

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Lyft , Petition for Issuance
of an Emergency Order; Temporary
Waiver/Modification of the Vehicle Age
and Mileage Requirements Established by
52 Pa. Code § 29.314(c)

P-2016-2557895

EMERGENCY ORDER

On July 22, 2016, Lyft, Inc. (Lyft) filed a Petition for Issuance of an Emergency Order (Petition) with the Commission. Lyft requests an emergency order to allow it to temporarily operate vehicles in its transportation network service (TNC) which would be older and have higher mileage than allowed by Commission regulations. 52 Pa. Code § 29.314(c). Lyft's request is geographically limited to Philadelphia and surrounding counties, and is temporally limited to September 30, 2016. Lyft served its Petition on the Commission's Bureau of Investigation & Enforcement, the Office of Consumer Advocate and the Office of Small Business Advocate. Additionally, the Petition was published on the Commission's website. The Philadelphia Parking Authority has objected to the petition regarding service in Philadelphia.

Pursuant to the Commission's regulations governing emergency relief, an *ex parte* emergency order will be issued only when there exists a clear and present danger to life or property or when the relief requested is uncontested. 52 Pa. Code § 3.1. Commission regulations at 52 Pa. Code § 3.2 provide that, in addition to the existence of an emergency, a petitioner must establish the following:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.

- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

Commission regulations at 52 Pa Code § 29.314(c) require, *inter alia*, that vehicles operated in taxi service must be no older than 10 model years and must have no more than 350,000 miles on the odometer.¹ Pursuant to the Commission's December 18, 2014 Order, Docket No. A-2014-2415047, which approved issuance of a certificate of public convenience to Lyft to provide experimental (TNC) service, these regulatory requirements concerning vehicle age and mileage were extended to Lyft. Currently, Lyft requests that the Commission temporarily waive the 10-year/350,000 limitation established by 52 Pa Code § 29.314(c) and allow vehicles 15 years and newer with up to 500,000 miles to operate in Philadelphia and its surrounding counties (Bucks, Chester, Delaware and Montgomery).²

¹ § 29.314. Vehicle and equipment requirements.

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(c) *Vehicle age and mileage.* A vehicle that is more than 10 model years old or has more than 350,000 miles of cumulative mileage registered on its odometer may not be operated in call and demand service. For example, for a vehicle with less than 350,000 miles, the last day on which a 2016 model year vehicle may be operated in taxi service is December 31, 2026. Electric vehicles, hybrid electric vehicles and vehicles utilizing alternative fuels, as defined in 75 Pa. C.S. §§ 102 and 9002 (relating to definitions), may operate in call and demand service until the vehicle age of 12 model years or the cumulative mileage level of 350,000 miles registered on the odometer. For example, for a vehicle with less than 350,000 miles, the last day on which a qualifying model year 2016 alternative fuel vehicle, hybrid electric vehicle or electric vehicle may be operated in taxi service is December 31, 2028. This subsection is effective January 19, 2016.

² Pursuant to our regulations, 52 Pa. Code § 5.43(a), the Commission is authorized to waive regulatory requirements when deemed appropriate:

§ 5.43. Petitions for issuance, amendment, repeal, or waiver of Commission regulations.

(a) A petition to the Commission for the issuance, amendment, waiver or repeal of a regulation must set forth clearly and concisely the interest of the petitioner in the subject matter, the specific regulation, amendment, waiver or repeal requested, and cite by appropriate reference the statutory provision or other authority involved. The petition must set forth the purpose of, and the facts claimed to constitute the grounds requiring the regulation, amendment, waiver or repeal. Petitions for the issuance or amendment of a regulation shall incorporate the proposed regulation or amendment.

In support of its request, Lyft alleges that Philadelphia and the Philadelphia suburbs are facing a transportation emergency. Lyft alleges that SEPTA has removed one-third of its regional rail fleet from circulation for emergency inspection and repairs, which has decimated the transportation options available to the Philadelphia area at the height of tourist season and during the Democratic National Convention, hosted in Philadelphia.³ SEPTA is urging rail commuters to seek transportation alternatives during this time. Lyft alleges that it can urge stranded rail commuters to use its TNC services, but having the flexibility to contract with drivers whose vehicles are older than ten years and have more than 350,000 miles would enable it to significantly increase supply to the areas affected by the transportation crisis.

