

**Notice to Plead:
TO: Complainant:**

You are hereby notified to file a written response to New Matter within 10 days of service or judgment may be entered against you.

_____/s/_____

**Richard M Meltzer, Esquire
Attorney for Respondent**

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement**

Docket No. C- 2017-2634219

V

Jetway Transport, Inc. t/a Main Line Taxi

Respondent, Jetway Transport, Inc. files its answer and New Matter to the above Complaint as follows:

- 1. Admitted.**
- 2. Admitted.**
- 3. Admitted. By way of further response, Respondent is represented by Richard M Meltzer, Esq. 150 Monument Rd., Suite 207, Bala Cynwyd, Pa. 19004 and Susan P Halpern, Esq. 1420 Walnut Street, Suite 300, Philadelphia, Pa. 19102.**
- 4. Admitted.**
- 5. Admitted.**
- 6. Admitted.**
- 7. Denied. The allegation is a conclusion of law requiring no response.**
- 8. Denied. The allegation is a conclusion of law requiring no response.**
- 9. Denied. The allegation is a conclusion of law requiring no response.**

10. Denied. The allegation is a conclusion of law requiring no response.

11. Denied. The allegation is a conclusion of law requiring no response.

Factual Background

12. Denied. After reasonable investigation, answering Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof is demanded at the time of trial. By way of further response, Respondent denies the assessment was accurate or proper.

13. Denied. After reasonable investigation, answering Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof is demanded at the time of trial. By way of further response, Respondent denies the assessment was accurate or proper. By further response, Respondent denies it had adequate information to submit any objection as a basis for objections was unclear at the time the alleged objections were due.

14. Denied. The allegation is a conclusion of law requiring no response.

15. Denied. After reasonable investigation, answering Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof is demanded at the time of trial.

16. Denied. After reasonable investigation, answering Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and strict proof thereof is demanded at the time of trial. By way of further response, it is denied the assessment is owed, is accurate, or proper.

17. Denied. The allegation is a conclusion of law requiring no response.

18. Denied. The allegation is a conclusion of law requiring no response.

Wherefore, Respondent requests the complaint be dismissed. In the alternative, Respondent requests the assessment be modified and/or reduced.

NEW MATTER

- 19. Transportation Network Companies (TNCs) are technology-based transportation companies that enable a customer to arrange a ride with a driver via smartphone application.**
- 20. Two well-known TNCs are Uber Technologies,nc. (“Uber”) and Lyft, Inc.**
- 21. Respondent alleges that TNCs have become widespread as an alternative service to traditional taxi cabs and have competed illegally against Respondent free from any regulation by the PUC.**
- 22. The PUC has jurisdiction to regulate and sanction TNCs but has failed to do so, thereby allowing TNCs to obtain revenue at the cost to Respondent’s taxi operation.**
- 23. As a result, Respondent has suffered a decrease in its business revenue.**
- 24. The PUC’s lack of enforcement of TNC’s illegal conduct has caused a Deprivation of Respondent’s Constitutional rights.**
- 25. TNCs are “de facto taxicabs” because they provide the same service as traditional taxicabs.**
- 26 The PUC’s conduct constitutes a violation of Respondent’s Equal Protection Rights and is tantamount to an unconstitutional taking of property.**
- 27 Respondent alleges the PUC engaged in an alleged arbitrary disparate treatment that forms the basis of Respondent’s Equal Protection Claim.**

- 28 By failing to take meaningful enforcement action to prevent illegal operation of TNCs prior to the passage of Act 164 in November, 2016, the PUC has taken Respondent's property without payment of just compensation.**
- 29 The Takings Clause of the Fifth Amendment prohibits a government from taking private property for public use without compensation to the owner.**
- 30 Respondent has a cognizable property interest which has been affected by government conduct.**
- 31 The Pennsylvania General Assembly passed legislation granting TNCs permanent authority to operate throughout Pennsylvania in November 2016. This legislation has been referred to as Act 164.**
- 32 The Legislation allows TNCs to operate in both Philadelphia County and throughout Pennsylvania.**
- 33 It does not require TCNs to engage in the same or similar tests as those Respondent was required to meet to obtain its Certificate of Convenience**
- 34 Respondent contends that Act 164's provisions regarding assessments and costs to be borne by TNCs is vague, ambiguous, and violates Respondent's rights.**
- 35 Act 164 violates Respondent's Constitutional rights because the assessment favors TNC's in an irrational and arbitrary manner and compels Respondent to pay a higher amount of an assessment.**
- 36 Act 164 fails to require TNCs to pay assessments based on their prior illegal operations.**

- 34. Act 164 deprives Respondent of its property rights.**
- 35. Act 164 is unconstitutional.**
- 36. The disparity in treatment in assessing public utilities such as Respondent and TNCs is improper and constitutes a constitutional violation.**
- 37. The disparate treatment is not rationally related to a legitimate government objective.**
- 38. Respondent's license is a property right.**
- 39. The assessment fails to properly and fairly consider the conduct of TNC's, and is excessive, prejudicial, and illegally applied to Respondent.**
- 40. Respondent suffered prejudicial due process in the assessment process.**
- 41. Act 164 did not exist at the time any objection to the assessment was due.**
- 42. The manner of assessing TNCs is prejudicial, vague, and irrational and is unconstitutional.**
- 43. Respondent was denied due process as the required time to object to the assessment predates the passage of Act 164.**
- 44. Respondent believes the assessment is excessive based upon Act 164.**

Wherefore, Respondent requests Dismissal of Complaint. In the alternative, Respondent requests the opportunity to object to assessment or such other relief in the interests of justice requires.

Respectfully submitted:

_____/s/____

Richard M Meltzer, Esq.

_____/s/____

Susan P Halpern, Esq

Counsel for Respondent

(Original signature on file)