Prepared Testimony of

Gladys M. Brown
Chairman
Pennsylvania Public Utility Commission

before the

Pennsylvania House of Representatives
Consumer Affairs Committee

June 7, 2018

Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120
Telephone (717) 787-4301
http://www.puc.pa.gov

Thank you, Chairman Godshall and Chairman Caltagirone, other members of the Committee, and all others gathered here this morning. It is my pleasure to join you today to testify on behalf of the Commission and our dedicated staff at the PUC concerning Act 164 of 2016 and our experiences with Transportation Network Service (TNC service) in Pennsylvania. With me today, I have John Herzog, Deputy Chief Counsel, with the Commission's Law Bureau.

In March of 2014, the first application to provide TNC service in Pennsylvania was filed with the Commission. This application was filed by an existing taxi operator, Yellow Cab Company of Pittsburgh, Inc. While the proposed service was very similar to traditional taxi service, there were significant differences, such as vehicle ownership and flexible rates. The proposed service did not fit neatly within any of the Commission's existing categories of passenger transportation service. Therefore, the Commission classified the new service as "experimental service." The Commission approved the application in May 2014, for a two-year period, authorizing the first TNC service to operate in Pennsylvania, known as "Yellow Z."

The Commission has long recognized that taxi service in Pennsylvania has not been as responsive to consumer demand as it would like. There are many reasons for this, but the largest reason is the underutilization of a full-time dedicated fleet and the attendant costs associated with that underutilization. Taxicab providers are required, by regulation, to own the vehicles used in service. Drivers were prohibited from vehicle ownership. The reason for this was that the Commission wanted to ensure that the

taxicab company was the entity providing the service and was responsible for all aspects of the service. The Commission required that the certificate holder have direct control over all operations, which control would be diluted if drivers were permitted to own the vehicles. In essence, the Commission wanted to prevent a taxicab company from franchising its authority. While this goal was laudable and ensured accountability, it also meant that taxi companies could not readily augment their fleet size in response to temporary changes in demand for service. It was economically unfeasible to own and operate a vehicle that was only required during peak demand periods. Additionally, the fixed rate structure attendant to taxi service precluded meaningful pricing adjustments to reflect necessary premiums for peak demand periods.

The Commission was cautiously optimistic about the new TNC service's ability to address these issues. Significantly, TNC service provided for a new business model where drivers would use their personal vehicles to provide service. Additionally, the TNC rate structure was flexible to accommodate peak demand periods. Both of these changes to traditional taxi service would, if properly deployed, help ensure that supply would meet demand. The necessity of having an underutilized, stand-by fleet was obviated by the advent of TNC service.

Notwithstanding the potential benefits of TNC service, the Commission recognized that certain elements of regulation were indispensable, including vehicle safety, driver integrity, and proper insurance. The challenge was to integrate these fundamental consumer safeguards into the TNC model without killing that model. The

Commission's solution was to place compliance requirements on the TNC company. It was the TNC company's responsibility to ensure all vehicles met established safety standards, that all drivers were properly vetted, and that appropriate insurance with necessary guarantees, was secured. In essence, the Commission required that TNC companies have "direct control" over all aspects of the service. The TNC companies already dictated rates and routes for each trip.

The Commission's approach was groundbreaking and resulted in a successful rollout of TNC service in Pennsylvania and the development of a new line of insurance to accommodate that service. This all happened in the span of 2 months from the time Yellow Z filed its TNC/Experimental Service application to the time the Commission conditionally approved that application.

Following the Yellow Z application, the Commission received applications from Raiser-PA LLC (Raiser) and Lyft, Inc. (Lyft). Both of these carriers were initially reluctant to submit to any regulatory authority over their proposed service. However, following an initial period of friction, both carriers ultimately recognized the necessity of regulation, came into compliance with PUC requirements, and were granted authority to operate TNC service in Pennsylvania for a period of two years. These three companies are the only TNC companies operating in Pennsylvania.

Recognizing that the Commission's statutory and regulatory structure was not a perfect fit to accommodate TNC service, Act 164 was enacted in 2016. Act 164

addressed the Commission's concerns regarding consumer protection, including vehicle safety, driver integrity, and proper insurance. The Commission implemented Act 164 and, for the most part, it has gone smoothly.

The most significant compliance issues concerning TNC service were those issues associated with the "pre-licensing" period, where the TNC companies questioned the appropriateness of any governmental regulation. The Commission initiated significant complaints against Rasier and Lyft for violations attendant to non-licensing, and those complaints are completed and closed.

Since that time, the Commission has had very few complaints involving TNC service. Currently, there are approximately 50,000 TNC drivers operating in Pennsylvania. The number of violations that the Commission has found since 2016 is minimal, and most violations are minor, such as failure to display the TNC decal. To date, only two (2) serious vehicle safety violations were found, both involving low tire tread depth.

As for driver integrity, the Commission has reviewed the criminal and driver compliance histories for TNC operators and did not find any abnormalities. The Commission conducts these reviews periodically.

Regarding insurance compliance, the Commission has not had any issues with coverage or claim adjustments. The Commission is not aware of any significant

accidents involving TNC companies, or that accidents are occurring at an unusually high rate.

As for flexible, or dynamic, pricing issues, the Commission is aware that there is limited public frustration over surge pricing. However, we have received very few complaints about this issue. The transparency afforded the consumer with pre-trip pricing quotes, via the company app, most likely accounts for this. The Commission believes that the public has largely accepted dynamic pricing as a necessary trade-off for service convenience and availability.

The Commission is also aware of issues involving TNCs relating to cyber security and privacy. To the extent those issues involve Commission oversight, they will be properly vetted at the appropriate time.

TNCs, along with all utilities, are subject to an annual assessment to fund the cost of regulation. Pursuant to the Public Utility Code, the assessment is based on a utility's gross intrastate operating revenues. The utility then pays a proportional share, based on those revenues, of the costs of regulation. To date, TNCs have paid their appropriate share of Commission costs.

TNC service in Pennsylvania has been a game changer. Transportation service that was previously unavailable is now meeting the demands of the consumer. Safeguards have been implemented to ensure that the service is provided in safe, insured vehicles and by qualified drivers. The Commission remains diligent in its efforts to

ensure public safety in this regard. Additionally, TNC service has been a catalyst for change in other traditional transportation industries, such as the taxicab and limousine industries. Pursuant to Act 85 of 2016, the Commission spearheaded an effort and updated the regulatory framework governing these industries to recognize changes in technology, customer demand, and competitive challenges. Additionally, the Commission recently implemented regulations designed to eliminate unnecessary barriers to entry in the passenger carrier industry. Changes to the passenger transportation industry have been a fast-moving target. The Commission, through the diligent efforts of its staff, has been able to meet the regulatory challenges occasioned by those changes.

I appreciate the opportunity to testify today and would be happy to address any of your questions.

Gladys M. Brown, Chairman