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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

March 16, 2011

Vincent J. Fenerty, Jr., Executive Director
Philadelphia Parking Authority
3101 Market Street, Second Floor
West Wing
Philadelphia, PA 19104

Re: Regulation #126-1 (IRRC #2885)
Philadelphia Parking Authority
Philadelphia Taxicab and Limousine Regulations

Dear Mr. Fenerty:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Chris Ross, Majority Chairman, House Urban Affairs Committee
Honorable W. Curtis Thomas, Minority Chairman, House Urban Affairs Committee
Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



Philadelphia Parking Authority Regulation #126-1 (IRRC #2885)

Philadelphia Taxicab and Limousine Regulations

March 16, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the January 15, 2011 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Philadelphia Parking Authority (PPA or Authority) to respond to all comments received from us or any other source.

Table of Contents

GENERAL COMMENTS.....	Page 1
SUBPART A. GENERAL PROVISIONS.....	Page 7
SUBPART B. TAXICABS.....	Page 16
SUBPART C. LIMOUSINES.....	Page 41

GENERAL COMMENTS

1. Determining whether the regulation is in the public interest.

Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) directs the Independent Regulatory Review Commission (IRRC) to determine whether a regulation is in the public interest. When making this determination, IRRC considers criteria such as statutory authority, economic or fiscal impact and reasonableness. To make that determination, IRRC must analyze the text of the Preamble and proposed regulation and the reasons for the new or amended language. IRRC also considers the information a promulgating agency is required to provide under Section 5 of the Regulatory Review Act (71 P.S. § 745.5(a)) in the Regulatory Analysis Form (RAF).

This regulatory package contains in excess of two hundred pages, with numerous subparts and chapters pertaining to three major issues: administrative rules of procedure, taxicabs, and limousines. However, the Preamble does not include an adequate description of the numerous sections of the rulemaking and the rationale behind the language. Without this information, IRRC is unable to determine if the regulation is in the public interest. The lack of information has made it necessary for us to submit lengthy comments to acquire the information we need to determine whether the regulation is in the public interest. The lack of information could also be a reason for the misunderstandings between PPA and the regulated community as described below. In the Preamble submitted with the final-form rulemaking, PPA should provide more detailed information required under 71 P.S. § 745.5(a) of the Regulatory Review Act, including a description of the language proposed for each section of the regulation and why the language is required.

2. Economic and fiscal impacts of the regulation.

IRRC is required to consider economic or fiscal impacts of the regulation in our determination of whether the regulation is in the public interest. See 71 P.S. § 745.5b(b)(1). Questions 17 through 21 of the RAF are intended to provide a cost and impact analysis of the regulation. Specifically, Question 17 of the RAF asks PPA to:

Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived. (Emphasis in original.)

PPA responded to this question with the following explanation:

The Authority anticipates that the regulations will be revenue neutral for most regulated persons. These regulations will replace a substantially similar version of locally promulgated regulations in effect in Philadelphia for nearly six years. The Authority's taxicab and limousine operating budget, including fee schedules and assessments applicable to all regulated parties, must be submitted for review to the Appropriations Committees of the Pennsylvania House of Representatives and the Senate as provided in 53 Pa.C.S. § 5707(b).

Certain taxicab owners accustomed to using older high mileage vehicles to provide taxicab service will incur initial increased costs associated with replacing some of those vehicles over the course of the first year of these regulations. Because the proposed regulations do not require the use of new vehicles, the costs to

obtain the used vehicles generally operated by taxicab owners is difficult to estimate. The regulations that require newer and lower mileage vehicles are waived for wheelchair accessible and hybrid vehicles in an attempt to encourage the use of those vehicles. See response to question No. 15.

RAF Question 20 requests "an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years." PPA provides the response "N/A" for all estimates of any costs or savings associated with the regulation for the regulated community, local government and state government. PPA was requested to explain in its response to RAF Question 21 "how the benefits of the regulation outweigh any cost and adverse effects." PPA's response explains benefits including: a vision of world class service, better drivers, newer vehicles, more uniformity between medallion and partial rights taxicabs, broader payment options and a "myriad of other improvements." While these goals may be laudable, the PPA response to RAF Question 21 omits any recognition of the costs imposed by the regulation. Regarding the economic and fiscal impact of the proposed regulation PPA provided with the proposed regulation, we believe PPA's reliance on its invalidated regulation is misplaced and did not produce an accurate or clear evaluation of economic and fiscal impact.

