**BEFORE THE**

 **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Lyft, Inc., a corporation of the State of : A-2014-2415045

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 Allegheny County :

**RECOMMENDED DECISION**

Before

Mary D. Long

Jeffrey A. Watson

Administrative Law Judges

INTRODUCTION

 Although transportation network company service generally is of great potential use to the public, this Applicant did not meet the evidentiary criteria of the Commission’s regulations. Therefore, we find that it is not in the public interest to grant the Applicant a certificate of public convenience.

HISTORY OF THE PROCEEDINGS

 On April 3, 2014, Lyft, Inc. (Applicant) filed an application for motor common carrier of persons in experimental service between points throughout Allegheny County:

This Application of Lyft, Inc. (“Lyft”) for an experimental service proposes to operate a peer-to-peer ride-sharing network using digital software to facilitate transactions between passengers and ridesharing operators using their own vehicles to provide transportation (known as a transportation network service) between points within the Commonwealth of Pennsylvania for the purpose of enhancing access to transportation alternatives, supplementing existing public transportation, reducing single occupancy vehicle trips, vehicle ownership and usage, and assisting the state in achieving reductions in greenhouse gas emissions.[[1]](#footnote-1)

 Notice of the application was published in the *Pennsylvania Bulletin* on April 19, 2014. The notice provided that the deadline for the filing of protests was May 5, 2014.[[2]](#footnote-2)

***The Protestants***

 Protests were filed by JB Taxi LLC, Black Tie Limousine, Concord Limousine and Executive Transportation, Inc. The Applicant filed preliminary objections which sought dismissal of each of the Protestants on May 29, 2014. By notice dated June 3, 2014, the application was assigned to us for disposition. By orders dated June 25, 2014, the preliminary objections seeking dismissal of JB Taxi LLC and Executive Transportation were dismissed. On June 21, 2014, the Applicant filed Petitions for Interlocutory Review and Answer to a Material Question, which sought review of the interim orders dismissing the preliminary objections related to JB Taxi LLC[[3]](#footnote-3) and Executive Transportation Inc.[[4]](#footnote-4) By Opinion and Orders dated August 14, 2014, the Commission declined to answer the material question. Those orders also directed us to issue a recommended decision on or before October 9, 2014.

 Black Tie Limousine and Concord Limousine filed protests to the application, which the Applicant sought to dismiss by preliminary objection on May 29, 2014. Initial decisions sustaining the preliminary objections and dismissing the protests of Concord Limousine and Black Tie Limousine were served on June 27, 2014.

 Protests were also filed by the Pennsylvania Association for Justice and The Insurance Federation of Pennsylvania, Inc. The Applicant filed preliminary objections to the protests asserting the Protestants lacked standing. By initial decision served on June 27, 2014, the Applicant’s preliminary objections were sustained. On July 16, 2014, the Insurance Federation filed exceptions to the initial decision which dismissed its protest. By order dated August 14, 2014, the Commission reversed the dismissal of the protest of the Insurance Federation.

 By hearing notice dated July 3, 2014, a prehearing conference was scheduled for July 24, 2014, in order to schedule evidentiary proceedings in this matter, along with a related application that was filed by the Applicant for statewide authority. Evidentiary hearings were scheduled for August 7-8, 2014, in Pittsburgh. However, the hearings were later rescheduled for August 27, 2014, September 3, 2014, and September 10, 2014.

***Other Commission Proceedings***

 The Commission has also rendered orders in other proceedings which are related to the Applicant. On July 16, 2014, in addition to the application before us now, Lyft also filed an application for Emergency Temporary Authority.[[5]](#footnote-5) By order entered July 24, 2014, the Commission approved the application. However, the approval was contingent upon Lyft meeting specific insurance and tariff requirements on or before August 24, 2014.

 Additionally, on July 24, 2014, the Commission affirmed an Order for Interim Emergency Relief, which was issued on July 1, 2014, in connection with enforcement proceedings initiated against Lyft by the Commission’s Bureau of Investigation and Enforcement (BIE). That order required Lyft to immediately cease and desist from utilizing its digital platform to facilitate the transportation of passengers until it secured the proper authority from the Commission. In a public statement made by Commissioner James H. Cawley, he requested the issuance of a Secretarial Letter seeking additional information to aid in the formulation of the final order in the enforcement proceedings. That letter was served on July 28, 2014. We determined that the information requested in the Secretarial Letter was also important to the development of the record in this application. Accordingly, by order dated July 31, 2014, we also directed the Applicant to provide the information for submission to the hearing record in these proceedings.

***Hearing***

 The hearings were held as scheduled. The Applicant was represented by Adelou Bakare, Esquire who presented the testimony of two witnesses. The Applicant also offered three exhibits which were admitted into the record. Executive Transportation was represented by Michael S. Henry, Esquire. Mr. Henry presented the testimony of five witnesses on behalf of his various clients. JB Taxi LLC was represented by David W. Donley, Esquire, who proffered two exhibits which were admitted into the record. Finally, Samuel R. Marshall, Esquire appeared on behalf of the Insurance Federation, offered the testimony of one witness and proffered four exhibits which were admitted into the record. The hearing resulted in a transcript of 582 pages.[[6]](#footnote-6) Each party filed a brief and the record closed by order dated September 17, 2014.

