

2885

PROPOSED FINAL FORM RULEMAKING

PHILADELPHIA PARKING AUTHORITY

**[52 PA.CODE CHS. 1001,1003,1005,1011,1013,1015,1017,1019,1021,
1023,1025,1027,1029,1051,1053,1055,1057,1059,1061,1063 AND 1065]**

[PRM-10-001]

Philadelphia Taxicab and Limousine Regulations

[41 Pa.B. 435]

[Tuesday, September 20,2011]

The Philadelphia Parking Authority (Authority), on November 22, 2010, adopted a proposed rulemaking order which establishes a body of regulations applicable to Philadelphia taxicabs and limousine service providers. This proposed rulemaking was necessitated by the Commonwealth Court's determination in *Germantown Cab Co. v. Philadelphia Parking Authority*, 993 A.2d 933 (2010), that the Authority's existing local regulations are invalid because they were not promulgated under the act of July 31, 1102 and 1201— 1208), known as 1968 (P.L. 769, No. 240) (45 P.S. §§ the Commonwealth Documents Law. The matter is on appeal to the Supreme Court, but the Authority will proceed with this proposed rulemaking in an abundance of caution.

Philadelphia Taxicab and Limousine Regulations;

Doc. No. PRM-10-001

COMMENTS RESPONSE TO PROPOSED RULEMAKING ORDER

PHILADELPHIA TAXI CAB AND LIMOUSINE REGULATION

ORDER DOCKET NO, PRM-10-001

IRRC NO. 2885 PHILADELPHIA PARKING AUTHORITY

REG NO. 126-1 PHILADELPHIA TAXICAB AND LIMOUSINE REGULATIONS

RECEIVED
IRRC
2011 SEP 20 P 4: 20

INTRODUCTION

I, Edward M. Burckhardt, residing at 2857 Walnut Hill Street, in Philadelphia PA 19152, am submitting these comments to the Philadelphia Parking Authority's, (hereafter referred to as "PPA"), proposed final form regulations as referred to above, individually and as Vice President of Yellow Cab Inc., Executive Transportation Company Inc., and Bucks County Services Inc.

These comments, despite submission on behalf of the aforementioned companies, as well as individual representation, are certainly not inclusive of all our concerns and/or legal challenges referencing these proposed regulations.

Because of the complexities involved in interpreting these regulations and the constitutional violations that will be infringed if implemented as proposed, and because I am not a lawyer, one of our attorneys' will also be submitting additional comments on our behalf, detailing and defining the legitimacy or lack thereof, of these proposed regulations.

The creation of a system and/or governmental checks and balances were crucial elements implemented by our founding fathers to deliberately ensure that such safeguards were rigidly established, as is evident in the Executive Branch of our government.

An interesting phrase that I stumbled upon in preparing these comments, quoting Earl of Chatham, is "ignorantia legis neminem excusat", which translated is "where law ends tyranny begins". Considering that these proposed regulations are being submitted now by the PPA, as opposed to expected submission in 2004, the resulting hardships that have inevitably followed, both emotional and financial, regardless of intention, make the credibility of these comments both germane and effective.

BACKGROUND

It is important to understand the history leading up to the submission of these proposed regulations to ensure that no person's Constitutional rights will be violated, and to eliminate the potential of giving them the authority or power to construct and/or implement rules, regulations, and/or orders preventing the industry from receiving Due Process. Without Due Process protection, the PPA will continue to have the ability to create regulations and/or polices that are immediately valid and/or binding without established safeguards to ensure the legality or comprehensive studies to determine the ramifications of such actions.

In section 7 of IRRC' comments, it states "*In addition, we suggest that PPA issue an Advance Notice of Final Rulemaking. This would allow interested parties and PPA the opportunity to resolve as many concerns as possible prior to the submittal of the final-form regulation.*", even with this suggestion by IRRC, the PPA sent notice and posted the final-form regulations July 15,

2011, and scheduled their Board meeting for approval on July 21, 2011. This only allowed the industry and its member's 3-business days to decipher and comprehend approximately 224 pages of regulations.

On July 21, 2011 the Philadelphia Parking Authority (PPA) convened a special board meeting for the sole purpose of passing their final-form regulations as instructed by Act 94 of 2004. The meeting was open to the Public as per the PA. Sunshine Act, and as legally bound by various state laws, and/or policies the PPA had to provide the regulated members and other interested individuals an opportunity to comment.

We decided that it would be prudent to hire a videographer to tape this meeting. As is apparent from the video, the PPA Board Members already made their decision prior to hearing the comments. You can see Al Taubenberger, (a PPA Board Member), read a prepared statement calling for a vote to affirm directly after hearing the comments, without consideration of the comments presented to them.

In order to distribute this video to anyone interested in viewing these proceedings, I decided to post in on Youtube.com. Because of the length I had to post this in 4 segments, these videos can be found on Youtube.com at the following addresses;

Part 1 – <http://www.youtube.com/watch?v=uz3hox3PE9Y>

Part 2- <http://www.youtube.com/watch?v=8f3EZOJxNFo>

Part 3 – <http://www.youtube.com/watch?v=KMxvNMrv55U>

Part 4 - <http://www.youtube.com/watch?v=VkOvguRmF7Q>

I would like to include and incorporate the above videos and the comments contained therein, as part of my submitted comments.

Additionally, with this submission I am including an article from The Legal Intelligencer published on August 8, 2011, by Zack Needles, as an attachment. This helps strengthen our position that the PPA conducts itself above the law, and what could be considered in contempt of court.

This information along with my previous comments and the comments below, in my opinion establishes a pattern of misconduct, recklessness, and a total disregard of their enabling statute as defined in Act 94. As the legislative Findings clearly states, in Section 5701.1 (1, 2 & 3).¹

¹ (1) As a matter of legislative finding, the health, safety and general welfare of the people of this Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce and tourism.

(2) Unemployment, the spread of poverty and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in this Commonwealth through the development of mixed-use projects by parking authorities in cities of the first class.

