

BEFORE THE PENNSYLVANIA UTILITIES COMMISSION

John F. Peoples,	:	
	:	
Complainant	:	Docket No. C-2018-3000667
	:	
v.	:	
	:	
Lyft, Inc.	:	
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	:	
	:	

COMPLAINANT’S OBJECTIONS TO DEFENDANT’S LATE-FILED “EXHIBIT 5”

On Friday, October 26, in response to the Court’s request for Defendant Lyft, Inc. (“Lyft”) to late-file the actual warning emails issued from Lyft to Complainant John Peoples, Defendant submitted “Exhibit 5.” Complainant raises an objection to this exhibit on grounds detailed below.

I. “Exhibit 5” does not Conform to the Court’s Instructions

At the hearing, Lyft produced a document which contained a bullet-pointed list detailing dates on which warnings were allegedly sent to Complainant. Lyft admitted that the document was created for purposes of litigation, and this Court requested that Lyft file the *actual emails* sent to Complainant rather than the summary list that counsel and/or its witness Jessica Taylor created.

In response, Lyft has produced the exact same bullet-pointed list, but this time they have copy-pasted the text of the emails into the list, and copy-pasted various reviews asserting them to be the “allegation[s] giving rise to the warning[s].” Exhibit 5 does not contain the emails in their original form, nor any of the responses in their original form.

Further, the document goes beyond the Court's request by associating certain reviews with certain warning emails, despite the fact that the Court only asked for the emails themselves. As a result, the document submitted is not that requested by the Court and is inadmissible.

II. Lack of Authentication

Because Exhibit 5 is, as described above, a document created for the purpose of the litigation, it lacks any of the features of the original documents and/or emails. It is missing its original formatting, original timestamps, original sender's address and original recipient's address. Further, there is no witness testimony that these are, in fact, the emails in their original form. Exhibit 5 has therefore not been authenticated and is inadmissible.

III. Undue Prejudice

At the hearing, Lyft entered the driver reviews for the purpose of showing Lyft's motivation behind Complainant's termination from the platform on August 23, 2017. Complainant argued that there were no driver complaints regarding Complainant in the month of August, 2017 and Lyft responded that the Complainant's termination from the platform was a result of a driver review submitted in July, 2017. Complainant disputed this response, given that none of the other warnings were delayed for so long, and argued that the August 23, 2017 termination was NOT a direct result of any specific driver review.

In Exhibit 5, Lyft has attempted to address Complainant's argument by copy-pasting a July review that supports Lyft's argument and, directly below it, copy-pasting Complainant's termination email. Yet, during the hearing, Jessica Taylor admitted that she does not regularly review driver feedback unless it "escalates," and she offered no testimony that she would be the person responsible for facilitating a warning email resulting from a negative driver review. As of

today, there is no evidence on the record regarding who would make the decision to write an email to a passenger following a negative review, there is no evidence of who did it in this case, and there is certainly no evidence of when or if any particular review was acted upon to result in Complainant's termination from the platform.

Complainant objects to Exhibit 5 on the grounds that that it is unduly prejudicial for such a document to be admitted, given that there is no evidence that the July review "gave rise" to the termination email other than this document created by counsel and/or Jessica Taylor. It is unduly prejudicial for counsel to testify, or for Jessica Taylor to testify to something which she already admitted she has no personal knowledge of.

IV. Irrelevance and Immateriality

As described above, this document is either counsel testifying or it is testimony by Jessica Taylor regarding something she has no personal knowledge of.

If this document is created by counsel for the purposes of litigation, counsel's interpretation of the evidence does not and cannot constitute evidence and thus its inclusion in an evidentiary exhibit is irrelevant and inadmissible.

Jessica Taylor's summation of the relationship between specific reviews and specific emails is further immaterial because, as she has admitted, she has no knowledge of that relationship. Ms. Taylor's speculation as to what that relationship *may be* has no bearing on any relevant fact, and thus it is immaterial and inadmissible.

V. Undue Repetition


The Court has already admitted the driver reviews submitted by Lyft, and did so on the grounds that the statements themselves were not used for the truth of the matter asserted. Yet Lyft has copy-pasted those same reviews into this document. Such inclusion is unduly repetitive, especially considering the limited purpose for which the original reviews were admitted. As a result, Complainant objects to Exhibit 5 on the grounds that it is unduly repetitive and therefore inadmissible.

VI. Hearsay

For purposes of preserving the record, Complainant renews his hearsay objection to the driver reviews that are included in Exhibit 5.

Date: November 1, 2018

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