FINDINGS OF FACT

1. Joseph Okpaku testified on behalf of Lyft, Inc. He serves as Lyft’s Director of Public Policy and is based in San Francisco, California. His job is to oversee the company’s efforts to ensure that legislation or regulations that are implemented are appropriate to the transportation network company model for Lyft. (N.T. 234-35)
2. The mission of the Applicant’s business model is to match people who want a ride with people who have empty seats in their car. (N.T. 235)
3. To become a driver on the Applicant’s platform, there is an application process which includes a background check and a vehicle inspection. Once approved, a driver is authorized to use the Lyft app on his or her smartphone to be matched with a passenger. (N.T. 235)
4. Drivers use their own smartphones, not smartphones owned by the Applicant. (N.T. 335)
5. For a potential passenger to use the platform, the passenger signs up and provides personal information to create a profile and provides credit card or bank debit card information. The passenger then uses the Lyft app to request a ride. The GPS feature on a passenger’s mobile telephone will search automatically for the Lyft driver that is the closest in distance to the passenger. (N.T. 235-36)
6. If the driver accepts the ride, the driver is provided with the passenger’s location. At the end of the ride a fare is generated. Payment is made through the app on the passenger side either at the conclusion of the ride, or within 24 hours after the ride has ended. (N.T. 236)
7. Users of the Lyft app must agree to the “Terms and Conditions.” (N.T. 300; JB Taxi Ex. 2)
8. A percentage of drivers on the Applicant’s platform use it on a full-time basis as their primary means of livelihood. (N.T. 304, 321)
9. Taxicab motor carriers do not change their pricing based upon a demand spike for transportation because a taxicab tariff must be based upon the motor carriers’ costs and expenses. (N.T. 39-40, 50)
10. Taxicab companies cannot typically add vehicles to their fleets to respond to short-term spikes in demand because of the capital investment required to purchase, maintain and insure each vehicle. (N.T. 58)
11. Taxicab drivers are often viewed as “independent contractors” or “partners” by the taxicab company. They may own the vehicle, make maintenance decisions, fill the vehicle with gas and determine their own hours of operation. (N.T. 77-78; 92-93)
12. However, the taxicab operator maintains control of the quality of the vehicle and the driver by periodically inspecting the vehicle and reviewing the driving records of the driver. (N.T. 46, 93-94)
13. There are several smartphone applications used by existing taxicab companies which passengers can use to arrange transportation. Some apps will also store credit card information. (N.T. 105, 118)

***Insurance Coverage***

1. The insurance policy which covers the Lyft service in Pennsylvania is underwritten by James River Insurance Company (James River). The policy is known as a “surplus lines” policy. James River is the only carrier writing these types of policies for transportation network companies in the country. (N.T. 482; Insurance Federation Ex. 2)
2. For the purposes of insurance coverage, there are three periods of a Lyft ride:
3. Period One – the period of time in which a driver on the Lyft platform has the app open but has not yet accepted a ride;
4. Period Two – the period of time when a passenger has requested a ride and the Lyft driver has accepted the ride, but has not yet picked up the passenger;
5. Period Three – the period of time that the passenger gets into the car until the time that the ride is over and the passenger gets out of the car. (N.T. 261-62)
6. The Applicant intends for its insurance policy to be primary for Period Two and Period Three with liability coverage up to $1 million. (N.T. 262-63)
7. The Applicant also intends its policy to include $25,000 of personal injury coverage and $10,000 in wage loss coverage. (N.T. 263)
8. However, the policy does not appear to provide a split of coverage in any amount for bodily injury per person, bodily injury per accident and property damage per accident. (Insurance Federation Ex. 3)
9. It is unclear whether the insurance policy proposed by the Applicant for Periods Two and Three provides first party coverage for the driver in the amounts set forth in 75 Pa.C.S. § 1711.[[7]](#footnote-7) (N.T. 391-92; Insurance Federation Ex. 3)
10. Mr. Okpaku opined that from the Applicant’s perspective there is nothing inherently risky about Period One and he was not aware of an instance when a driver’s personal policy declined coverage. (N.T. 264)
11. The Applicant intends its policy to be contingent in Period One, and includes coverage of $50,000 per person; $100,000 per incident; and $25,000 of property damage coverage if the driver’s personal insurance carrier declines coverage. (N.T. 265, 386, 460)
12. The Applicant proposes to provide contingent comprehensive and collision coverage up to $50,000, with a $2,500 deductible for both the Period One policy and the Period Two and Three policy. (N.T. 267)
13. The insurance coverage the Applicant proposes for Period One does not contain first party benefits, such as medical bills and wage loss, for either the driver, passengers or pedestrians. Nor does the policy provide a split of coverage in any amount for bodily injury per person, bodily injury per accident and property damage per accident. (N.T. 460; Insurance Federation Ex. 1)
14. Mr. Okpaku did not know what would constitute a denial from a driver’s personal auto insurer that would trigger coverage during Period One, or whether Lyft’s insurer would reserve the right to challenge any such denial or provide the defense in any claim. (N.T. 392-96, 399-400; Insurance Federation Ex. 4)
15. Because the policy coverage is triggered by the action of the driver opening and closing the app, it does not appear that the policy would provide coverage when a driver has discharged a passenger and is returning from that ride. This period would be covered by a typical commercial policy that covers taxicabs. (N.T. 540-41; see N.T. 334)
16. It is also unclear whether the proposed policy will cover any and all claims involving the driver, passengers and pedestrians even if the driver fails to have personal insurance in force at the time of the accident. (N.T. 462-63)
17. The contingent coverage that the Applicant proposes and the interface between the policy provisions and the “Terms and Conditions” that are a precondition of utilizing the app, will result in a confusing and delayed claims process for passengers, drivers and others with claims arising out of accidents with Lyft drivers. (N.T. 507-509)
18. Unless mandated by the Commission, the Applicant does not propose to direct its drivers to notify their personal auto insurers, in writing, of their intent to operate in Lyft’s service or to maintain a copy of any such notices from their drivers for any period of time. (N.T. 367-69)
19. The Applicant does not propose in any standard or uniform way, to advise its drivers to check with their personal auto insurers about potential gaps in coverage or potential changes in or cancellation of their personal auto policies. (N.T. 401, 462-63, 513)
20. Beyond the examination of the insurance card upon “on-boarding” as a Lyft driver, the Applicant does not verify insurance coverage of Lyft drivers in an on-going manner, nor is there a mechanism whereby the Applicant would be notified if a Lyft driver loses coverage after on-boarding. This creates a gray area where the extent of insurance coverage, if any, is unclear. (N.T. 377, 486-88, 490)
21. Moreover, most people without commercial experience, such as the non-professional drivers recruited by Lyft, would not be likely to know what questions to ask to determine their exposure. (N.T. 513)
22. A person becoming a Lyft driver faces potential changes in that person’s personal auto insurance, including possible cancellation or an increase in rate. (N.T. 463)
23. A person becoming a Lyft driver faces possible personal financial liability as a result of potential gaps in coverage between the coverage proposed by the Applicant and exclusions in the driver’s personal insurance, such as a livery exclusion. (N.T. 464, 513)
24. Moreover, it is unclear whether the “Terms and Conditions” may cause a waiver of coverage. (N.T. 461; JB Taxi Ex. 2)
25. The “Terms and Conditions” appear to contain waivers of liability by drivers and mandate that disputes be resolved by arbitration in the State of California. (N.T. 404-405, 409-11; JB Taxi Ex. 2)
26. The “Terms and Conditions” can be changed at any time. Mr. Okpaku did not know whether they had been modified to accommodate the changes in service required by the Emergency Temporary Authority. (N.T. 338)
27. The Applicant does not provide its insurer with information about its drivers, the driving records of the driver, or the vehicles used for the transportation service. However, most taxicab companies provide this information to their insurer. (N.T. 89, 319-20)
28. The people at Lyft who are responsible for insurance and the negotiation of the James River policy are under the supervision of the legal team and do not report directly to Mr. Okpaku as the Director of Public Policy. (N.T. 361)
29. Generally, an insurer must be able to adequately estimate its risk exposure in order to properly assess a premium on a policy and maintain its financial integrity. If it does not collect enough premium to cover claims made on a policy, the company can become insolvent. (N.T. 518-19)
30. Information about drivers, their accident histories and the vehicles is an important aspect to properly gauging risk exposure for an insurance company. (N.T. 524-28, 531)