(3) Due to the size, total population, population density and volume of both tourism and commerce of a city of the first class, it may be more efficient to regulate the taxicab and limousine industries through an agency of the Commonwealth with local focus than an agency with diverse Statewide regulatory duties. Well regulated local focus on improving those industries can be an important factor in the continual

Repeatedly, they justify their restrictions on everyone except medallion taxicabs, because they didn't have to pay for a medallion, which is currently valued \$350,000.00. They were given the regulatory authority and responsibility to not only regulate taxicabs & limousines in the city and county of Philadelphia, but as you can clearly determine from the Legislative Findings in my footnote, promoting business; not restrict or create an environment segments of the industry cannot survive and/or prosper.

Ironically, the PPA states repeatedly that rules and regulations should be vigorously followed and enforced, and they themselves conduct themselves in a manor that's contradictory. They should not be allowed to operate outside or above the law and/or enabling legislation. As an example, Act 94 clearly establishes that they shall construct an Advisory Board², and dictates certain factions that should be included from the regulated community. It is my information and belief that these proposed and final form regulations were never submitted to any Advisory Board as mandated by the Act. Amazingly enough, throughout their 224 pages of their proposed final form regulations, makes no mention of this Advisory Board, their selection process, terms (as also defined in the Act), and/or their duties.

This fact should not be taken lightly. This is a very specific requirement of Act 94. Procedurally, without these regulations being submitted to an Advisory Board for recommendations, and the failure of the PPA to include this requirement in to their regulations is justification enough for IRRC to deny these regulations in their entirety.

The PPA withdrew these final-form regulations after conferring with IRRC. Since withdrawing these regulations they have now requested that anyone that would like to comment on these regulations must do so by noon, Friday, August 19 2011. Originally, anyone that wanted to comment had a deadline to have them filed to IRRC by August 23, 2011, two day prior to IRRC's monthly meeting, effectively reducing our time to evaluate these regulations by 4-days. Considering the magnitude of information that needs to be digested, and commented on, this lost time is significant. They have basically given us a week to review over a thousand pages.

After reviewing and preparing comments to this material; almost non-stop, day and night, at the expense of my other responsibilities being ignored; I submitted 25-pages of written comments to the PPA, as requested. Astonishing, but not surprisingly, they didn't even attempt to contact me to discuss my concerns, as documented throughout my submitted comments.

encouragement, development, attraction, stimulation, growth and expansion of business, industry, commerce and tourism within a city of the first class, the surrounding counties and this Commonwealth as a whole.

² § 5702. Advisory committee. (a) Establishment.--There is hereby established an advisory committee to be known as the City of the First Class Taxicab and Limousine Advisory Committee. The authority shall submit to the advisory committee issues and questions for their consideration regarding the regulation, enforcement, compliance and operation of taxicabs and limousines in cities of the first class. The advisory committee may thoroughly consider the questions and issues submitted by the authority and may prepare and transmit to the authority and the public written comments. The advisory committee may submit suggestions and proposals to the authority in writing on topics considered important by a majority of the members. All actions of the advisory committee shall be considered strictly advisory, and the authority shall give careful and due consideration to the comments and proposals of the advisory committee.

On September 2, 2011, without notice to the industry, which in my information and belief, a clear violation of the Sunshine provisions, they elected to call for a special Board Meeting. The sole purpose of this meeting was to vote for the approval to re-submit their final-form regulations back to IRRC. It is worth noting that they did not submit this revision of Regulations to the Advisory Board either. The PPA has repeatedly, when questioned about notices of Board meetings, amongst other things, have stated that they provide this information on their website. I'm certain that this was just another oversight on their part, and not deliberate. Just as was the case when they stated in their Board Order summarizing their final-form Regulations they withdrew, that there were no comments to 15 individual provisions of their Regulations, in which I clearly documented there were. They have since corrected that oversight, with this revision.

It is my information and belief that the PPA's deadline to resubmit these Regulations in time to make the agenda for the IRRC meeting of October 5, 2011, was September 5th or 6th. Since the 5th was Labor Day, to comply with what I believe are the requirements of the Sunshine Act, would have delayed them at least one more month with attempting to finalize these Regulations.

Which is an appropriate segue. The PPA has been trying to expedite these regulations through all stages; development, review, submission, etc., under the pretense that the various commissions, legislatures, and other agencies should "push" these regulations through because of the circumstances surrounding their submission. I shall ask the question that everybody (individual, agency, or otherwise), should be asking; "why should I take short-cuts, over-look normal procedures, protocols, time frames or give them the benefit of the doubt?" They, the PPA have placed themselves in this position; they are not a victim of unfortunate circumstances. Members of the regulated community, almost from day one, have repeatedly informed them their regulations were invalid for the same reasons the Commonwealth Court determined. They have chosen to ignore us, as they have chosen to ignore the Commonwealths rulings, their continued enforcement of their invalidated regulations are nothing more than contempt of court.

It is my understanding that IRRC cannot make any recommendations for changes at this stage of the regulatory process. The two options are a recommendation of these regulations in its entirety or a denial in its entirety; there is no middle ground. If the above points and information is not justification enough, I believe that combined with my comments, and attachments is more than enough to reach this conclusion and decision.

The PPA has been illegally enforcing regulations they illegally adopted in 2004, as was determined by the Pennsylvania Commonwealth Court, and reconfirmed in two recently decided cases, where the opinions were posted on August 3 2011.

The two cases can be found on the Commonwealth Courts website, and are; **Germantown Cab Co. v. Philadelphia Parking Authority - 1094 & 1395 C.D. 2010 & Germantown Cab Co. v. Philadelphia Parking Authority - 1396 C.D. 2010**

In the courts Opinion of 1396 C.D. 2010, it states, “we acknowledged the Authority’s fears that invalidating its taxicab regulation could lead to a regulatory void, placing at risk the taxi-riding public in Philadelphia. We explained that “concern about a regulatory void ...does not relieve the Court of the obligation to enforce the applicable statutes as they are written.” This Committee should take the same position, Deny these final form regulations in its entirety, and have them start again to ensure our rights are not violated or infringed.

In summary, the PPA should not be rewarded for blatantly disregarding Act 94, or claiming ignorance of proper procedure with the legal resources they have at their disposal. Nor should their claim that the industry is in a free fall be believed, fact of the matter is, is that there are valid regulations in place until they can ethically and legally pass valid regulations, the PUC’s as per ACT 94. I implore this Committee, do not bail them out because they decided or erred to take short cuts, or disregard the law, regardless if it was intentional or simply just another oversight.