In contrast to PPA's evaluation of costs, public commentators provided many examples of costs associated with the regulation. Among the commentators, the Abitbol Family of Companies (Abitbol) provided comment on several aspects of the regulation's economic impact including the cost of age limitations on vehicles, mileage limitations on vehicles, the amount of insurance coverage, equipment, paperwork, attending inspections, impoundments, and procedures. Abitbol concludes this rulemaking will impose approximately \$22 million on medallion owners and drivers. Abitbol requests that before "imposing random new standards that might actually reduce the quality of service while incurring cost," PPA respond to its list of questions and discuss the questions with the taxicab industry. Other commentators offered to meet with PPA to discuss the regulation and some offered alternative regulatory language.

Upon review of the information provided by PPA in the proposed regulation submittal, we do not believe sufficient information was provided to evaluate the economic or fiscal impact of this regulation. Based on public comment and our analysis of the regulation, we are convinced there are many significant costs imposed by the regulation that were not included in PPA's RAF responses. We observe that the costs imposed by the regulation are by and large not borne by PPA. We believe these costs are significant and will affect the entire spectrum of persons and businesses affected by the regulation including not only the regulated community, but also the customers who ultimately pay for the regulated transportation services. In the final-form regulation submittal, PPA

must provide a detailed analysis of the economic and fiscal impacts of the regulation.

3. Minimum wage. – Consistency with statute.

Under 53 Pa.C.S.A. § 5720. Wages, Subsection (a), PPA is charged with the following:

Minimum wage. – Each medallion holder shall pay at least a prevailing minimum wage rate or, in the alternative, charge at most a prevailing maximum lease amount to the drivers of its taxicab, as determined by the authority upon investigation. The minimum wage rate and the maximum lease amount, as established by the authority, may include employee benefits.

Commentators have provided calculations showing that in some instances drivers are earning less than \$5 per hour after expenses. We recognize that there are many factors involved in the ultimate earnings for a cab shift including the quality of service, time of day, day of the week, time of the year, weather, area served and the number of activities in Philadelphia to name a few. Given that Act 94 of 2004 has been in place for more than six years, we request an explanation of how PPA has implemented 53 Pa.C.S.A. § 5720(a), along with Subsection (b) which requires PPA to determine a uniform rate charged to passengers, in relation to the drivers' opportunity to earn a minimum wage.

4. Just and reasonable rates in conformity with regulations or orders of the Authority. – Adverse effects on prices, productivity or competition.

Under 53 Pa.C.S. § 5703. Rates, PPA is charged with several responsibilities, including Subsection (a) which states:

Rates to be just and reasonable. – Every rate made for authority-certified taxicab, limousine or medallion taxicab service shall be just and reasonable and in conformity with regulations or orders of the authority.

Among the Rates provisions, Subsection (g) states:

Fair return. – In fixing any rate of a taxicab or limousine service engaged exclusively as a common carrier by motor vehicle, the authority may fix the fair return by relating the fair and reasonable operating expenses, depreciation, taxes and other costs of furnishing service to operating revenues.

In our comments above, we have raised concerns with the lack of explanation of why provisions are required in the regulation, the economic and fiscal

impact of the requirements and how PPA evaluates the statutory minimum wage provision. In the fair return formula described in 53 Pa.C.S. § 5703(g), all of these issues relate to the expense side of the evaluation (e.g., operating expenses, depreciation, taxes and other costs of furnishing service). Based on public comment, these expenses are expected to increase. We ask PPA for an evaluation of the effect of these expense increases on fares or rates paid by the riding public.

5. Partial rights taxicabs. – Statutory authority; Possible conflict with or duplication of statutes or existing regulations; Reasonableness.

Extensive comment was submitted concerning partial rights taxicabs. The concerns include the following:

- PPA does not have the statutory authority to regulate non-medallion taxicab carriers.
- Non-medallion taxicabs must unfairly comply with two sets of regulations administered and enforced by two separate agencies.
- PPA has no authority to cancel or revoke non-medallion taxicab certificates for violations.
- PPA has no authority to allocate expenses between medallion and non-medallion taxicab carriers.

PPA bases its authority to promulgate these regulations under 53 Pa.C.S. Chapters 55 and 57 (relating to *Parking Authorities and Taxicabs and Limousines in First Class Cities*) (Act). We recognize many of these points may be the subject of contested court proceedings. In regard to the final-form regulation, we ask PPA to respond to these points to explain its authority to regulate partial rights taxicabs and the reasonableness of the regulation pertaining to partial rights taxicabs.