***Vehicle Safety***

1. The Applicant proposes a 19-point inspection for vehicles. This inspection is performed when an individual applies to become a Lyft driver. (N.T. 267; Lyft Ex. 1-A)
2. Vehicles are also required to undergo an annual inspection by the Pennsylvania Department of Transportation (Pa. DOT) and are subject to inspection by Public Utility Commission enforcement officers. (N.T. 267)
3. The vehicle inspections may be performed by a “launch team” when the Applicant first begins operating in a territory. Thereafter, they are performed by “mentors” who are individuals who have been drivers for Lyft for a period of time. (N.T. 295)
4. Neither the members of the launch team nor the mentors are trained as mechanics. They are not trained in Pa. DOT inspection standards. They are not certified inspectors. (N.T. 312-13)
5. The Applicant relies on the Pa. DOT inspection as the mechanical inspection of the vehicle. (N.T. 312)
6. Mr. Okpaku could not recall if the proposed service would anticipate follow-up or period inspections. (N.T. 314)
7. The Applicant relies on the driver’s personal insurance card to verify that the vehicle is also properly registered. (N.T. 359, 361)
8. No physical insurance card is provided to the Applicant’s drivers. Rather, the policy is posted online and the drivers have the ability to access the certificate for that policy on their phone. (N.T. 319)

***Driver Integrity***

1. The Applicant’s “onboarding” process for prospective drivers includes a comprehensive criminal background check in both national and county-level databases. The Applicant also searches sex offender databases and a driving record background check. (N.T. 268-69, 311)
2. A potential driver can be disqualified if there are driving infractions which include reckless driving, DUI or hit and run. (N.T. 269)
3. Following successful completion of the background checks, there will be a “ride-along” with the driver to make sure that the driver observes the rules of the road. (N.T. 270)
4. Drivers are also required to watch a series of videos on safety topics. Although a driver cannot “fast forward” through the video, there is no quiz or verification that the driver has learned the information. (N.T. 270, 355)
5. Drivers are also required to maintain a valid driver’s license, maintain personal insurance on the vehicle as required by state law and must be 21 years of age or older. (N.T. 270)
6. The Applicant has a “zero tolerance” policy regarding drugs and alcohol. Any allegation of drug or alcohol use would result in immediate suspension from the Lyft platform. (N.T. 270-71)
7. The criminal background and driver history checks are performed by third-party vendors. (N.T. 292-93)
8. The Applicant considers its drivers to be “non-professional” because many of them are providing transportation services mainly in their spare time. (N.T. 300)
9. The Applicant employs a “trust and safety team” to monitor user feedback by passengers. This feedback in the form of a 5-star rating system is relied upon by the Applicant to monitor driver performance. (N.T. 271-73, 315)

***Technical Expertise of Employees***

1. The Applicant does not maintain an office or employees in Pennsylvania. (N.T. 291)
2. All oversight of the operation is done in California. (N.T. 293, 359)
3. The Applicant relies in part on mentors as part of their driver safety and vehicle inspection program. A mentor is a driver who has been driving for Lyft for a significant period of time and has a passenger rating of 4.9 stars or higher. Training for a mentor also involves watching videos showing how to check the tread on tires, how to perform a vehicle inspection, and what to look for on ride-alongs. (N.T. 356-58)

***Tariff and Pricing***

1. The Applicant employs a pricing method, which it calls “dynamic pricing.” Unlike a traditional motor carrier tariff, it is not based upon the costs and expenses necessary to achieve a certain level of revenue and rate of return. Rather, it is used to incentivize behavior of the drivers and passengers. When demand for rides is on the rise, a multiplier is added to the ride charge in order to incentivize drivers to make themselves available to offer rides. Similarly, the Applicant offers a discount for periods when demand is low to incentivize passengers to request transportation. (N.T. 274-75, 327)
2. The Applicant’s proposed tariff does not provide a formula that is used to calculate either the multiplier for high demand periods or the discount for low demand periods. (N.T. 323-24; JB Taxi Ex. 1)
3. The Applicant’s proposed tariff does provide for a trust and safety fee, a cancellation fee, a base fare and a per mile charge. (N.T. 324-25; JB Taxi Ex. 1)
4. The Applicant’s “Terms and Conditions” also provide for a “damage fee.” However, this fee is not included in the proposed tariff. (N.T. 345; JB Taxi Ex. 2)

***Financial Resources***

1. The Applicant’s operation in Pennsylvania is funded with an unknown amount of venture capital. (N.T. 285, 329)
2. Mr. Okpaku did not know what the Applicant’s liabilities were. (N.T. 329)

***Public Need for the Service***

1. To establish that the Applicant’s service serves a public need for the purposes of the application, the Applicant contacted passengers who had used the Lyft service. Several verified statements from passengers stated that they had used Lyft for transportation and that they intended to use the service in the future. (N.T. 277, 280, 284; Applicant Ex. 2)[[8]](#footnote-8)

***Propensity to Operate Legally***

1. The Applicant continued to operate following the Commission’s cease and desist order. (N.T. 309)

DISCUSSION

 The grant of a certificate of public convenience is governed by Section 1103 of the Public Utility Code:

A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such a certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.[[9]](#footnote-9)

The courts have held that the standards for determining when a certificate is necessary or proper for the service, accommodation, convenience or safety of the public is within the sound discretion of the Commission.[[10]](#footnote-10)

 The Protestants[[11]](#footnote-11) contend that the Applicant as a “transportation network company” cannot be considered a motor carrier and is therefore not eligible to receive a certificate of public convenience. We disagree.