Their Justification, Rationale & Misconception

Throughout their 224-pages of their final form Regulations-Order, they try to justify their regulations and/or actions, past and present, by the use of circular logic. Just because they have misinterpreted the legislative intent in their past interpretation, does not mandate that their position with certain regulations and/or polices cannot or should not be corrected. Time and time again, they state that this has been this way since 2005, so it’s okay and as such doesn’t create any hardships or violate any Constitutional right(s). The financial impact of these regulations, as is the requirement of IRRC, should have had a comparison of these costs and impact between the current regulations, and the proposed regulations. The PPA still has refused to provide a true cost comparison using the currently valid PUC regulations, and not their regulations that have been repeatedly invalidated and found unenforceable as determined by our Commonwealth Court.

Status Quo

I, along with several other commentators have already addressed the PPA’s claims that these regulations are revenue neutral. However, this is simply not accurate. As commentators have already argued, the PPA is basing this conclusion on a misguided attempt to compare the financial impact between their invalidated regulations and their recently submitted proposed regulations. In all actuality, the PUC’s regulations, fines, fees, and penalties should be the comparable basis, not because that is what I think, but because that is what the Court has dictated through recent rulings, invalidating their regulations.

Here are a few significant comparisons between the PUC regulations, which are legally still valid, and these proposed regulations from the PPA. This is not an exhaustive list and/or comparison because the time constraints with this submission.

1. Bucks County Services (Partial-Rights taxi cab company)

- a. Assessments – We were paying the PUC based on our gross revenue not a per vehicle assessment. Prior to the PPA assuming regulatory authority we were paying the PUC approximately \$3,945.00 annually, (2008-2009 fiscal year, based on 3 vehicles). Comparably, the PPA has in past years charged Partial-Rights providers \$1,250.00 per vehicle annually. This fiscal year they are proposing to charge us \$1,500.00 per vehicle annually. Why should Partial-Right providers be charged \$250.00 per vehicle, per year more than medallion taxicabs? I do not understand the logic that we should be charged more, when we only receive a fraction of the rights and benefits of the medallion cabs.

Considering that most Partial-Rights service providers operational areas are larger outside of Philadelphia then within, this would have us paying the PPA more (\$4,500.00 (3 vehicles * \$1,500.00)) then the PUC (\$3,945.00) for less rights & benefits. Additionally, if we add more vehicles this number only becomes more lopsided. This becomes a detriment to the riding public and the potential drivers that couldn't provide them a car to either service the rider, or a vehicle to the potential driver. The reason for this is because without consideration of where we are at in the PPA's fiscal year when we need to add this vehicle we have to pay the entire assessment for the year, even if only for one month.

- b. Inspections – The PUC never charged us a fee for vehicle inspections. The PPA charges us at a rate of \$75.00 per vehicle, for each of their mandated bi-annual inspections we are subject too.

This fee does not take in to account the time it takes to travel back and forth from their normal service area in Bucks County, to South Philadelphia to their inspection station, or the driver's time they may be losing transporting said vehicle.

Additionally, if a vehicle fails for any reason it is placed out of service, and as such must be driven back to your repair shop, then is out of service until you take it back down for a re-inspection, which results in loss of revenue while the vehicle cannot be used. The PPA also charges you another \$100.00 for the re-inspection, unless it is the same day, which usually is not the case.

- c. PPA Dispatch equipment and or meters – The PPA has proposed that partial-Right providers now meet specific requirements concerning meters, and more specifically the information they must provide to the passenger and functionally that cannot be achieved unless utilizing their specific meter and dispatch equipment. It is my information and belief that to purchase and install this equipment would cost us around \$2,000.00 per vehicle, not including software, servers, workstations, IT costs, etc, to be compliant with this requirement. Considering that most of our service area is outside of Philadelphia, and will already have a fully functional GPS dispatch

system, this would be impractical, redundant, & financially devastating to partial-Right providers.

2. Yellow Cab (certified dispatcher)
 - a. Assessments – The PUC never regulated dispatch companies and as such assessment were not charged. The PPA is charging dispatch companies \$2,000.00 annually.
 - b. Equipment – With the hospitality Initiative the PPA selected to purchase a dispatch system that they have forced the industry to use. With the system specifications with the system they selected you need to purchase and maintain compatible hardware. Additionally, the selected vendor wanted to charge us a fee of \$500.00 per machine, so they could install their software on to it. Allegedly their software is so cumbersome and requires so many custom configuration changes and/or tweaks, that it cannot self install. Microsoft can supply you with a cd to install a complete operation system, but their software is not capable to self extract and install.
 - c. Yellow Color – Since the PPA has assumed regulatory control they have been reluctant to prevent other companies from using the colors and configuration schemes of our taxicabs by our competitors, namely the Yellow color and/or checker decal scheme. This lack of action, devalues our PPA recognized common-law trademark, resulting in not only with us having to charge a lower rate to have members join our association, but they can just join my competitors association preventing us from receiving any of this potential revenue.
3. Executive Transportation Co (Limousine rights) – Since 1992 we have utilized a tariff containing provisions to charge a rate based on mileage, and since 1999 have calculated and ensured the accuracy of said chargers through the use of meters. Because the PPA has mistakenly interpreted Act 94 to indicate that they should protect and eliminate competition between different industry segments, they have forced us to operate under a “Waiver.” The alternative was not to accept this Waiver and be forced in to bankruptcy, and most likely out of business. Through this Waiver they force us to be compliant to both taxicab & limousine regulations. Some of the hardships this Waiver causes us, to cap our open-ended certificate, pay a higher assessment than any other limousine operator, reduction of our service area, and subject to more inspections, to just name a few. More information can be provided upon request.
 - a. Assessments – The most we ever paid the PUC for annual assessments was just under \$15,000.00. In comparison, the PPA wants to charge us the same assessments that medallion cabs are required to pay, currently \$1,250.00 annually. So at 65 vehicles at a rate of \$1,250.00 per vehicle this equates to a payment of \$81,250.00. Additionally, because we do have state wide operating authority under our certificate, we still need to pay the PUC annual assessments also. Although we can subtract the gross revenue from any work performed in Philadelphia, when factoring our PUC assessment payment.