6. Driver Owned Vehicles (DOV). – Clarity.

Commentators stated the regulation should accommodate DOVs. They state that failure to account for DOVs could cause financial failure for companies and force medallion lenders into foreclosure. They further state that the DOV is good for service because the driver maintains the vehicle and takes direct responsibility for service including daily inspections. PPA should clarify the status of DOVs in the final-form regulation.

7. Advanced Notice of Final Rulemaking.

As mentioned above, this rulemaking is extremely large and complex. It also has been developed by a Commonwealth agency new to the regulatory review

process. We acknowledge the amount of time and effort that PPA put into this package.

Despite these efforts, the majority of the regulated community believes that they were excluded from providing meaningful input on the proposed regulation. After meeting with both PPA and the regulated community, it is clear that there is a divergent view of the intent, scope and nature of this regulation.

Section 2 of the Regulatory Review Act, pertaining to legislative intent, provides the following direction: "To the greatest extent possible, this act is intended to encourage the resolution of objections to a regulation and the reaching of a consensus among the commission, the standing committees, interested parties and the agency." 71 P.S. § 745.2(a). In order to resolve many of the objections raised by commentators, we strongly encourage PPA to meet with the regulated community to discuss and possibly resolve the concerns raised with this rulemaking. In addition, we suggest that PPA issue an Advanced 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.

8. Legislative comments.

We received comments on this proposed regulation from the General Assembly. Each of the following legislators submitted separate comments: Representative Dan Moul (91st Legislative District); Representative Mark B. Cohen, Democratic Chairman, House Human Services Committee; and Representative W. Curtis Thomas, Democratic Chairman, House Urban Affairs Committee.

Many of their comments identified concerns, issues and questions that relate directly to our review, criteria, and the Act's requirements for submitting regulations. We recommend that PPA carefully consider these comments from legislators. We will include PPA's responses to these legislative comments as part of our determination of whether the final-form regulation is in the public interest.

SUBPART A. GENERAL PROVISIONS.

CHAPTER 1001. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

SUBCHAPTER A. GENERAL PROVISIONS

9. Chapter 1001. Rules of Administrative Practice and Procedure. – Clarity; Need; Implementation procedures.

This chapter is dedicated to the rules of administrative practice and procedure before PPA and cross-references the General Rules of Administrative Practice and Procedure (GRAPP) found in 1 Pa. Code Part II, which are generally applicable to Commonwealth agencies. There is some inconsistency between which GRAPP provisions are being supplemented and which provisions are being superseded by these regulations. See, for example, §§ 1001.2(a) and 1005.101(d). This should be clarified in the final-form regulation.

Additionally, §§ 1001.4(b), 1001.26(b), 1001.27(c), 1001.32(c), 1001.91(b), 1005.71(f), 1005.149(c), and 1005.187(b) provide that the cross-referenced subsections are identical to GRAPP provisions. They appear to be substantially similar to the language in GRAPP, but they are not identical. These sections should be corrected in the final-form regulation.

10. Section 1001.1. Purpose. – Need; Clarity.

What is the need for this section? In Subsection (b), what is meant by “rights” issued by PPA? While this term is defined later, in Section 1011.2, this term should have been defined for this and other sections. Similarly, in Subsection (c) regarding rights issued by waiver, it is unclear whether this would include items such as a waiver giving a party the right to miss a filing deadline. This should be explained in the Preamble and clarified in the final-form regulation.

11. Section 1001.2. Scope of subpart and severability. – Need; Clarity.

The second sentence of Subsection (b) contains 125 words and is difficult to read. This provision also appears to describe the impact of court decisions on PPA and these regulations. What is the need for this language? We recommend that this provision be deleted or explained in the Preamble and amended in the final-form regulation to make it easier to comprehend.

12. Section 1001.3. Liberal construction. – Clarity; Reasonableness; Implementation procedures.

Subsection (a) is unclear as it relates to disregarding an error or defect of procedure. Does this mean that requirements such as filing deadlines can be waived for purposes of efficiency?

13. Section 1001.6. Filing generally. – Clarity.

Subsection (d) includes the phrase “otherwise inappropriate comments.” This phrase is vague and does not provide the regulated community with a clear explanation as to what is required. Additional vague phrases are found in §§ 1001.8 “certain offices,” 1001.36 “should comply substantially with,” and 1003.32(d) “prompt notice.” Further explanation of these phrases should be provided in the final-form regulation.