 Section 102 defines a transportation public utility as “Any person or

corporation. . . owning or operating in this Commonwealth equipment or facilities for . . . transporting passengers or property as a common carrier.”[[12]](#footnote-12) A “common carrier” is a person or corporation “holding out, offering, or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers . . . .” A “common carrier by motor vehicle” is a common carrier which undertakes the transportation of passengers within the Commonwealth “by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes the motor vehicle, with or without driver, for transportation for use in the transportation of persons . . . .”

 Protestants contend that the Applicant does not own the vehicles used to provide transportation service and that the Applicant itself takes the position that it is not providing transportation service. However, the statute clearly does not require the operator to own vehicles in order to be a motor carrier. Nor are the Applicant’s statements that it is not providing transportation services persuasive. Viewing the proposed service as a whole, the Applicant is proposing to offer transportation to passengers for compensation and the Commission has the jurisdiction to grant a certificate of public convenience to a transportation network company.

Protestants further argue that the service proposed by the Applicant is acting as a broker and not a motor carrier. A “broker” is defined as:

Any person or corporation not included in the term “motor carrier” and not a bona fide employee or agent of any such carrier, or group of such carriers, who or which, as principal or agent, sells or offers for sale any transportation by a motor carrier, or in the furnishing, providing, or procuring of facilities therefor, or negotiates for, or holds out by solicitation, advertisement, or otherwise, as one who sells, provides, furnishes, contracts, or arranges for such transportation, or the furnishing, providing or procuring of facilities therefor, other than as a motor carrier directly or jointly, or by arrangement with another motor carrier, and who does not assume custody as a carrier.

66 Pa.C.S. § 2501(b).

Protestants aver that pursuant to 66 Pa.C.S. § 2505(a), brokers of transportation in the Commonwealth of Pennsylvania must obtain a brokerage license issued by the Commission prior to engaging in the business of being a broker, and that the Applicant does not hold a brokerage license issued by the Commission.

 Commission regulations delineate various types of motor common carrier passenger service, which include scheduled route service, call or demand service, group and party service, limousine service, airport transfer service, and paratransit service.[[13]](#footnote-13) Each of those types of passenger service has unique characteristics that define the particular transportation mode.

However, not all types of common carrier transportation fit squarely within these specified categories, as the Commission recognized when it promulgated these regulations. Therefore, in order to accommodate a proposed transportation methodology not encompassed within the stated categories, the Commission regulations also provide for “experimental service.” The Commission’s regulations governing experimental service provide:

In order to advance and promote the public necessity, safety and convenience, the Commission may, upon application, grant a new certificate or an amendment to an existing certificate in order to allow to be provided a new, innovative or experimental type or class of common carrier service. An application for a certificate or amendment shall state that it is an application for an experimental service. Holders of experimental certificates shall abide by this chapter except those which the Commission shall explicitly state do not apply. Holders of experimental certificates shall abide by an additional regulations or requirements, including informational and reporting requirements, which the Commission shall stipulate upon granting the certificate. A certificate for experimental service shall be valid only until the service is abandoned, until 2 years have elapsed from the time the certificate was approved or until the Commission enacts amendments to this chapter pertaining to the new class of service represented by the experimental service, whichever event occurs first.[[14]](#footnote-14)

 We conclude that it is appropriate to consider the transportation service proposed by the Applicant under the Commission’s experimental service regulation as a motor carrier. This approach better serves the public interest because it ultimately requires the Applicant to take responsibility for ensuring the public safety issues that we discuss in more detail below. The Public Utility Code precludes a broker from utilizing motor carriers who are not certificated by the Commission. The Applicant is clearly not utilizing certificated motor carriers to provide transportation. Rather, it is proposing the use of private individuals in their personal vehicles. The Commission cannot waive this requirement of the statute imposed by the General Assembly. Therefore, it is more appropriate to consider the Applicant a motor carrier and apply the Commission’s regulations accordingly. In the event that the General Assembly creates a different classification of transportation service than those provided for in the Public Utility Code, the status of the Applicant can be reviewed in the future.[[15]](#footnote-15)

 The Commission’s first opportunity to consider a transportation network company (TNC) service was *Application of Yellow Cab Company of Pittsburgh, Inc. t/a Yellow X*.[[16]](#footnote-16) That application was proposed by an existing taxicab company. At that time, the Commission viewed the focus of the innovation to be the use of a software platform to connect passengers with drivers.[[17]](#footnote-17) Based on the testimony offered by the Protestants, in our case it has become clear that the innovation goes beyond the use of software to arrange transportation. Indeed, several existing motor carriers have software in use which can be downloaded onto a smartphone and used by a consumer to secure transportation.[[18]](#footnote-18)

 We find that the innovation is the use of so-called non-professional drivers in their private vehicles to provide transportation service. This feature of a TNC enables a company, such as the Applicant, to respond quickly to increased demands for transportation service without the overhead required by existing carriers to expand their fleets. For example, it is a significant expense to increase the number of vehicles offered by a call and demand carrier in order to have enough vehicles to provide transportation during peak times, only to have those vehicles sit idle during non-peak hours.[[19]](#footnote-19) It is this feature of the proposed service which is the focus of our inquiry here – has the Applicant demonstrated that its proposed transportation service, which utilizes non-professional drivers in their private vehicles, can operate in a safe manner.

 As we explained above, we consider the application in accordance with the “experimental service” regulation at Section 29.352 of the Code.[[20]](#footnote-20) That section of the regulations permits the Commission to approve a type of motor carrier service not currently contemplated by the regulations on a short-term basis, which permits the Commission (or the General Assembly) the time to promulgate additional regulations to accommodate the proposed service if it is appropriate to do so. It also provides the certificate holder with the time to concretely demonstrate that the service proposed is indeed a public benefit, that the service can be operated safely, and that the certificate holder will maintain an appropriate relationship with the Commission as the regulatory body. Section 29.352 further provides the Commission with the flexibility to waive the application of certain regulations that are not appropriate, and to also impose additional requirements which are not explicitly provided for in the Code, particularly informational and reporting requirements.[[21]](#footnote-21)

 Having concluded that it is appropriate to consider a TNC as a motor carrier offering experimental service, we consider whether this carrier should be authorized to operate in the Commonwealth. As explained more fully below, we find that the Applicant put very little evidence in the record which demonstrates its ability to meet the Commission’s criteria. Although TNC service generally is of great potential use to the public, this Applicant did not sustain its burden of demonstrating that it is also committed to protecting the public – both drivers and passengers. Therefore, we find that it is not in the public interest to grant the Applicant a certificate of public convenience.