Another point of contention, and an example of why it is important that the PPA includes their fee schedules and fines as part of their final-form regulation proposal, is that in all of their previous submissions to the Appropriations Committees of both Houses, they never indicated that they were charging us a higher rate than any other limousine company. This year, for the first time they have indicated that this charge exists.

- b. Vehicle requirements –The PUC only has a requirement that the vehicle can be no older than 8 years to continue to be in service. The PPA has imposed additional mileage requirements that affect the purchase price while first acquiring a vehicle to be used and a maximum mileage when a vehicle must be removed from service.
- c. Inspections – The PUC never charged us a fee for vehicle inspections. The PPA charges us at a rate of \$75.00 per vehicle, for each of their mandated bi-annual inspections we are subject too. For a fleet size of 65 vehicles this equates to \$9,750.00 annually.

Comparably, other limousine companies only have to have 25% of their fleets inspected annually. They force us to have our vehicles inspected twice per year because of the Waiver we have to operate under.

This fee does not take in to account the time it takes to travel back and forth from their normal service area in throughout the tri-county area, to South Philadelphia to their inspection station, or the driver’s time they may be losing transporting said vehicle.

Additionally, if a vehicle fails for any reason it is placed out of service, and as such must be driven back to your repair shop, then is out of service until you take it back down for a re-inspection, which results in loss of revenue while the vehicle cannot be used. The PPA also charges you another \$100.00 for the re-inspection, unless it is the same day, which usually is not the case.

- d. Reduced service area – This arbitrary reduction of our rights is once again a constitutional violation for illegal takings without compensation, and was done by the PPA as nothing more than trying to protect one industry segment against the other. Nothing in Act 94 gives them the authority to regulate competition. As a regulator of a Public Utility, their primary focus should be what is in the best interest of the consumer.
- e. Capped certificate – limousine certificates have always been open-ended with the PUC and have the ability to add or subtract vehicle to meet customer demand. Having our certificate capped is another illegal takings concern, and is a significant restriction preventing us from generating additional revenue to cover rising costs of just about everything.

- f. Loss of revenue through the creation of limousine classifications- Act 94 gave the PPA the Authority to create classifications of service within the Limousine designation; it did not give them the authority to reduce our certificates to only one of these newly defined classifications. Historically, using us as an example we had 4 or 5 different modes of operation under our limousine certificate with the PUC. Example would be; 1) Stretch limousine service with specific rates associated with this particular service, 2) Luxury Sedan Service with specific rate structures to charge by the mile.

With the reduction of these other classifications from our existing certificate it has devalued our rights, and more importantly is a constitutional violation for illegal takings without compensation. Ironically, if you would like any of these additional rights back, you can apply for them by petition at a non-refundable rate of \$10,000.00 per classification requested.

COMMENTS

1001.1 Purpose

(b) Refers to a subsection (c) which has been deleted in this version. It also contains language that states "*certificate holders, brokers, taxicab drivers, limousine drivers, and other persons with current and valid rights issued by the Authority on _____, (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.) shall maintain those rights through the Authority consistent with this part and the act.*", with the PPA refusing to legally promulgate valid regulations over the last 5-years, and with the recent Commonwealth court's decision (specifically as found in Germantown), no company, entirety, and/or person can possess or have been given valid "Rights". At best, there should be a provision for the regulated community to submit applications and/or requests for "rights" to be issued by the Authority. This should also contain provisions that any valid rights issued by or through the PUC are valid during this transition period. Secondly the PPA should not have the Legal authority to restrict, reduce, and/or modify these said "rights", unless specific and unquestionable statutory language exists in the enabling legislation, in this case specifically Act 94.

1001.6 Filing Generally

(c) "*If a pleading tendered for filing does not comply with this subpart, does not sufficiently set forth required material or is otherwise insufficient, the Authority may decline to accept it for filing and may return it without filing, or the Authority may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.*" This is given the Authority too much Discretionary power. What is to prevent them from denying filings, so the Due Date is not met? While I understand the importance of having filings submitted correctly, however if something was filed and for whatever reason does not meet the Authority's

standards and/or requirements, then the filing should be considered conditionally accepted with a window of opportunity of no less than 72-business hours and no more than 5-business days to correct any deficiency.

(d) The language contained in this section is vague and allows the PPA too much discretionary control.

1001.28 Power of Attorney

Although they tried to correct their previous language, I am still left with a concern.

1. Why can a certificate holder only have one attorney-in-fact? Is this for any one particular circumstance and/or appointment? Or one attorney-in-fact regardless if there are multiple circumstances, appointments, hearing(s), etc? If the later is the case, why couldn't a certificate holder have multiple attorney-in-facts?

1001.38 Rejection of filings

States that, *"the Authority may reject a filing if it does not comply with any applicable statute, regulation or order of the Authority"*. I am concerned about the last provision stating "or Order of the Authority", I am troubled that the term "Order" is not defined in section 1001.10 Definitions, or any other section of their Regulations.

The Authority has blatantly disregarded Act 94, since this enabling legislation was passed in 2004, and now, although they are attempting to spin this as a proactive measure, this submission of these Regulations is only because of the Germantown Ruling. They have been informed since almost the beginning of their regulatory authority as defined in Act 94 that they did not promulgate these regulations lawfully, and as such their regulations are invalid.

With their past history of their total disregard of their responsibilities and legal requirements as defined in Act 94, I am more than a little apprehensive of allowing something that might seem as trivial as a non-defined term to further delay these Regulations, however prudence should avail. Not only should the word "Order" be clearly defined, there should be clearly established protocols and/or procedure of its implementation.

As found on BusinessDictionary.com, the term "Administrative Order", is defined as follows, *"Enforceable order issued by a public authority (under the powers conferred to it by one or more Statutes) to an individual or an organization to take certain corrective action, or to refrain from an activity."*

The Authority has clearly demonstrated that it is capable and willing to act outside of its powers as conferred to it, as is evident from these very Regulations being submitted almost 6-years after having this regulatory responsibility transferred to it from the PA PUC.

To overlook or ignore this point will only subject the regulated to suffer through more hardships, and expenditures in having to exhaust administrative remedies and court actions for something that can be prevented now.

This concern is not only applicable under this heading and/or chapter, but in any heading and/or chapter where deemed relevant.

1001.42. Mode of payment to the Authority.

There is no reason that a business should not be able to pay by a business check.