Lyft argues that because the availability of transportation services in the Philadelphia suburbs has been severely reduced, a dangerous situation exists. In addition, Lyft alleges that the void in the transportation infrastructure in the Philadelphia suburbs adversely affects the ability of the public to access needed transportation. This situation will be further exacerbated when an influx of an estimated 50,000 visitors arrive to attend the Democratic National Convention in Philadelphia. Lyft alleges that the public will suffer irreparable harm in the absence of emergency relief, since 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. Finally, Lyft alleges that the requested relief will not be injurious to the public interest and is necessary, proper and in the public interest so that the traveling public in the Philadelphia suburbs will have access to reliable, affordable and safe transportation alternatives. Lyft alleges that all vehicles will be in continuous compliance with Pennsylvania inspection standards and Commission regulations. Lyft cites to the Commission's Order approving a similar

³ In the Commission's December 18, 2014 Order approving Lyft's Application for Experimental Authority, Lyft was not authorized to provide service originating or terminating in Philadelphia. Since that time, Act 85 of 2016 was enacted, which allows Lyft, as well as other TNC's certificated by the Commission, to operate in Philadelphia until September 30, 2016.

waiver in support of its Petition. *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) (*Rasier Order*).

Disposition

Based on Lyft's Petition, I am persuaded that temporarily waiving the 10-year limitation on its TNC vehicles serving the counties surrounding Philadelphia is appropriate under these circumstances. This is consistent with the recent action taken by the Commission in the *Rasier Order*. 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. Additionally, adequate safeguards are in place to protect the public because, under the conditions established in the December 18, 2014 Order, all of Lyft's vehicles are required to be in continuous compliance with relevant inspection and regulatory standards.

However, I am not persuaded that the 350,000 mile limitation should be extended to 500,000 miles as requested by Lyft. I believe that 500,000 miles is excessive, especially for personal vehicles used in TNC service. Additionally, I am not persuaded that the waiver should extend beyond those counties surrounding Philadelphia. Therefore, these portions of the Lyft petition should be denied.

Lyft must ensure continued compliance with all requirements established by the Commission's December 18, 2014 Order for all vehicles and drivers operating under its authority. I believe that there will be no injury to the public if the petition is granted; rather, the public will be better served by expanding the pool of available transportation

choices during this period. I note that the Commission has granted similar relief to Rasier-PA LLC. *Rasier Order*.

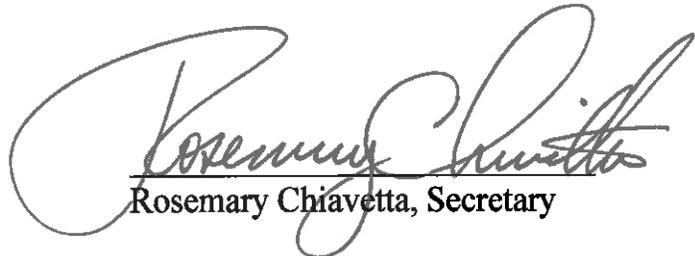
Accordingly, Lyft has met the requirements of 52 Pa. Code § 3.2 for emergency relief. Therefore, the vehicle age requirement at 52 Pa. Code § 29.314(c) is temporarily waived/modified until September 30, 2016, allowing vehicles operated in Lyft's TNC service in Bucks, Chester, Delaware, and Montgomery Counties, to be no older than fifteen model years.⁴ The temporary waiver extends to the 12-year age limit applicable to electric, hybrid and alternative fuel vehicles operating in the suburban Philadelphia area under Lyft's authority. 52 Pa. Code § 314(c); **THEREFORE,**

IT IS ORDERED:

1. That Lyft's Petition for Issuance of an Emergency Order is hereby granted, in part, consistent with this Order.

2. That the waivers granted in this Order shall expire on September 30, 2016.

Date: 7/25/2016


Rosemary Chiavetta, Secretary

⁴ A trip's origin or destination must be located in one of these counties.