 The Commission need not follow a rigid set of rules in determining whether to issue a certificate of public convenience. The gravamen of the inquiry is whether the record contains evidence of a public benefit to be obtained from the service.[[22]](#footnote-22) This is particularly true where, as here, we are considering an experimental transportation service such as the proposed transportation network company.[[23]](#footnote-23) The specific criteria the Commission generally uses in determining whether to approve a motor carrier application is set forth in the policy statement published at Section 41.14 of the Commission’s regulations:[[24]](#footnote-24)

(a) An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.

(b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service. In addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. In evaluating whether a motor carrier applicant can satisfy these fitness standards, the Commission will ordinarily examine the following factors, when applicable:

 (1) Whether an applicant has sufficient capital, equipment, facilities and other resources necessary to serve the territory requested.

 (2) Whether an applicant and its employees have sufficient technical expertise and experience to serve the territory requested.

 (3) Whether an applicant has or is able to secure sufficient and continuous insurance coverage for all vehicles to be used or useful in the provision of service to the public.

 (4) Whether the applicant has an appropriate plan to comply with the Commission’s driver and vehicle safety regulations and service standards contained in Chapter 29 (relating to motor carriers of passengers).

 (5) An applicant’s record, if any, of compliance with 66 Pa.C.S. (relating to the Public Utility Code), this title and the Commission’s orders.

 (6) Whether an applicant or its drivers have been convicted of a felony or crime of moral turpitude and remains subject to supervision by a court or correctional institution.

(c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest.

The thrust of these considerations is to ensure that the Commission can carry out its duty to ensure the public safety and to protect the public interest as it relates to transportation services.

 The Applicant bears the burden of demonstrating that the service proposed is necessary for the service, accommodation, convenience and safety of the public.[[25]](#footnote-25) Indeed:

While we understand that different TNC firms may have different business models, it remains essential that an applicant for experimental service must provide adequate documentation and protocols to ensure driver integrity, vehicle safety, and proper insurance coverage for the citizens of Pennsylvania.[[26]](#footnote-26)

 The Protestants also bear a burden of proof. To defeat an application, a protestant must show that the entry of the applicant into the transportation market would cause unrestrained and destructive competition or would otherwise contravene the public interest.[[27]](#footnote-27) This burden is heavy:

Subsection 41.14(c) emphasizes the advantages of healthy competition in the motor carrier industry and recognizes that “[t]he legislature in enacting the Public Utility Code did not intend to benefit established carriers by erecting artificial barriers to the entry of new competitors. It is the public interest and convenience which the law seeks to protect.” [[28]](#footnote-28)

 One of the most compelling factors which supports the conclusion that this application should be denied is that the Applicant failed to demonstrate that the insurance policy which it holds in connection with the proposed service will, with any degree of certainty, provide continuous coverage of the vehicles used in the operation.[[29]](#footnote-29) Instead, the evidence shows that there are significant uncertainties about the quality of the Applicant’s proposed policy which at the very least, would result in delays in meeting any claims made by either a passenger or a driver. Further, it is unclear that either drivers or passengers have sufficient information to make a knowing

judgment about their coverage for any injuries which may result or their exposure to the claims of others.

Section 512 of the Public Utility Code,[[30]](#footnote-30) sets forth the general objective and authority for the Commission to require insurance in this instance:

The commission may, as to motor carriers, prescribe, by regulation or order, such requirements as it may deem necessary for the protection of persons or property of their patrons and the public, including the filing of surety bonds, the carrying of insurance, or the qualifications and conditions under which such carriers may act as self-insurers with respect to such matters.

By regulation, the Commission has set the minimum coverages which must be provided:

(a) A common carrier or contract carrier of passengers may not engage in intrastate commerce and a certificate or permit will not be issued, or remain in force, except as provided in § 32.15 (relating to applications to self-insure) until there has been filed with and approved by the Commission a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service.

(b) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than $35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The $35,000 minimum coverage is split coverage in the amounts of $15,000 bodily injury per person, $30,000 bodily injury per accident and $5,000 property damage per accident. 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.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits). [[31]](#footnote-31)

 The proposed coverage for “Period One” – the period of time when a driver on the Lyft platform has the app open, but has not yet accepted a ride – clearly does not comport with Section 32.11. The Applicant is proposing only “contingent” coverage, without the first party benefits required by the regulation. The regulation does not contemplate anything other than primary coverage. The Applicant did not provide any facts which would suggest that primary coverage is unnecessary.

 Yet, there is activity in Period One that can be considered part of the transportation service. For example, the Lyft business model includes incentives for drivers to make themselves available for transportation services during times of peak demand. Therefore, there is no reason for Period One to be insured differently than any of the other periods of the ride.

 Moreover, the proposal for contingent coverage is problematic for a number of other reasons. For instance, the Applicant’s witness conceded that he was not sure what constitutes a personal auto policy being “unavailable” or a personal auto insurer declining coverage, or whether the Applicant’s insurer could challenge a personal insurers’ declining of coverage.[[32]](#footnote-32)

 Other aspects of the proposed insurance coverage for all of the periods are problematic as well. The Applicant does not propose any independent or ongoing verification of its drivers’ personal insurance policies beyond requesting a copy of each driver’s Financial Responsibility card or declarations page at the outset and on the renewal date of the policy listed

on such card.[[33]](#footnote-33) The Applicant does not propose to examine its drivers’ personal insurance policies, including any review of the livery exclusions in such policies and any review of whether those polices may be subject to termination or new rates if their insureds become Lyft drivers.[[34]](#footnote-34) Indeed, a person becoming a driver for Applicant faces potential changes in that person’s personal auto insurance, including possible cancellation or an increase in rate. Drivers may also incur personal financial liability resulting from gaps in the coverage proposed by Applicant, when considering the personal insurance coverage the driver may have and any livery exclusions in such insurance.[[35]](#footnote-35)

 In addition, a person becoming a driver for Applicant faces possible personal financial responsibility as a result of terms and conditions Lyft imposes on its drivers in its agreements with them. A review of the testimony and the insurance policy that Applicant provided clearly reveals there are other gaps and uncertainties in its proposed insurance coverage that merit the disapproval of the application. Furthermore, Applicant’s agreements with its

drivers and passengers have a variety of disclaimers and exclusions that may negate the coverage Applicant purports to provide. Among the terms:

Lyft… has no responsibility or liability for any transportation services voluntarily provided to any rider by any driver using the Lyft platform.