14. Section 1001.9. Sessions of the Authority. – Clarity; Consistency with other statutes; Implementation procedures.

This section states that schedules for public meetings can be obtained from the General Counsel. Must the request be done in writing or is a telephone request acceptable? Will the schedule be posted on PPA’s website? Is PPA required to comply with the notice provisions in the Pennsylvania Sunshine Act? The procedures for making the request should be clarified in the final-form regulation.

15. Section 1001.10. Definitions. – Economic impact; Need; Clarity.

Subject to additional definitions contained in subparts

Overall, we found the structure of the definitions in the regulation to be difficult to follow. Some definitions are found in this section and some definitions are found elsewhere in the regulation. In some instances, the same term is defined and redefined. For example, the term “Broker” is defined in this section and redefined in Subsection 1029.1(c) and Section 1051.2. We recommend that the structure of the definitions in the regulation be reviewed for clarity. It may be clearer to begin each subpart with the definitions used in that entire subpart, even if definitions are repeated in more than one subpart. Also, we recommend that terms used in multiple subparts be defined consistently. In this manner, the reader can reliably find the defined term for the subpart and would not have to search the regulation for another definition section.

Use of defined terms

In our review, we did not find the terms listed below used in the text of the regulation. If they are not used, they should be deleted.

- Hearing officer
- Formal investigation
- Informal investigation

- Informal proceeding
- Notarial officer

Applicant

The second sentence of the definition for “Applicant” appears to be substantive, or regulatory, and should either be deleted or moved to another section. Also, what is meant by an “associated person?” If this sentence is retained in the regulation then that term should also be defined.

SUBCHAPTER C. REPRESENTATION BEFORE THE AUTHORITY

16. Section 1001.21. Appearance. – Clarity; Reasonableness; Implementation procedures.

This section requires that individuals representing an entity in a proceeding before PPA must produce certain documentation for approval. Paragraph (c)(3) provides that PPA may refuse acceptance of the information. If the individual presents all of the information required in this section, can PPA still reject it? The final-form regulation should specify under what circumstances information may be rejected.

There is also a typographical error in this section. It reads “... and the deny....”

17. Section 1001.28. Power of attorney. – Statutory authority; Clarity; Need; Reasonableness.

Several commentators expressed concerns that the provisions outlining the role of the attorney-in-fact are unusual, restrictive and unduly burdensome for members of the regulated community. For example, Subsection (b) allows an attorney-in-fact the ability to “execute certain documents” on behalf of a certificate holder. Subsection (c) requires the attorney-in-fact to be fluent in English. Subsection (d) provides that PPA will maintain a list of appointments on its website at which a certificate holder may be represented by its attorney-in-fact. Subsection (g) requires that the attorney-in-fact submit a criminal history report for the Commonwealth and any state or country in which that person has lived during the last five years. Subsection (h) provides that PPA will not accept a power of attorney executed more than one year from the date of a requested action.

These provisions raise several questions. What is PPA’s statutory authority for placing restrictions on what may be lawfully executed power of attorney documents? Why are these requirements placed upon the attorneys-in-fact that represent certificate holders? If the power of attorney grants the attorney-in-fact the ability to execute all documents on behalf of a certificate holder, then how can PPA limit the permissible types of documents and how does the

certificate holder know what those limitations are? How does PPA determine that an individual named in a power of attorney is fluent in English? Why won't PPA accept a power of attorney executed more than one year from the date of a requested action if the document is still valid and legal? These questions should be clarified in the regulation and explained in the Preamble.

Additionally, there is a typographical error in subsection (f). "Illegible" should be replaced with "is ineligible."

SUBCHAPTER D. DOCUMENTARY FILINGS

18. Section 1001.36. Verification and affidavit. – Clarity; Implementation procedures.

Subsections (b) and (c) provide that when a verification or an affidavit is used, the submitting party "should comply substantially" with the forms set forth in these respective subsections. Subsection (d) describes additional language that must be included in the verification or affidavit. How will a party be certain that it has complied substantially with these provisions? Also, the word "should" is nonregulatory language. We recommend the term be replaced with "must" in Subsections (b) and (c). Finally, the phrase "comply substantially" should be clarified in the final-form rulemaking.

