctors’ appointments while SEPTA rail transportation is reduced by one-third.

32. Without emergency relief, Lyft will be unable to increase its vehicle count to serve the needs of the public inside and outside the City in time to meet the transportation demands of the public, particularly during the Democratic National Convention next week.

E. An ex parte emergency order is in the public interest.

33. Finally, the requested relief will not injure the public interest.

34. By issuing an emergency order, the public will be better served by expanding the pool of available transportation choices during this period of limited transportation options. *See Raiser-PA at 4.*

35. In turn, the public will have access to reliable, affordable, and safe transportation alternatives.

36. In addition, Lyft must continue to comply with applicable safety conditions and regulatory requirements imposed by the Commission. *See Lyft Approval Order.*

IV. CONCLUSION

WHEREFORE, Lyft requests that the Commission issue an *ex parte* emergency order pursuant to 52 Pa. Code § 3.2 (a) temporarily waiving/modifying both the vehicle age and mileage requirements at 52 Pa. Code § 29.314(c) until September 30, 2016, and permitting Lyft to operate vehicles in its TNC service in Bucks, Chester, Delaware, and Montgomery Counties and the City of Philadelphia (whether standard, electric, hybrid or alternative fuel vehicles) that are up to 15 years old or that exceed 350,000 (but no more than 500,000) cumulative miles as registered on their odometers; and (b) granting such other and further relief as the Commission deems just and reasonable.

Lyft further requests that, as authorized by 52 Pa. Code § 3.3, the Chairperson, a Commissioner, the Commission's Director of Operations, or the Commission's Secretary immediately issue an *ex parte* emergency order in accordance with the request for relief described above before July 25, 2016, so that Lyft has a timely opportunity to act. A proposed form of order including proposed ordering paragraphs accompanies this petition.

Respectfully submitted,

COZEN O'CONNOR



David P. Zambito, Esq. (PA ID No. 80017)
George A. Bibikos, Esq. (PA ID No. 91249)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Tel: 717-703-5892
Fax: 215-989-4216
E-mail: dzambito@cozen.com
gbibikos@cozen.com

Dated: July 22, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Lyft, Inc., For Issuance of an *Ex* : Docket No. P-2016 _____
Parte Emergency Order : _____

RECEIVED

PROPOSED ORDERING PARAGRAPHS

JUL 22 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

IT IS ORDERED:

1. That Lyft's Petition for Issuance of an *Ex Parte* Emergency Order is hereby granted consistent with this Order.

2. That the vehicle age and mileage requirements at 52 Pa. Code § 29.314(c) are temporarily waived.

3. That Lyft hereby has the authority to operate vehicles in its TNC service in Bucks, Chester, Delaware, and Montgomery Counties and the City of Philadelphia (whether standard, electric, hybrid or alternative fuel vehicles) that are up to 15 years old or that exceed 350,000 cumulative miles (but no more than 500,000) as registered on their odometers.

4. That, unless otherwise ordered by the Commission, the waivers granted in this Order shall expire on September 30, 2016.

BY THE COMMISSION

(SEAL)

ORDER ADOPTED: July __, 2016

ORDER ENTERED: July __, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

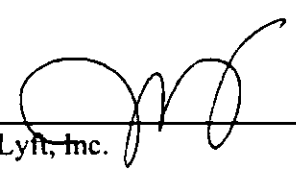
Petition of Lyft, Inc., For Issuance of an *Ex Parte* Emergency Order : Docket No. P-2016 _____
: _____

VERIFICATION

I, Jessica Tanley, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 22, 2016

Lyft, Inc. _____



RECEIVED
2016 JUL 22 PM 2:40
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Lyft, Inc., For Issuance of an *Ex Parte* Emergency Order : Docket No. P-2016 _____
: _____

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Lyft, Inc.'s PETITION FOR ISSUANCE OF *EX PARTE* EMERGENCY ORDER upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

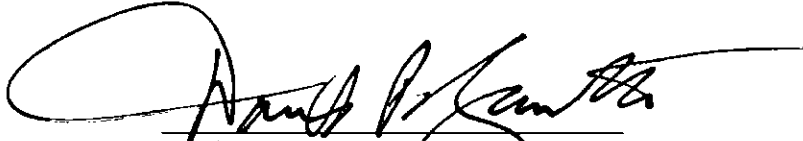
VIA EMAIL AND FIRST CLASS MAIL:

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265

Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Office of Small Business Advocate
Commerce Building, Suite 202
300 North Second Street
Harrisburg, PA 17101-1303

Date: 7/22/16



David P. Zambito, Esquire
Counsel for Lyft, Inc.

RECEIVED
2016 JUL 22 PM 2:40
PA PUC
SECRETARY'S BUREAU