1001.43. Authority fee schedule.

The PPA's fee schedule should be included as part of their regulations. This would insure that the Fees being charged to the industry receives the same scrutiny as their Regulations. Without this scrutiny the PPA will be able to create Fee Schedules that in effect penalize or harm certain segments of the industry in favor of others. Not only do they have a propensity to use this Fee Schedule as a regulatory tool, they have charged members of the industry, Fees and/or assessments, not listed on their Fee Schedule or a significantly higher rate than listed.

1001.61. Penalties.

- (a) This is a provision to allow the Authority the ability to charge fee and/or fines if they have not associated with any provision, order, or the Act. If the Authority cannot clearly show what provision, order, and/or a requirement of the Act, than there should be no fine or penalty. They should not have the Right to just issue violations for no reason, or issue a generic violation and try to find a reason later.
- (b) 1-4 This needs to reviewed carefully, and is a concern. From reviewing Act 94, (their enabling legislation), I do not recall seeing anything that gives them the authority to modify certificates, and only cancel and/or suspend with "Due Process" and cause.

The PPA has and continues to utilize a "penalty range" for multiple offenses for the same certificate holder and/or owner. As other people have commented previously, this practice is not reasonable. For certificate owners that have open-ended certificates where more than one vehicle can be operated under the same certificate or corporation that place multiple medallions under the same corporation, the likelihood of receiving the same violation is greater and should not be treated as the third offense with the same vehicle and or driver.

1001.81. Amendments.

- (a) There should be clearly defined standards and/or protocols for when the Authority and/or presiding officer shall invoke this provision.

1001.111. Unofficial statements and opinions by Authority personnel.

How can formal opinions and/or statements not be binding? If the Authority and/or its employees or other personnel make official statements and/or policy, especially if it has been acted on by them or an industry member not be considered? This at best removes a layer of accountability and may result in confusion.

In Sections 1003.22 & 1003.23 allows for up to 35-days between the request/petition for emergency relief. This delay might result in hardships so severe that an industry member or a regulated person(s) might not be able to be made whole again from any damages incurred. This is especially true if our ability to submit a TRO through the judicial system if the Authority and/or the court system rules that our request is not “ripe” for action because we did not exhaust our administrative remedies first.

1003.54. Protests.

The PPA justifies the excessive amount of \$2,500.00 to file a protest of an application for new Rights through the Authority by stating they are trying to minimize the costs associated with applying for said Rights; however they are charging the applicant a nonrefundable Fee of \$10,000.00 to request said Rights. Considering that the Fee associated with the same request to the PUC is only \$350.00, this logic seems contradictory at best, or simply another excessive attempt to increase their bottom line at the Industries expense.

1005.21. Petitions generally & 1005.22 Petitions for declaratory orders

The PPA states that there were no comments to these sections of their regulations, however the comments from UNIFIED TAXI WORKERS ALLIANCE OF PA, on page 25 of their comments clearly indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1005.42 Answers seeking affirmative relief or raising new matter

The PPA states that there were no comments to these sections of their regulations, however the comments from Aires Limousine indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1005.45. Answers to petitions to intervene

The PPA states that there were no comments to these sections of their regulations, however the comments from Phila Regional Limousine indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1005.182 Qualifications

The PPA states that there were no comments to these sections of their regulations, however the comments from Richard Meltzer & United Taxi Workers indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1011.2. Definitions.

Taxicab Service & Taxicab Certificate

(ii) This groups the definition of Partial-Rights (PR) taxis in with citywide medallion taxicab service. Considering that these are two entirely different services they should not be defined as the same type of service. Additionally, there are legal questions pending to the extent that Act 94 gave them regulatory control over PR taxis.

Taxicab Service

(iii) Same as above

1011.3. Annual rights renewal process.

Certificates have never had an annual expiration before. Rights once granted are not subject to renewals; they can only be cancelled and/or suspended for cause and only after Due Process. Legally, prior to the transfer of regulatory control from the PUC to the PPA, there have never been any legal precedence of the expiration of Rights, and nothing in ACT 94 changed this. The PPA is outside of their scope by creating regulations that are not directly linked with their enabling authority.

Rights do not expire, and as such there is no reason to have to file renewal paperwork.

1011.4. Annual assessments and renewal fees.

(a) As far as the renewal requirements I still have the same objections as stated above. In reference to the assessments, why should the fee that the PPA Charges be so much higher than what the PUC charged? In reference to Limousines and PR taxicabs they are both subject to dual taxation from both the PUC & the PPA.

(d2) Given the current state of the economy, and the relevant cash flow problem some individuals and/or corporations in question may be experiencing, appointing a new due date that will move payments forward by more than a reasonable period may result in budgetary problems or more severe financial impediments.

(e) This is quite unreasonable, and any Certificate Holder in good standing should be allowed the opportunity for installment payments. The PPA's goal should be to encourage good will, not destroy it. Forcing full payments will most likely have Certificate Holders defaulting, and may potentially result in a loss of their Certificates. Such consequences would not encapsulate the best interest of the riding public, nor would it help stimulate the economy, as the enabling legislation dictated.

1011.5. Ineligibility due to conviction or arrest.

(b) If a regulated party becomes ineligible to hold rights as defined or determined by the PPA, they should not have to cease operations without 1) due process, and secondly a transition period to transfer or sell the rights in question. Having to immediately cease operation will only devalue said rights and more importantly could lead to hardships from their customers that depend or rely on that service.

(d) No action from the PPA should be taken against anyone simply due to an arrest. Action should only be taken if found guilty. Although it is not explicitly declared in the Constitution of the United States (The Presumption of Innocence), it is widely held to follow from the 5th, 6th and 14th Amendments. This right is extensively withheld not only in the United States, but in numerous countries worldwide. It would be a gross injustice to authorize the PPA the assumption of 'guilty until proven innocent.' Damage following such attributed power may lead to financial ramifications that would be catastrophic.

(e) ARD should not have an immediate effect on any rights owned. The ARD program is established to deal with summary offenses, specifically with first time offenders, as a way to lessen the burden on the court system and the expenses that comes with trying a case. Entering the ARD program is not an admission of guilt and should not be held against you as if you were found guilty. Additionally, Act 94 only specifically mentions restricting your rights if you were convicted of a felony.