SUBCHAPTER E. FEES

19. Section 1001.43. Authority fee schedule. – Consistency with statute; Reasonableness; Implementation procedures.

Subsection (a) provides that PPA will issue a new fee schedule "subject to the approval of the Legislature, under section 5707(b) of the act...." This section of the statute actually provides that PPA will submit a proposed fee schedule to the House and Senate appropriations committees. Unless either the Senate or House acts to disapprove, the schedule will become effective. See 53 Pa.C.S.A. § 5707(b). This inconsistency should be corrected in the final-form regulation.

Subsection (b) states that PPA "will provide notice of the new fee schedule by email to each certificate holder as required under section 5707(b) of the act." The current fee schedule may be obtained from PPA's website. The Act requires that the "procedures" for notifying certificate holders must be specified in the regulations, but not that the notice be done by email. See 53 Pa.C.S. § 5707(b). Why is notice of the new schedule only being provided by email? The final-form regulation should be amended to explain when the notice will be provided.

SUBCHAPTER F. SERVICE OF DOCUMENTS

20. Section 1001.51. Service by the Authority. – Clarity; Reasonableness; Implementation procedures.

In Subsection (d), a party must notify PPA within 48 hours of a change of address. How was the 48-hour notification period determined? What will happen if a party doesn't provide notice within this time period?

In Subsection (e), if PPA is unable to serve a party by mail or email, it may make service "by publication in a newspaper of general circulation in the same area as the party's last known address." One commentator expressed concern that PPA was using the *Philadelphia Tribune* for notice and service by publication. The commentator believes the *Philadelphia Tribune* is arguably a newspaper of significantly more limited circulation than the *Philadelphia Inquirer* and the *Philadelphia Daily News*. What does PPA consider to be a newspaper of general circulation?

21. Section 1001.52. Service by a party. – Clarity; Need; Reasonableness; Implementation procedures.

This section outlines the methods for service of pleadings and other documents, "unless an alternative form of service is specifically provided by the act, this part or an order of the Authority." Are there alternative forms of service provided by the statute or these regulations? If so, these alternatives should be included in this section or specifically referenced. Otherwise, we recommend that this phrase be deleted.

Subsection (c) provides that the presiding officer may limit the service of documents to parties who "participate" in the proceedings. What does it mean to "participate" in a proceeding? Why wouldn't service be made upon all parties to a proceeding as a matter of course? This should be clarified in the final-form regulation or explained in the Preamble.

SUBCHAPTER G. PENALTY

22. Section 1001.61. Penalties. – Clarity; Reasonableness; Implementation procedures.

Subsection (b) outlines a possible range of penalties. While we recognize that every case is different, is there a general set of standards that PPA will use to determine penalties to ensure a measure of consistency? If so, what are those standards? Further, Paragraph (b)(5) provides that PPA may impose "other penalties deemed necessary to protect the public interest." How can members of the regulated community know what additional penalties can be imposed against them? Clarity would be significantly improved if the penalty schedule were included in the regulation.

SUBCHAPTER I. AMENDMENTS OR WITHDRAWALS OF SUBMITTALS

23. Section 1001.81. Amendments. – Clarity; Need; Implementation procedures.

Subsection (a) provides for an amendment to a submittal or pleading “Except as specifically limited by another section of this part....” Is there another part of the regulations that limit amendments? If so, it should be specifically referenced. If not, we recommend that this phrase be deleted.

Additionally, this section states that PPA “may waive time restrictions as to filing dates in the interest of justice.” Are all of the time restrictions or deadlines open to waiver? What would be considered an appropriate circumstance for a waiver? This should be clarified in the final-form regulation.

24. Section 1001.82. Withdrawal or termination of uncontested matter or proceeding. – Consistency with statute; Clarity; Need; Implementation procedures.

Subsection (b) provides for withdrawal and termination with prejudice of a petition within 15 days after filing notice, “Unless otherwise provided by statute.” If there is a statutory provision that provides to the contrary, then it should be specifically referenced in order to provide members of the regulated community adequate notice of its rights. Why would a withdrawal or termination preclude a party from filing another petition that may be filed within the regulatory deadlines?

SUBCHAPTER L. UNOFFICIAL STATEMENTS, OPINIONS AND NOTICE

25. Section 1001.111. Unofficial statements and opinions by Authority personnel. – Clarity; Reasonableness; Need; Implementation procedures.