Such Driver has a valid policy of liability insurance (in coverage amounts consistent with all applicable legal requirements) for the operation of such Driver’s vehicle to cover any anticipated losses related to such driver’s provision of rides to Riders.

Such Driver will be solely responsible for any and all liability which results from or is alleged as a result of the operation of the vehicle the Driver uses to transport Riders, including, but not limited to personal injuries, death and property damages.

Lyft has no responsibility whatsoever for the actions or conduct of drivers or riders. Lyft has no obligation to intervene in or be involved

in any way in disputes that may arise between drivers, riders, or third parties…. Drivers and riders use the services at their own risk.[[36]](#footnote-36)

The Applicant never explained the impact of such separate agreements with its drivers and passengers on its insurance coverage, but instead, provided a conclusion, without any support, that the agreements and disclaimers of liability would not affect the Applicant’s liability. However, the plain language of the Applicant’s agreements suggests just the opposite.

 Furthermore, the Applicant did not offer evidence that the training program for its drivers would educate them concerning the three stages of insurance and the three insurance policies, the differences in the stages and the insurance among them. It also did not show how it will educate its drivers, in a uniform and standard way, regarding their personal liability exposure under its agreements with them or that may result from its proposed insurance, how to access Applicant’s proposed three stages of insurance, or how to inform passengers or third parties how to do so in the event of an accident or claim.[[37]](#footnote-37) Finally, Applicant does not inform its insurer about its drivers or their records, and its insurer is not the initial contact on claims, in contrast to standard underwriting and claims handling practices in the insurance industry.[[38]](#footnote-38)

 The Commission requires insurers to file a Form E, a certificate establishing that the vehicles are lawfully insured. Applicant seems to assert that the Form E filing will somehow cure any problems existing with the terms set forth in their proposed agreements and insurance policies. As explained by the Insurance Federation:

That is woefully inadequate. If ever the Commission should approach an application with a “trust but verify” stance, this is it. Lyft doesn’t understand some of the contingencies and caveats in its own policies, much less how they intersect with its contingencies and caveats in its other agreements with its drivers and possibly with its passengers. And to say it will adjust its policies to cover whatever the law requires begs the question of what the law requires. Granted, it may be impossible to anticipate and answer every scenario. But the purpose of an insurance policy is to answer – in advance, not after a protracted legal process – the parameters of coverage. Lyft has resisted this.

Lyft’s own conduct should put the Commission’s emphasis on verification over trust. It claims it is complying with the Commission’s ETA Order – its insurer filed a Form E as “proof”. But it cavalierly admits it is providing only contingent coverage in Stage 1 and is not requiring its drivers to notify their insureds, much less get documentation of that.

The Commission should be wary of Lyft doing the same in this permanent application. It should require that Lyft be open about its insurance coverage, with its drivers, with the public and with the Commission – and the Commission should establish ongoing monitoring of that. An order is only as effective as the compliance with it, and Lyft’s conduct under the ETA raises serious concerns.

Brief of The Insurance Federation of Pennsylvania, Inc., at 29-30.

 In sum, the evidence demonstrates that the Applicant has failed to propose adequate insurance, education and training for Applicant’s drivers, its passengers and the general public, and it leaves unanswered several crucial insurance-related issues. As such, the application fails to protect the public and must be denied, on this basis alone.

 Next, an applicant for motor carrier authority must also demonstrate that it has the technical fitness to provide the proposed service by showing that it has sufficient financial resources to provide service, whether its employees have sufficient technical expertise and experience to serve the territory requested and whether the applicant has an appropriate plan to comply with the Commission’s driver and vehicle safety regulations. After carefully reviewing all of the evidence submitted for our consideration, we are constrained to conclude that the Applicant has failed to fulfill any of these requirements.[[39]](#footnote-39)

 The Applicant failed to demonstrate that it has a plan or even a commitment to accept responsibility for its role in ensuring vehicle safety and driver integrity. Although it appears to engage in thorough background checks of drivers regarding criminal history and driving history, it does not have a plan to monitor the driver on an ongoing basis. Although a vehicle used in the Applicant’s service must have its Pa. DOT vehicle registration and inspection up to date and a Lyft employee or mentor will check some vehicle features, there is no mechanical inspection at the time the vehicle is put into service, nor is there a plan in place to ensure that the vehicle stays in a safe mechanical condition. Neither the Lyft employees nor the Lyft mentors who are responsible for inspecting vehicles are mechanics.

 Second, the Applicant failed to provide any evidence regarding the technical expertise of any people who will be working on behalf of the Applicant. Mr. Okpaku did not identify any specific individual or set of individuals who specialize in the Applicant’s Pennsylvania operations. Although there is a central staff in California who monitor passenger feedback in the event that a driver needs to be removed from the platform, the Applicant maintains no local office or presence of any kind. No employee or real mechanism was identified for governance of the conduct of drivers. Although Mr. Okpaku was knowledgeable in many areas, he did not appear to be familiar with important regulatory requirements for motor carriers in Pennsylvania. Nor is such oversight included in his job responsibilities.

 The Applicant provided no meaningful financial information which would permit the Commission to conclude that it had sufficient financial resources to meet its responsibilities. Although Mr. Okpaku stated that Lyft is funded by venture capital, the Applicant provided no financial information regarding its specific operation in Pennsylvania.