As found in chapter 3 of the PA Code, "[t]hat the crime charged is relatively minor and does not involve a serious breach of the public trust." As a rule of procedure the original charges are even expunged as found in Rule 320 of Chapter 3, "[T]he cases have held that a defendant's arrest record shall be expunged upon successful completion of an ARD program, unless the Commonwealth presents compelling reasons why the arrest record should be retained."

(f) Is too subjective and should not be left to opinion or other circumstances.

1011.7. Payment of outstanding fines, fees[,] and penalties[and taxes].

(b & c) Act 94 did not give the Authority to be a collection agent. Furthermore they have no authority to collect or enforce payments for moving violations. Additionally, parking tickets are a function of the PPA generally and not the TLD, and with Act 94 not giving them specific authority or regulatory approval to make any certificates subject to the payment of any parking tickets, this is clearly outside of their prevue and operation authority.

The PPA even goes so far as not approving individuals requesting a drivers certificate if they owe any outstanding fees and/or fines associated with parking tickets or red light violations, even if they have a payment arrangement with them and are current. This is a clear constitutional violation preventing them from earning a living or given them an opportunity to raise the money to continue meeting their obligations not only with them, but other financial obligations they may have.

1011.8. Facility inspections.

- (a) Nothing in Act 94 gives them the authority or right to enter or inspect vehicles at neutral locations, for example repair facilities that the certificate owner has no affiliation with. Vehicles not operational should not be subject to inspection. Additionally, the PPA has no right to request or demand any sought of paperwork and/or inspection reports from inspection stations with no certificate owner interest.

1011.14. Voluntary suspension of certificate.

- (f) If a certificate is in voluntary suspension then any fees and/or assessments during this period should not be required.

1015.2. Certificate required.

- (a) Their requirement is vague and impractical at best. Only PR taxicabs providing point-to-point service inside Philadelphia should have to register with the PPA. PR taxicabs picking up or dropping off outside of Philadelphia are operating under their PUC authority and as such do not need to register or fall under the PPA authority.

1017.5. Basic vehicle standards.

(13) This states that a taxicab, also defined as a partial Rights operator is subject to using approved meters as defined in Section 1017.23. These requirements are also defined in at least one other Section 1017.24, and I will list our concerns in those appropriate sections.

(22) In this day and age of technology having a citywide map is outdated and impractical. Most drivers have and use GPS units, that not only can provide direction citywide, but throughout America.

1017.13. Removal of name, colors and markings.

- (b) This section is unreasonable and not practical. To meet this requirement you would have to pay to paint the whole car to remove the dispatch colors. Additionally, if said vehicle belongs to a fleet owner operating more than one vehicle this vehicle being taken out of service may be used for parts for other like vehicles still in service. This

requirement will make that fleet owner incur more expenses to meet this requirement and cause needless delays in repairs. If said vehicle is located in a private lot and not being operated this requirement is not necessary.

1017.14. Taxicab numbering.

This whole numbering system is not practical and is an administrative nightmare. For example, although we try to do this ourselves and start with consecutively numbered taxicabs, if you remove taxicabs due to accidents or other reasons and they happen to be taxicabs in the middle of your fleet, that will leave you in a situation of nonconsecutive taxicabs. Considering that each vehicle is registered with the state with your vehicle numbers on state registrations, you would need to consistently register your vehicles to achieve this.

1017.23. Approved meters.

This requirement isn't simply about meters but the PPA's underhanded attempt to force the use of their dispatch system into Partial Rights taxicabs. As long as any meter can be calibrated to the correct amount a regulatory agency should not have the ability to dictate a certain make, model or manufacture. Otherwise this could lead to certain equipment being approved because of questionable motives.

1017.24. Meter activation and display.

My comment above is also applicable here. The only way to achieve most of these requirements is to have it integrated with a dispatch system, and the PPA should not be dictating these requirements to Partial Rights taxicabs. With their current system they use for the medallion taxicabs from Verifone, these units were subsidized out of the medallion fund for the medallion taxicabs. The Partial Rights operators would have to shoulder this expense and some of us already have other systems in place. Partial Right operators should not have to use any standardized system that the PPA has implemented in or with medallion Taxicabs.

The above referenced system that they have selected and currently use was selected under questionable circumstances, and it seems that when we spoke out against this system they focused more of their attention towards us. Additionally, years later the requirements for the Go-Live date still have not been met. The PPA even contracted with an outside firm to evaluate this system, and when I requested a copy of this report they have refused.

1017.31. Biannual inspections by Authority. & 1017.32 TLD Inspection sticker required (d)

(2) Again I believe that this regulation is outside their enabling legislation and contradictory to other state laws. There is no valid reason that the PPA should have the ability to force us to get our state inspections at a place they dictate let alone their establishment. State inspection stations are regulated by the state police and have to follow the same standards and guidelines. By being forced to use their inspection station costs the industry extra money and time, and if

something is found wrong you now have to take the vehicle to another service station to get repaired and then schedule another appointment losing more time, and occurring another fee for rescheduling. In my opinion, this is nothing more as another revenue source for them, along with creating additional patronage jobs.

1017.35. Failure to submit to field inspection.

The TLD inspectors should wait until the vehicle is not occupied with a passenger prior to stopping it. And no rights should be cancelled without due process.

1017.38. Change of vehicle.

(b) This should only be applicable for partial right taxicabs operating point-to-point in their Philadelphia area.

1017.52. Impoundment of vehicles and equipment.

There needs to be careful safeguards in regards to the PPA impounding vehicles. Unless it is a safety issue vehicles should not be impounded without due process. For them to have the ability to hold the vehicle in question until the conclusion of an investigation and/or hearing is denying the accused of due process and the presumption of innocence until proven guilty. The loss of revenue while the vehicle cannot be used while impounded is nothing more than a de facto fine and/or punishment. To further aggravate this situation, as we have personally experienced that when you are found not guilty in their hearings you are not reimbursed for the towing and storage charges, which only increase for every day it is impounded. And this does not even take in to account the revenue that was lost while impounded.

1019.1. Purpose and prohibition

The PPA states that there were no comments to these sections of their regulations, however the comments from Richard Meltzer indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1019.4. Application changes

The PPA states that there were no comments to these sections of their regulations, however the comments from Richard Meltzer indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1019.3. Dispatcher application.

