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September 26, 2016

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

**RE: Temporary Rulemaking for the Taxi and Limousine Industries**  
**Docket No.: L-2016-2556432 (incorrectly filed with docket #L-2016-2566432)**  
**Comments on Behalf of the Pennsylvania Taxi and Paratransit Association**

Dear Ms. Chiavetta:

The Comments submitted herein are proposed on behalf of the Pennsylvania Taxi and Paratransit Association (PTPA) in conjunction with the proposed regulatory changes to Chapter 29 of Title 52 of the Pa Code. The PTPA proposes the following changes and the rationale therefore:

1. §29.71 Marking of Taxis

We propose change to this section to incorporate the more modern safe and available technologies used to dress vehicles. As long as the vehicle numbers and identification markings are not obscured, we see no harm to the public. To the contrary, vehicles that are wrapped in bright colors make for easier identification and give vehicles a modern, “fun” appearance. Revenue generated by advertising from “wrapping” or signage will create the possibility of fewer rate increases. It can also give older cars a fresh new appearance at a minimal cost.

The provisions at §29.103 and §29.402(3) are reserved and incorporated at §29.71 because it makes more sense to put all of the vehicle marking requirements in one place.

2. §29.62 Interruption of Service

The proposed revisions to this section address issues where the demand for service exceeds reasonably anticipated demand. In order to avoid penalizing a carrier for circumstances outside of its control, this section allows the carrier to notify the public that they cannot reasonably service the call. This section addresses the issue of the impossibility of service so that a customer can make other arrangements. This provision is important in smaller markets where there are generally fewer passengers but those passengers are often located miles apart. There are times in rural areas where five (5) calls in disparate sections of a county can cause stress to the ability of the carrier(s) to service the calls.

Additionally, we believe that the safety of the driver is a paramount concern. For this reason, it must be left to the reasonable and articulable discretion of the driver whether he can safely service a given call. There is no way to avoid the subjective nature of the driver's determination, but we believe that the safety of the driver should be a significant consideration and that he should not be penalized for a refusal of service if safety is an issue.

3. §29.101 Operation of Taxi and Limo Equipment

It is suggested by the PTPA that the PUC institute the operation of owner-operator taxi service. This creates a more economical way for taxi drivers to earn a sustainable living by using a dedicated taxi, which they eventually own, in call and demand service. This is especially important in rural areas. The insurance requirements, maintenance and service requirements remain the same as for any taxi. The certificated carrier loses none of its responsibilities for PUC compliance, including for that of the owner-operator. Further, there are very few jurisdictions in the United States that do not permit owner-operator taxi service. We believe that the ownership component will give the driver a vested interest in the care and maintenance of his/her vehicle and help facilitate better overall service. It is contemplated that the certificated carrier retains the insurance, inspection/maintenance driver supervision and all other responsibilities that it would with a lease driver. It is noted that under the owner-operator scenario, the

carriers' livery would be removed upon retirement of the driver or vehicle to avoid misuse or misidentification of that vehicle.

4. §29.314 Vehicle and Equipment Requirements

The PTPA suggests that there be changes to the regulations to reflect the upgrades in dispatch technology and to specifically allow the use of “soft meters” such as MDT’s, tablets, computers or other developing technology that tracks vehicles. This dovetails with the changes in requirements for written manifests and log sheets which are replaced by electronic data storage. Although some operators still use “old style mechanical meters”, accommodation must be made for the benefits available with new tracking technology and new methods of recording trip information.

The PTPA would advocate a non-mileage based vehicle limitation at ten (10) model years with a further “per vehicle” age limit established for: (1) hybrid vehicles; (2) alternate fuel vehicles; and/or (3) wheel chair-accessible vehicles. This section promotes the investment in “green” technology as well as investment in handicapped vehicles such as MV-1’s. The age limitation, rather than mileage, allows the rural carriers with smaller fleets to get more use out of their investment. It is harder for small, family run businesses, to replace one of their two or three vehicles when those vehicles still have life in them at over 350,000 miles.