This section appears to limit the judiciary from considering documents, statements or other materials, including formal opinions and decisions generated by PPA and its employees and representatives. What is the rationale for this section? Why can’t a court determine the relevance of this information, whether or not it was necessary in resolving the case?

CHAPTER 1003. SPECIAL PROVISIONS

SUBCHAPTER A. TEMPORARY EMERGENCY ORDERS

26. Section 1003.22. Hearing on petitions for interim emergency orders. – Reasonableness.

A hearing must be held within 20 days of the filing of a petition for an interim emergency order. How did PPA arrive at 20 days? Is this a reasonable length of time to respond to an emergency?

27. Section 1003.32. Out of service designation. – Reasonableness; Implementation procedures.

Subsection (b) provides that a driver's certificate may be placed out of service if the driver fails to appear at the headquarters of the Taxicab and Limousine Division of PPA as directed. One commentator expressed concern that this might place an unfair burden on a driver who may not be able to appear for a legitimate reason. We recommend PPA consider the commentator's suggestion to include language that the certificate will be placed out of service for failure to appear "without just cause" and amend the final-form regulation accordingly.

SUBCHAPTER C. APPLICATIONS AND PROTESTS

28. Section 1003.54. Protests. – Economic impact; Reasonableness.

Subsection (c) provides that when a protest petition is filed, a fee shall be paid in accordance with PPA's fee schedule, which is referenced in § 1001.43 and made available on PPA's website. The fee to file a protest is \$2,500. One commentator is concerned that the amount of the fee is excessive and is a deterrent to anyone providing information that may be relevant to an application or desiring to protest an application. Another commentator questions why this protest fee is being imposed only upon the holders of limousine rights. Why is PPA charging a fee for protests? How did it determine that \$2,500 is an appropriate fee to charge? Why is the fee limited to holders of limousine rights?

29. Section 1003.56. Registration of intrastate operating authority issued by the Interstate Commerce Authority. – Clarity; Possible conflict with statutes.

This section references the Interstate Commerce Authority under 49 U.S.C.A. §§ 10922 and 10923. We were unable to find these sections in the U.S. Code. PPA should review these citations and make necessary amendments in the final-form regulation.

CHAPTER 1005. FORMAL PROCEEDINGS

SUBCHAPTER A. PLEADINGS

30. Section 1005.11. Formal complaints generally. – Clarity.

There is a typographical error in Subsection (a). There are two subsection (2)'s, as printed in the *Pennsylvania Bulletin*.

31. Section 1005.13. Citation complaints by the Authority. – Clarity; Reasonableness; Implementation procedures.

In Subsection (a), the citation filed with the Clerk must include specified information, unless circumstances “render the information impracticable to obtain at the time of filing.” Although a pleading is not required, as provided in Subsection (b), how does the respondent provide an answer to the allegations or provide a defense at a hearing if certain information is not included on the citation? Why does Subsection (b) prohibit the filing of preliminary motions, particularly if relevant information is excluded from the citation? We have similar concerns with § 1005.71(e) (Preliminary motions). The final-form regulation or the Preamble should be amended to address these issues.

SUBCHAPTER B. HEARINGS

32. Section 1005.82. Scheduling of hearing. – Clarity; Reasonableness; Implementation procedure.

Subsection (c) relates to the rules of evidence and examination. We have several questions. First, why is this provision under the section pertaining to scheduling hearings? Second, why does it supersede the GRAPP provision relating to a hearing calendar as referenced in Subsection (d)? Third, a party may be called and examined even if he does not testify on his own behalf. What happens if the party does not want to testify? This should be clarified in the final-form regulation or explained in the Preamble.

33. Section 1005.121. Transcripts generally. – Clarity.

In Subsection (a), why was the phrase “[i]f required by law” added to what GRAPP already requires? Under what circumstances would this reporting be legally required?

SUBCHAPTER D. EVIDENCE AND WITNESSES

34. Section 1005.144. Additional evidence. – Reasonableness; Implementation procedures.

Subsection (a) permits PPA to request additional evidence after the hearing. How does this work in practice? Does the other party have the opportunity to respond to the additional evidence? This should be clarified in the final-form regulation.

SUBPART B. TAXICABS

CHAPTER 1011. GENERAL PROVISIONS

35. Section 1011.2. Definitions. – Consistency with statute; Reasonableness; Clarity.

Common carrier

This definition states:

A common carrier by motor vehicle, as defined in 66 Pa.C.S. § 102 (relating to definitions), transporting passengers.