Much of these requirements, specifically requesting your corporation paperwork, articles of incorporation, business plans, etc., are outside of their prevue, unreasonable, and cumbersome.

1019.5. Facility inspection.

They have changed the restriction that the office of a certified dispatcher must be in Philadelphia, it is now necessary to be within 10-miles of Philadelphia. Although this is an improvement I still don't believe they have the authority to dictate where our office may or may not be located.

1019.6. Review of Dispatcher application

The PPA states that there were no comments to these sections of their regulations, however the comments from Myself & Richard Meltzer indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1019.7. Name, colors and markings review.

Although, it doesn't seem that this regulation is unreasonable, I would like to ensure that there are specific guidelines established to define and who makes the distinction of their definition of "Determines". We have already had, and still currently have issues with the PPA concerning this regulation. Being the owner of Yellow Cab, which has an international brand and recognition of the use of the actual Yellow color on our cabs, we have had to initiate legal actions, have hearings in front of their Hearing Officer, who ruled in our favor and the Board still refused to take his recommendations on the issue and forced us to a comprise that still allows a competitor to use our colors on their taxicabs. Still to date, after repeated notification and complaints to the PPA, this competitor still violates this forced compromise, and to the best of my knowledge the PPA hasn't actively forced them to correct this violation.

1019.8. Dispatcher requirements.

Item 8 is my main concern here, again as previously commented, requirements and regulations specifically referring to, or forcing Partial Right providers to process and/or use this equipment that the PPA is currently using or may use in the future places Partial Right providers at a disadvantage, especially when already using a more efficient system that is standard throughout their whole fleet.

1019.10. Dispatcher rates.

(d)What standards are they going to use to determine reasonableness? The market should determine if the rates are reasonable or not. If you are charging more than the market will bear, you will not have any members, thus forcing you to adjust the rates in question.

1019.14. Minimum number of taxicab affiliations.

As I commented above concerning the Legislative intent with Act 94, the PPA should be trying to promote and encourage, not restrict or limit opportunities. Additionally this requirement is unnecessary because if a dispatch membership is that small that will not be able to afford to continue to operate.

1019.15. Dispatcher records

The PPA states that there were no comments to these sections of their regulations, however the comments from Richard Meltzer indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1021.3. [Maximum number of] Designation of taxicab driver's certificates.

There is no reason that a driver's certificate should not stay valid for all types of vehicles regulated by the authority as it has been. Forcing drivers to now get two different driving certificates only hinders a driver's ability to transfer between these two types of service without delay or addition costs. This is nothing more than another example of the PPA trying to create yet another revenue stream.

Additionally, this might be another attempt by the PPA to act outside of their enabling language as defined by Act 94. As found in § 5701. Definitions, under DRIVER'S certificate³, it states that the certificate should be good to drive a taxicab or limousine, not either or.

1021.4. Ineligible persons for taxicab driver certificate.

(2) Who and how is sufficiently going to be defined and evaluated?

(6) There is no reason to prevent someone from driving or acquiring a drivers certificate just because their license might have been suspended for a nominal period during the last year, for example for 1 day or 1 week. I have had drivers that were refused certificates by the PPA because they have had their license suspend for these short periods.

1021.13. Taxicab driver's certificate upon cancellation.

They have previously stated earlier in their regulations that an expired drivers certificate for over one year will be considered cancelled. Now they go on to say that a cancelled certificate

³ A certificate or permit to drive a taxicab OR LIMOUSINE issued pursuant to section [5 7 1 9] 5706 (relating to driver certification program).

cannot be renewed for a period of no less than 2-years. Why should an individual that let their license expired because they found other work be restricted from reentering the industry as a driver for 2-years?

1021.17. Partial-rights taxicab driver log.

Some of these requirements are cumbersome and too time consuming to be practical. Drivers could now be spending over an hour of their day doing paperwork instead of providing service to the riding public.

1023.1. Uniform taxicab rate.

Forcing the Partial Rights taxicabs to have to charge the same thing as medallion taxicabs could result in problems with our PUC tariffs. Considering that in most cases the larger section of our operating rights are outside of Philadelphia Partial Rights taxicabs should not be subject to this provision.

1025.2. Insurance forms and procedures.

(3) Now the PPA wants to regulate and dictate policy and procedure to an industry they do not have authority to do so. To create regulations that are not enforceable to a segment of an industry they have no control over is pompous.

1029.2. Use of broker

The PPA states that there were no comments to these sections of their regulations, however the comments from INTERNATIONAL ASSOC OF TRANS REGULATORS indicate otherwise. The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1051.3. Annual rights renewal process.

- (a) Rights do not expire as I have previously noted in a previous comment. To have to continue to submit the same paperwork year after year is excessive at best. The only time you should have to resubmit corporate or state paperwork is if something has changed.

1051.5. Ineligibility due to conviction or arrest.

Although the Constitution of the United States does not cite it explicitly, (the Presumption of Innocence), it is widely held to follow from the 5th, 6th, and 14th Amendments. This right is widely recognized not only in the United States, but most countries worldwide. It would be a

gross injustice to allow the PPA to assume that you are guilty until proven innocent. The damage that this may result in, namely the financial ramifications would be catastrophic.

1051.7. Facility inspections.

Inspectors should not be able to enter private facilities that vehicles are being repaired at that the certificate owner has no interest in. If vehicles are off the street for repairs or any other reason they should not be subject to inspections nor should they have the authority or right to disrupt a private business.

1051.10. Record retention.

It is my opinion and belief that some of these requirements of this regulation is outside of their scope and statutory authority. An example would be the requirement of the term of payments we might have received and the amount of those payments.

1051.15. Power of successors by law.

It would seem that the PPA is trying to supersede court orders, concerning probate amongst other things. What grants them the authority to override and/or ignore directives and/or court orders? Outside of practice that is, they have been doing that for quite some time with their invalidated regulations.

1053.1. Standard classifications of limousine service.

- (a) Act 94 gave the PPA the right to define classifications of limousine service; it did not however give them the right to reduce our pre-existing rights by making us select only one of the newly defined classifications, while having to forfeit the others.
- (b) This restriction is taking away a limousine operator's ability to provide stretch-limousine service and regular car service. Not only doesn't give them this authority, this regulation also raise constitutional concerns with illegal takings without compensation.