5. §29.313 Service Standards and Requirements

PTPA suggest revisions to this section to address the obvious need to take advantage of electronic data collection in consideration of the inaccuracies and failures of requiring manual or hand written log sheets and manifests. The revisions also reduce the amount of information required by a written log or manifest in the event that a written log or manifest is required. It is suggested that a two-year retention period would be appropriate to comply with potential statute of limitations issues.

This proposal saves significant paper and avoids drivers filling out logs/manifests while driving or otherwise being distracted from safe vehicle operation.

6. §29.315 Reserved/Alternative Form of Compensation

This sections is now reserved. Most of the elements of this section, to wit: 1(i) *levels of insurance*; 1(ii) *vehicle inspection requirements*; 1(iii) *driver compliance*; 1(iv) *insurance termination*; (2) *own or lease vehicle according to within documentation*; *general adherence to §32.11 and subchapters E and F*, have all been set forth in other sections or absorbed into other sections (i.e. the ability to house the vehicle at the operator's residence and changes in dispatching). We view the need for alternative forms of compensation to be abrogated by the new rules and pending legislation before the General Assembly.

7. §29.316 Taxi Tariff

The proposed changes herein are intended to allow certificated carriers to adapt to changing market conditions on a daily basis without undue burden for the PUC staff and without undue burden on the carrier regarding the justifying changes within pre-set parameters. This allows taxi service to be adaptive from a fare perspective in a way which is similar to (and competitive with) TNC competitors.

Inherent in this tariff proposal is notice to the public of the range of fares possible and the actual fare being changed on the trip in question. Transparency of the fare structure is a key element for the public.

The PTPA would propose a tariff structure which would allow carriers to change their tariff, without notice to the PUC, within a range of base fares capped at a certain level. This would allow the carrier to set its flag drop anywhere from (for example) \$1.00 to \$4.00 and its charge per 1/7<sup>th</sup> mile from \$.10 to \$1.50. This helps the smaller carriers to compete with other carriers without having to seek PUC approval for each tariff change. It is less important for many carriers outside the metropolitan areas to compete with the TNCs, but they must be able to range their fares (short of "surging") to be TNC competitive when appropriate. For example:

**§ 29.316. Tariff requirements.**

- a) Taxi Tariffs.- A new motor carrier of call and demand service shall, prior to furnishing or offering to furnish service, file with the commission tariffs showing the

rates or other compensation demanded for the service as provided for in this section. Existing certificated carriers of call and demand service shall, within thirty (30) days of the effective date of this section, file a new tariff that complies with this section.

- 1) A taxi tariff must be filed, posted and published in accordance with law and title 52 Pa Code and contain the following components:
    - i) A flag drop fare not to exceed \$15.00.
    - ii) A fare for each additional 1/7<sup>th</sup> of a mile in an amount not less than \$.10 for each additional 1/7<sup>th</sup> of a mile and not to exceed \$1.00 per each additional 1/7<sup>th</sup> of a mile.
  - 2) A cancellation, no-show and cleaning fee may be applied as necessary and included within the tariff or charged separately with advance notice to the customer.
  - 3) A motor carrier of call and demand service must disclose the fare calculation method, the applicable rates being charged and provide an estimated fare to the customer upon the customer's request. A taxi company that computes fares through a digital platform may not charge a fare that exceeds the limitations under the act of October 31, 2006 (P.L.1210, No.133), known as the Price Gouging Act, during a natural disaster or state of emergency as declared by a local or State governing body of the Commonwealth. If a natural disaster or emergency does not result in the declaration of local or State emergency, the increase in fare must be established on the basis of fares charged over the preceding 60 days.
  - 4) Nothing in this section shall be precluded to prohibit a certificate holder from offering promotional discounts.
- b) A carrier of call and demand service desiring to change the flag drop rate or additional mileage rate as set forth in §29.316(a) may do so by posting a tariff supplement and filing the same with the Commission one day in advance of the effective date.
- c) *Posting of fare rate.* Every operator of a call or demand service with fares based on a meter or flat rate shall post the rates of fare in a conspicuous place in each of its vehicles or digital platform.
- d) *Full fare information about alternative services.* When a customer requests call or demand service from a certificateholder who offers service under tariffs authorizing both exclusive and nonexclusive services: the dispatcher shall, if requested by the customer, quote to the customer the estimated fare for the trip of the customer as priced under both of these two alternative services, considering the number of people in the traveling group of the customer; and the dispatcher shall explain to the customer, if necessary, the difference in these two types of service.