This definition is complicated and vague. Under 66 Pa.C.S. § 102, there are two entirely *different and separate* definitions for the terms “common carrier” and “common carrier by motor vehicle.” Therefore, it is not clear what the definition in the regulation describes and whether it encompasses carriers that are not under PPA’s jurisdiction.

We recognize the Act uses the term “common carrier by motor vehicle” in 53 Pa.C.S. § 5703(g). At the same time, it is not clear why the definitions in 53 Pa.C.S. § 5701 are not sufficient for the purposes of Subpart B. PPA should consider whether the term “common carrier” should be used in the regulation. If the term is retained, PPA should explain why it is the appropriate term and clarify its definition for the final-form regulation.

Key employee

The term “other entity identified by the Authority” is vague and the final-form regulation should provide examples of this term.

Regulated person

This definition states, “A certificate holder, broker, taxicab driver, or other person subject to the act, **this part, or an order of the Authority.**” (Emphasis added.) We recommend deleting the phrase “this part or an order of the Authority.” The authority for the regulation (Part II) and PPA orders are derived from the Act. Therefore, we suggest rephrasing this definition so that it is clear that PPA will not be establishing “regulated persons” by regulation or order beyond the bounds of the Act.

Rights

What does the phrase “other authorization” refer to? The final-form regulation should clarify this issue.

Consistency of the definitions of "Taxicab," "Taxicab certificate" and "Taxicab service"

The definition of "taxicab" establishes that "the term includes partial-rights taxicabs, medallion taxicabs and wheelchair accessible taxicabs." However, the parallel phrases in the definitions of "taxicab certificate" and "taxicab service" do not include "wheelchair accessible taxicabs." PPA should review these definitions for consistency. In particular, we question why the definition of "taxicab service" does not include "wheelchair accessible taxicabs."

36. Section 1011.3. Annual rights renewal process. – Need; Economic impact; Reasonableness; Implementation procedures.

Expiration of driver's certificates

A commentator suggests that a notice be sent to drivers 90 days before their certificate expires. PPA should consider adding this notice.

Also, Paragraph (a)(1) states that "A certificate will expire on June 30 of each year." We question how it is reasonable to apply that date to every certificate awarded. If a certificate is awarded in June, how can it still require a June 30th renewal? In the Preamble to the final-form regulation, PPA needs to explain the significance of the June 30th expiration date.

Additional documents

In Paragraph (c)(2), under what circumstances would renewal forms require the submission of additional documents or information to conform to an "order of the Authority"? The final-form regulation should provide examples of such instances.

60 days before expiration

Paragraph (c)(3)(iv) requires that forms for renewal of driver's certificates "shall be filed 60 days before the expiration date." As written, this provision requires renewal forms at exactly 60 days before expiration. We recommend amending this provision so that drivers are given a specific time period to file, such as between 90 and 60 days before expiration of the driver's certificate.

Waivers

Paragraph (a)(4) states that all other rights including waivers will expire one year from the date of issuance. Commentators are concerned that their waivers could expire under this provision, some of which have been in effect for several years. Other commentators believe the waivers that have been granted should apply to all. PPA should explain why this provision is needed and

reasonable. In addition, if PPA intends to renew waivers, it should include or cross-reference the process it will use to re-establish waivers.

Suspended rights

Subsection (e) provides for suspension of rights. A commentator suggests that a hardship provision should be added in case of medical emergencies. PPA should explain how it handles hardship cases and consider adding a hardship provision to the final-form regulation.

37. Section 1011.4. Annual assessments and renewal fees. – Fiscal impact; Need; Reasonableness.

Assessment and renewal fees

Subsection (a) states that annual assessments or renewal fees are established each year in accordance with the Act. Commentators have questioned why there is a difference in the fees imposed by PPA and the Pennsylvania Public Utility Commission (PUC) with PPA's fees being higher. Does PPA discuss its proposed fees with the regulated community before they become effective? The final-form regulation should explain why there appears to be an increased fiscal impact between PPA and PUC regulations for annual assessments and renewal fees.

Assessment payment by appointment

The purpose of Subsection (d) *Assessment payment by appointment* is not clear. Subsection (d) establishes that the Director may schedule "in person appointments to pay annual assessments" and associated provisions including a rescheduling fee. We have three concerns:

- Why is an appointment with the Director necessary to pay an assessment? Can it be mailed? Can it be paid online? Can a credit card be used?
- What criteria must the Director follow in determining a meeting is needed and in scheduling the meeting? Would the provisions of Subsection (h) relating to late payments have to be used before a meeting is required by the Director? Why would one person who pays an assessment be required to pay by appointment when another is not?
- How much does this procedure cost PPA and the regulated community on an annual basis and how much time must the person paying the assessment devote to this meeting?