1053.24. Consumer information.

Limousines are not taxicabs and as such should not require tacky stickers and or notices posted inside the vehicle. Additionally as an alternative they state that this notice can be given on a receipt. The problem with this is that most limousine companies operate statewide and as such we now have to provide two separate notices for complaints on said receipts with both regulatory agencies (i.e. PUC & PPA), only resulting in more confusion to the passenger.

1053.42. Remote carriers.

The PPA should not have the authority to prevent operators outside of Philadelphia and or Pennsylvania from servicing hospitality centers, specifically the airport. This would seem to

interfere with the Federal Commerce Clause, ICC rights, along with various other federal laws. If memory serves, there was a similar case concerning the Pittsburgh International Airport a few years back that was found illegal.

1053.43. Certain limousine requirements.

Along with my concerns listed above, how are they going to enforce regulations of not only the PUC, which they might or might not fully comprehend, but regulations or other city or state regulatory agencies they are not familiar with? Act 94 did not confer broad police powers to this agency, nor are they properly trained to do so.

1055.3. Limousine age and mileage parameters.

Act 94 and the PUC dictated vehicle requirements based on an age of 8 years, not mileage. To have both limitations is not cost neutral as they are indicating and outside of the scope of Act 94.

1055.4. Basic vehicle standards.

Section b2 calls for the requirement of hand grips inside the passenger compartment. These are not taxicabs, and unless they are factory installed we should not have to destroy the interior of a vehicle that could cost in the excess of \$100,000.00.

Section 15 cars for stickers for complaint purposes, as I commented earlier in my comments this requirement is unreasonable for a limousine.

1055.15. Failure to submit to field inspection

There should be clear standards and procedures established for these field inspections. What is the protocol if the limousine is load with a passenger? Should the inspector wait until the conclusion of the ride? When should a vehicle be impounded for what infractions? Does the PPA even have the authority to impound vehicles? What is the protocol if an inspector stops a vehicle for a field inspection and the vehicle was in route to the repair facility?

No right or certificate should be cancelled without due process.

1055.19. Prerequisites to inspection.

Section B3 states that a vehicle will not be inspected if it is not current with section 1051.6, although I have commented to this section also, it should be repeated that parking tickets and/or taxes should not be a factor.

1055.32. Impoundment of vehicles and equipment.

Section d states that all penalties, fines and costs should be paid. Only the fine or fee associated with that particular infraction, if guilty, should be required to be paid to get your vehicle back.

Section h – the PPA should not have the ability to keep a vehicle after requirements have been met.

1057.3. Continuing certificates.

Please see comments that I posted at 1051.3 concerning having to pay for two different certificates. There is no justification for this except additional revenue for the PPA.

1057.4. Ineligible persons for limousine driver certificate.

Their requirements are very burdensome and prevent a company from hiring drivers to immediately help with a sudden influx of business.

Section 6 states they should have one continuous year of driving history, however this means that if a potential driver was suspended 1 day in the last year they are ineligible. This is unreasonable and restricting someone their right of livelihood and ability to earn a living. This should be changed to a potential driver cannot have been suspended for a period exceeding 30-days over the last 12 months.

1057.5. Standards for obtaining a limousine driver's certificate.

With most motor vehicle reporting services, including the Commonwealth, an individual, company, or agency requesting a driving record will only result in the last 3-years of requested record being returned unless that driver has a CDL license, and then a 10-year history will be returned. To have the regulations require 5 is excessive.

In reference to the criminal history, the PPA should allow companies to utilize services that provide country-wide criminal history reports for efficiency. Additionally, a large portion of these services also includes Megan-Law searches in addition to the normal searches which only increase public safety.

Section 11(ii) – outstanding fees and or fines should also not include parking tickets that are outstanding. Denying a potential driver the opportunity the ability of work will not give them a chance to pay these outstanding parking tickets.

1057.7. Limousine driver training

The PPA states that there were no comments to these sections of their regulations, however the comments from Aries Limo indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1057.8. Certain training subjects

The PPA states that there were no comments to these sections of their regulations, however the comments from Aries Limo indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1057.14. Limousine driver's certificate upon cancellation.

Please see comments that I made at 1021.5

1059.8. Additional application requirements

The PPA states that there were no comments to these sections of their regulations, however the comments from Regional limousine Assoc. indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1059.11. Authority review

The PPA states that there were no comments to these sections of their regulations, however the comments from Regional limousine Assoc indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1059.13. Settlement sheet

The PPA states that there were no comments to these sections of their regulations, however the comments from Regional limousine Assoc indicate otherwise.

The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

1063.2. Limousine rates and tariffs.

Section b states that limousines rates may only be based on time and not mileage; however I don't think they should change a business model that we have used and the riding public has come to depend on for almost the last 20 years. Additionally, the PUC has already provided our company an exemption from their regulations that have a similar provision because this has been our business model since 1992.

Although, the PPA mentions that a limousine company has been operating under a Waiver to use meters and a mileage base tariff, and has stated it is not revoking this Waiver or Right, which I'm pleased about because that company being referred to, is ours, we should not have to be forced to terms and conditions other limousine companies are not also subject too.

There are other limousine operators that operate under a Neighborhood Waiver, (currently without meters, (that I'm aware of), but similar business models, that have not been under the same scrutiny or "higher" standards.

The PPA states that there were no comments to these sections of their regulations, however the comments from Simon Abitbol & family, Michael Henry & Myself indicate otherwise. The PPA, with their most recent submission of their Regulations and associated Board Order, has since corrected this oversight.

Conclusion

As I have previously commented numerous times throughout my comments, Act 94 did not give the PPA the authority to restrict, modify, and/or reduce the operating authority and/or certificates of industry members they are regulating. The enabling statute instructed them to promote the welfare and business through a local regulatory agency, in addition to improving the riding experience to the general public. Allowing this provision will have the opposite effect of this mandate while eliminating a type of service the riding public has grown to depend on.

This provision, if approved and enforced will violate numerous Constitutional rights and civil liberties and will result in litigation.

I appreciate the opportunity to participate in commenting on these proposed final regulations, and am available to answer questions.

Edward M. Burkhardt