#### **Authority**

The provisions of this § 29.316 amended under the Public Utility Code, 66 Pa.C.S. § § 501, 1102, 1103, 1501, 1502, 1504, 1506, 1508 and Chapters 23 and 25.

### Source

The provisions of this § 29.316 adopted January 23, 1981, effective January 24, 1981, 11 Pa.B. 409; amended August 4, 2006, effective August 5, 2006, 36 Pa.B. 4181. Immediately preceding text appears at serial pages (218761) to (218762).

### Cross References

This section cited in 52 Pa. Code § 29.311 (relating to conditions); 52 Pa. Code § 29.353 (relating to method of operation in paratransit service); and 52 Pa. Code § 30.31 (relating to vehicle equipment requirements).

#### 8. §29.501-506 Service Standards

The PTPA proposes changes to these sections to address possible deficiencies in the criminal history/record search for drivers. The PTPA suggests preclusion from driving for those under direct court suspension and prohibits anyone who has been convicted or pled guilty or no contest to certain crimes. There would be a more detailed and involved background check for drivers to prevent risk of harm to the public.

There should be a seven (7) year DUI prohibition for taxi drivers. Also, there needs to be greater specificity regarding the crimes which would preclude an individual from being permitted to drive a taxi. This includes the specific driver history and violations which would prohibit an individual from operating a taxi/limousine. Further, these proposed revisions deal with criminal background qualifications and leave less decision making for the carrier when it comes to determinations of whether or not a driver constitutes a danger to the public.

On the issue of drivers licensing, a common or contract carrier may not knowingly permit a person to operate a vehicle in its authorized service unless that person has a current valid driver's license. A taxi driver must carry a valid license and the PUC can penalize a driver for failure to operate with a valid driver's license. This sets hard parameters so that the carrier has little room for mistakes as to the qualifications of its drivers. This gives the carrier some relief from penalty in the event that a driver has lost his license but does not report the same to the carrier or the lack of license does not appear in the

latest driver history search. This is a departure, however slight, from the carrier being the absolute guarantor of the driver's license status.

10. §29.403 Vehicle Requests

The revisions to this section continue the prohibition against smoking in a taxicab and address other fairly well established passenger safety rights.

Further, this section requires taxi drivers to maintain certain standards of appearance, and codifies certain customer service provisions.

The PTPA also proposes that rural carriers would need to have child restraint/car seats available for use by passengers with children.

11. §29.332 Method of Operation

These revisions update Limousine operation parameters. It allows for limousine reservations by either telephone or internet based electronic platform such as an "app". Also, it makes it unlawful for doorman/valets to make instantaneous brokering reservations for limousines. These changes allow limousine carriers to use all phone/"app"/electronic means of reservations while retaining the prohibition against street hails or instantaneous reservation.

Limousines may not be more than ten (10) model years old, with the exception being "classic limousines" which would be approved for use after submission to the PUC for review.

The tariff structure for limousines is changed to allow for time or distance or both. This pricing flexibility (along with agreed pricing between carrier and passenger) is currently not permitted.

12. §29.405 Inspections

The revisions to this section allow the carrier to place vehicles "out of service" such that it is not subject to inspection. This prevents a vehicle which is waiting for repair or service to be included in an inspection.

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Please feel free to contact the undersigned should you have any further questions.

Very truly yours,

*/s/ Ray F. Middleman*

Ray F. Middleman

RFM/kjb

cc: James Campolongo  
John Herzog