 Section 41.14 requires the proposed service to be “responsive to a public demand or need.” Typically, need may be established by the number of service requests, or witnesses

representing a cross section of the public, that will use the applicant’s proposed service within the territory described in the application. However,

. . . an applicant is not required to establish a public demand/need for the proposed transportation in each and every point within the requested operating territory. Typically, the applicant may sustain its burden of proof by establishing a public demand/need for the applicant’s proposed service generally throughout the territory encompassed by the application.[[40]](#footnote-40)

 To establish that the Applicant’s service serves a public need for the purposes of the application, the Applicant contacted passengers who had used the Lyft service. Several verified statements from passengers stated that they had used Lyft for transportation and that they intended to use the service in the future. We find these verified statements are sufficiently representative to support a conclusion that the Applicant demonstrated that the proposed service is responsive to a public need.

 Finally, we must consider the Applicant’s record of compliance with the Commission regulations and its commitment to meeting the requirements of those regulations. It is appropriate for the Commission to withhold authority to operate where the record demonstrates that the Applicant is not likely to comply with Commission regulations in the future, which impairs the Commission’s ability to protect the public safety.[[41]](#footnote-41) The standard for evaluating an applicant’s commitment to conducting its operations legally is “whether there is demonstrated a persistent disregard for, flouting or defiance of the Public Utility Code or Commission Orders.”[[42]](#footnote-42)

 Here, the Applicant explained at great detail that it does not believe that the service it is providing is transportation service which falls within the purview of the Commission’s jurisdiction. Therefore, it launched its service in Allegheny County in the spring of 2014 and has

operated continuously since that time. However, on June 5, 2014, the Bureau of Investigation and Enforcement (BIE) filed a complaint against the Applicant. The complaint alleged that the Applicant, through its digital software – an app – was acting as a broker of transportation services for compensation without appropriate authority from the Commission. As relief, BIE sought civil penalties in the amount of $130,000, and that Lyft cease offering passenger transportation service until it conformed to the requirements of the Public Utility Code and Commission regulations. The Applicant disagreed with this characterization of its service.

 Thereafter, BIE filed a Petition for Interim Emergency Relief which sought an immediate order directing Lyft to cease and desist from offering transportation services on June 16, 2014. Following an evidentiary hearing on June 26, 2014, the Applicant was ordered to immediately “cease and desist from utilizing its digital platform to facilitate transportation . . .” by order entered July 1, 2014.[[43]](#footnote-43) That order was affirmed by the full Commission on July 24, 2014.

 The Applicant was also granted emergency temporary authority to operate on July 24, 2014. However, that permission was contingent upon the Applicant complying with additional requirements that were imposed by the Commission. The Applicant was not granted its certificate of public convenience pursuant to the Emergency Temporary Authority until August 14, 2014.

 Yet the Applicant continued to operate after the July 1 and July 24, 2014 orders directing it to cease and desist. Although it may disagree with the Commission’s conclusion that its operation was in violation of the law, the fact is, when explicitly directed to cease its operation, it was obligated to do so.

 This factor coupled with the Applicant’s failure to present any cohesive plan for managing and policing driver safety and vehicle integrity beyond the initial engagement with the driver, suggests that the Applicant is not committed to operating safely and legally. The Applicant does not appear to have informed itself of the regulatory requirements of the Commonwealth, or appreciate the governance of drivers and vehicles as integral to its duty and the Commission’s to ensure the safety of the public.

 In sum, after carefully reviewing the evidence that was presented for our consideration at the hearing, the Applicant simply did not meet its burden of proving each of the elements of Section 41.14. Although we find the goals of Lyft in designing this transportation network company which were well-articulated by Mr. Okpaku, laudable and important, they do not outweigh the lack of clarity of the insurance coverage provided for drivers, passengers and pedestrians and the lack of planning for the oversight of drivers and ensuring that the vehicles used in the operation are safe at all times. Therefore, we cannot recommend approval of this application.

 To defeat an application, a protestant must show that the entry of the applicant into the transportation market would cause unrestrained and destructive competition or would otherwise contravene the public interest.[[44]](#footnote-44) Although the Protestants offered a substantial amount of testimony concerning the current regulatory burden on their operations and that the entry into the transportation market of a transportation service that does not carry that burden would negatively impact their business, we find that this evidence is not sufficient to sustain their burden of proving “destructive competition.”

 We were impressed by the testimony of the taxicab companies which offered testimony in this case, and also the *Application of Rasier-PA LLC*,[[45]](#footnote-45) describing the quality of their operations. However, our ruling on this application is not an effort to protect existing carriers or quash innovation in the transportation market. There are clearly consumers in the market that will prefer the predictability of taxicab service, the ability to use a telephone or street hail to summon transportation, the ability to make advance reservations and to pay with cash. There was no evidence presented at the hearing which would suggest that these well-established companies will not be able to market themselves to leverage these factors that distinguish them from transportation network companies, should such a company receive Commission approval to operate in the future.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over “public utilities” as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102.
2. The grant of a certificate of public convenience is governed by Section 1103 of the Public Utility Code, which provides “A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such a certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa.C.S. § 1103(a).
3. The standard for determining when a certificate is necessary or proper for the service, accommodation, convenience or safety of the public is within the sound discretion of the Commission. *Elite Industries, Inc. v. Pa. Pub. Util. Comm’n*, 832 A.2d 428 (Pa. 2003).
4. It is appropriate to consider the transportation service proposed by the Applicant under the Commission’s experimental service regulation as a motor carrier.
5. The Commission has jurisdiction over this matter as the application seeks authorization to provide “experimental service,” which is a class of motor carrier service defined under 52 Pa.Code § 29.13.
6. Applicant must obtain a certificate of public convenience from the Commission in order to facilitate transportation service within the Commonwealth of Pennsylvania under 66 Pa.C.S. § 1101.
7. Applicant has failed to meet its burden of proof pursuant to 52 Pa.Code § 41.14.

ORDER

 THEREFORE,

 IT IS RECOMMENDED:

 1. That the 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 Allegheny County, be denied.

2. That the Secretary mark the docket at Number A-2014-2415045 closed.

 /s/

 Mary D. Long

 Administrative Law Judge

Date: October 2, 2014 /s/

 Jeffrey A. Watson

 Administrative Law Judge

1. Application at Attachment A, p. 1. [↑](#footnote-ref-1)
2. 44 Pa.B. 2493 (April 19, 2014). [↑](#footnote-ref-2)
3. The petition was assigned Docket No. P-2014-2433428. [↑](#footnote-ref-3)
4. The petition was assigned Docket No. P-2014-2433383. [↑](#footnote-ref-4)
5. Docket No. A-2014-2432304. [↑](#footnote-ref-5)
6. The hearing was a joint proceeding for both this application, as well as Lyft’s statewide application filed at Docket No. A-2014-2415047. [↑](#footnote-ref-6)
7. That section provides:

**(a) Medical benefit.--**An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall include coverage providing a medical benefit in the amount of $5,000.

