



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

June 20, 2014

The Honorable Tina L. Pickett
Pennsylvania House of Representatives
Chair, Insurance Committee
314 C Main Capitol
Harrisburg, PA 17120

Dear Chair Pickett:

Thank you inviting the Pennsylvania Public Utility Commission (PUC or Commission) to testify at the House Insurance Committee's June 23, 2014, public hearing on examining insurance coverage for consumers when utilizing experimental service for transportation. I regret to inform you that the Commission is unable to testify.

As you know, presently there are several applications to provide experimental transportation service pending before the Commission. Most of these pending applications are protested, meaning that members of the public have filed concerns on the record regarding these applications, making them contested cases. Public Utility Law prohibits Commissioners and PUC Staff from participating in *ex parte* communications regarding the merits, or any fact in issue, in any contested on-the-record proceeding. To do otherwise could compromise the Commission's action on any such pending proceeding.

Although we cannot comment on the substance of these pending cases, the PUC can provide a summary of the procedures that any motor carrier must follow when filing an application with the PUC. Accordingly, I have attached to this letter a summary of the the Commission's motor carrier application process and the procedural status of the experimental transportation service applications that are pending before the PUC. Please accept this information in lieu of in-person testimony by the Commission.

Again, thank you for your invitation to testify. If you have any questions, please do not hesitate to contact me at 787-3256.

Sincerely,

A handwritten signature in cursive script that reads "June M. Perry".

June M. Perry, Director
Office of Legislative Affairs

pc: Chairman Powelson

Status and Procedures for Transportation Network Companies Seeking a Certificate of Public Convenience from the Public Utility Commission

The Commission's 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. Each of those types of passenger service had unique characteristics that define the particular transportation mode. It has become evident to the Public Utility Commission (PUC or Commission) that the service provided by Transportation Network Companies (TNC) does not fit squarely within any of Pennsylvania's existing regulations for motor carriers. Unlike the services mentioned above, TNCs use an online enabled platform to connect passengers with qualified drivers for the purpose of transportation. Recognizing their services do not fit within the traditional statutory framework, several TNC operators have filed applications with the PUC for "experimental authority" under section 29.352 of the Commission's Regulations.

To date, the following TNCs have filed for experimental authority at the PUC:

- Yellow Cab Company of Pittsburgh, Inc. t/a YellowX
- Lyft, Inc.
- Raiser-PA LLC, a wholly owned subsidiary of Uber Technologies, Inc.
- Cranberry Taxi, Inc. d/b/a Veterans Taxi
- CheckerX

The PUC is unable to comment on the specifics of these applications because a majority of them are pending cases before the Commission. While cases are pending, it is important that the Commission remain neutral and that all communication regarding these applications is added to the record and made public. Despite being unable to comment on the substance of the TNC applications before us, the PUC can explain the procedural steps the Commission follows as it reviews these applications. We can also summarize the statutory framework that the PUC operates within when considering motor carrier applications generally.

When any transportation application is filed with the PUC, the PUC publishes notice of the application the Pennsylvania Bulletin. The purpose of this is to notify the public of the application, allowing them the opportunity to protest. The public has 15 days from the date of publication to file a protest.

If no parties protest the application, the PUC reviews the information submitted by the applicant and issues a decision about whether to grant a Certificate of Public Convenience. Such a certificate is a prerequisite to operating legally in Pennsylvania. If an application is

protested, the Commission encourages discussion between the parties to resolve the conflict. The applications to which timely protests were filed will not be acted on by the Commission for 20 days after the closing date for filing of protests, to permit the applicant to make restrictive amendments leading to the withdrawal of protests. If the application is still subject to protest, the case is referred to the PUC's Office of Administrative Law Judge (OALJ). There, the OALJ may give parties the option to participate in a voluntary mediation process. If the parties do not consent to mediate or if mediation is unsuccessful, the case will be set for hearing and the judge will issue an initial decision within 90 days of the close of the record. Parties then have the option of filing exceptions to the initial decision. If exceptions are filed, the Commission will decide the case at Public Meeting. If no exceptions are filed, the Commission reviews the initial decision and either lets it become final without further Commission action, or calls it up for review at the Commission's Public Meeting, whereby the PUC can approve, amend, or remand the decision back to OALJ for further proceedings.

Traditionally, when considering motor carrier applications, whether protested or not, the PUC is statutorily required to consider several factors such as whether there is a public demand or need for the service and whether the applicant possess the technical and financially ability to provide the service.¹ The applicant must also have adequate insurance and meet certain driver safety and vehicle safety requirements.² If the application meets the statutory requirements, the PUC issues an order approving the application.

These orders generally state that, before the PUC will issue a Certificate of Public Convenience, the applicant must submit to the PUC within 60 days: (1) a Form E, which serves as evidence of bodily injury and property damage liability insurance; and (2) a tariff establishing just and reasonable rates. The PUC further requires that the applicant must complete a Safety Fitness Review within 180 days of the date the certificate is issued.

As mentioned above, pursuant to section 29.352 of the Pennsylvania Code, applicants can file for experimental service if their service does not fit squarely within the PUC's existing motor carrier regulations. Section 29.352 provides that:

In order to advance or 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 of class of common carrier service.... Holders of experimental

¹ 52 Pa. Code §§ 41.14

² 52 Pa. Code §§ 29.501-08 (driver safety regulations); 52 Pa. Code §§ 29.401-407 (vehicle safety regulations); 52 Pa. Code Chapter 32 (insurance requirements).

certificates shall abide by this chapter except those which the Commission shall explicitly state shall not apply.³

The section further provides that 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 amends its regulations to provide for the experimental service.

To date, five TNCs have filed for experimental service at the PUC. Because an applicant is required to specify a "service territory" in its application (i.e., the geographical area in which it plans to operate), some of the TNCs have filed more than one application with the PUC, each specifying a different service territory.

At this point, the PUC has approved one application for experimental service, and that was the application by YellowX. No parties protested YellowX's application, so the Commission reviewed it and set forth the terms of the experimental service in an order issued at the PUC's May 22, 2014, Public Meeting.⁴

In contrast, several parties filed protests to the applications by Lyft, Veterans Taxi, and Uber (for the Allegheny County service territory). Accordingly, the PUC referred these applications to the OALJ for mediation and/or hearing. OALJ is currently in the process of setting those cases for hearing.

With respect to the application by CheckerX, the PUC published notice of the application in the Pennsylvania Bulletin and parties may file comments or protests until June 23, 2014. Uber has also filed a second application for statewide authority, which was published in the Pennsylvania Bulletin and parties may file comments or protests until June 30, 2014. Once the protests dates have expired for these applications, the PUC will either make decisions on the merits of the applications, or if protested, refer them to OALJ for a hearing and/or mediation.

With each of these applications, the PUC is moving them through the legal process as quickly as possible, while still respecting the law that provides an opportunity for interested parties to have a voice.

³ 52 Pa. Code §§ 29.253.

⁴ Docket No. A-2014-2410269.