**(b) Minimum policy.--**All insurers subject to this chapter shall make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits as provided for in this chapter.

75 Pa.C.S. § 1711. See also 52 Pa.Code § 32.11. [↑](#footnote-ref-7)
8. In its brief, Lyft quotes testimony from the Commission’s *En Banc Transportation Hearing* which was held on August 28, 2014. The Commission very explicitly stated that those proceedings were not a vehicle for collateral litigation of these proceedings, and that those who were invited to testify were not permitted to offer testimony related to these proceedings. Further, we repeatedly instructed counsel during the course of these evidentiary hearings that it was not appropriate for us to consider testimony from the *En Banc* hearing in this record. Accordingly, we will not consider the material presented in any brief connected to the August 28, 2014 *En Banc* hearing and no part of our decision here is based on that event. [↑](#footnote-ref-8)
9. 66 Pa.C.S. § 1103(a). [↑](#footnote-ref-9)
10. *E.g., Elite Industries, Inc. v. Pa. Pub. Util. Comm’n*, 832 A.2d 428 (Pa. 2003). [↑](#footnote-ref-10)
11. There are several protestants to this application. To their credit, they have made an effort to collaborate the presentation of evidence and argument in this matter. Although they have raised unique arguments in their opposition to the application, no protestant derives an individual benefit from taking or not taking a certain position. Therefore, unless it is relevant to a particular argument, we will not attribute any particular issue to an individual protestant. [↑](#footnote-ref-11)
12. 66 Pa.C.S. § 102 “Public Utility” (1)(iii). [↑](#footnote-ref-12)
13. 52 Pa.Code §§ 29.301-29.356. [↑](#footnote-ref-13)
14. 52 Pa.Code § 29.352. [↑](#footnote-ref-14)
15. 52 Pa.Code § 29.352. [↑](#footnote-ref-15)
16. Docket No. A-2014-2410269 (Order entered May 22, 2014). [↑](#footnote-ref-16)
17. Opinion and Order at 3. [↑](#footnote-ref-17)
18. *E.g.,* N.T. 97-99. [↑](#footnote-ref-18)
19. *E.g.,* N.T. 62-63; 102; 150-51; 172-75. [↑](#footnote-ref-19)
20. 52 Pa.Code § 29.352. [↑](#footnote-ref-20)
21. *E.g., Yellow X*, Opinion and Order at 9-10 (waiving leasing regulations and imposing reporting requirement). [↑](#footnote-ref-21)
22. *Application of Mexicana Express Service,* LLC, Docket No. A-2012-2329717 (Opinion and Order entered September 11, 2014); *Application of Armstrong Millien*, Docket No. A-2009-2099553 (Initial Decision dated January 19, 2010, adopted by Opinion and Order entered May 11, 2010). [↑](#footnote-ref-22)
23. *Application of Yellow Cab Company of Pittsburgh, t/a Yellow X*, PUC Docket No. A-2014-2410269 (Order entered May 22, 2014). [↑](#footnote-ref-23)
24. 52 Pa.Code § 41.14. [↑](#footnote-ref-24)
25. 66 Pa.C.S. § 332(a); *Application of Armstrong Millien*, Initial Decision, slip op. at 10. As with all Commission proceedings, this burden must be met by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n,* 578 A.2d 600 (Pa.Cmwlth. 1990), *petition for allowance of appeal denied*, 602 A.2d 863 (Pa. 1992). [↑](#footnote-ref-25)
26. *Yellow X*, slip op. at 10. [↑](#footnote-ref-26)
27. 52 Pa.Code § 41.14(c); *Application of Blue Bird Coach Lines.* [↑](#footnote-ref-27)
28. *Blue Bird Coach Lines*, 72 Pa. PUC at 286 (quoting *Mobilefone of Northeastern Pennsylvania v. Pa. Pub. Util. Comm’n*, 458 A.2d 1030, 1034 (Pa.Cmwlth. 1983)). [↑](#footnote-ref-28)
29. 52 Pa.Code § 41.14(b)(3). [↑](#footnote-ref-29)
30. 66 Pa.C.S. § 512. [↑](#footnote-ref-30)
31. 52 Pa.Code § 32.11(a) and (b). [↑](#footnote-ref-31)
32. N.T. 369-70; 374-76. [↑](#footnote-ref-32)
33. N.T. 360-61; 409-410. [↑](#footnote-ref-33)
34. N.T. 373-74. [↑](#footnote-ref-34)
35. N.T. 374; 393-97; 401-402. [↑](#footnote-ref-35)
36. JB Taxi Exhibit 2, pp. 9, 13 and 21. [↑](#footnote-ref-36)
37. N.T. 464-66. [↑](#footnote-ref-37)
38. N.T. 461-63; 468-69; 479-82. [↑](#footnote-ref-38)
39. We note that the Commission has granted the Applicant temporary authority based upon information that was available to the Commission when that application was filed. The Commission explicitly stated that none of the conclusions reached for the purpose of granting temporary authority were binding upon the Commission’s consideration of the application for permanent authority. *Application of Lyft, Inc.*, Docket No. A‑2014-2432304 (Order entered July 24, 2014) at slip op. at 10 n.4, 22; Ordering Paragraph 5. [↑](#footnote-ref-39)
40. *Application of Blue Bird Coach Lines, Inc.*, 72 Pa. PUC 262, 274 (1990). [↑](#footnote-ref-40)
41. 52 Pa.Code 41.14(b). [↑](#footnote-ref-41)
42. *E.g., Application of Adamo Limousine, Ltd.*, Docket No. A-00115789 (Opinion and Order entered June 2, 2000). [↑](#footnote-ref-42)
43. *Order on Interim Emergency Relief*, Docket No. P-2014-2426847 (entered July 1, 2014). [↑](#footnote-ref-43)
44. 52 Pa.Code § 41.14(c); *Application of Blue Bird Coach Lines.* [↑](#footnote-ref-44)
45. See Docket Nos. A-2014-2424608 and A-2014-2416127. [↑](#footnote-ref-45)