As stated at the beginning of these comments, PPA did not provide a detailed Preamble describing the basis for the provisions in the regulation. PPA should

either delete this provision or provide a detailed explanation of the need for this provision along with amended language in the regulation to clarify under what circumstances the Director may require a meeting to pay an assessment.

38. Section 1011.5. Ineligibility due to conviction or arrest. – Statutory authority; Protection of the public welfare; Reasonableness.

Subsection (d) states that in the event a criminal prosecution is initiated against a regulated party, PPA's Enforcement Department or Trial Counsel may initiate a formal complaint and seek immediate suspension of rights pending the conclusion of the criminal proceedings. We recognize there is a balance between protecting the public who ride in taxicabs and the rights of a driver charged with a crime who has not yet been found innocent or guilty of the crime. We also recognize that an immediate suspension of rights pending the conclusion of the criminal proceeding could take many months. We request an explanation of how PPA can enforce this provision without violating the rights of a driver accused but not convicted of a crime.

39. Section 1011.7. Payment of outstanding fines, fees, penalties and taxes. – Statutory authority; Economic impact.

Subsection (a) specifically mentions payment of assessments, fees, penalties and other payments due under the Act. However, Subsections (b), (c) and (d) address parking violations, moving violations, Commonwealth taxes, city taxes and a Business Privilege License. PPA should delete Subsections (b), (c) and (d), or explain its authority to require information and enforce them. PPA should also explain how much of its resources are devoted to these provisions, whether the costs are subsidized by other enforcement agencies and why it is appropriate for PPA and the entities under the Act, and ultimately fare paying customers, to bear the burden of these costs. Finally, PPA should provide an estimate of the cost to the regulated person to provide documentation to the satisfaction of PPA that they have complied with Subsections (b), (c) and (d).

40. Section 1011.8. Facility inspections. – Clarity.

This section requires inspections of "operating locations" and a "facility inspection." These terms are vague, and the final-form regulation should explain the difference between these two types of locations.

41. Section 1011.11. Record retention. – Economic impact; Need; Reasonableness; Clarity.

Subsection (a)

We have two concerns. First, rather than stating “all records required under the act,” the regulation should cite the specific sections of the Act for which records must be kept.

Second, this subsection requires records to be retained that are “otherwise kept in the ordinary course of business.” PPA should either clarify this phrase or delete it.

Subsection (c)

This subsection requires records to be stored in dry areas “protected by a fire suppression system.” We have three concerns. First, it is not clear why these records need to be protected by a fire suppression system. What specifically is in these records that requires this level of protection? Also, if the information is that sensitive, why doesn’t the regulation require a copy to be filed with PPA?

Second, it is not clear what will meet the requirements for a “fire suppression system.” For example, it would appear that fire-proof file cabinets could be sufficient. However, the regulation requires a “fire suppression **system**.” (Emphasis added.) A system may require a sprinkler system at significant cost. We recommend that the regulation clearly establish what meets the requirement for a “fire suppression system.”

Finally, PPA should provide an estimate of the cost to implement the fire suppression system required by the regulation.

Subsection (d)

This subsection requires electronic records to be “stored at a location that is separate by at least 1 mile from the office where the record originated.” The requirement for storage of these records a distance of at least one mile from the office means that a business would have to maintain a separate location or pay for this service. PPA should explain the need for storage one mile away from the office, the costs imposed by this requirement and why the costs are justified.

Subsection (e)

Will PPA’s request for records under this subsection be in writing?

42. Section 1011.13. Interruptions of service. – Statutory authority; Reasonableness; Need; Clarity.

Common carrier

This section uses the term “common carrier.” As we commented on Section 1011.2, the definition of this term is complicated and vague. Consistent with our comment on Section 1011.2, we recommend that PPA reconsider the use of “common carrier” in this section of the regulation.

Reporting a service interruption by a common carrier of more than 48 hours

Subsection (a) requires a written statement to the Director when a vehicle is out of service for more than 48 hours. A commentator questions the need to report inactivity that may be the result of an illness. PPA should explain the need for this provision and what PPA will do with the information.

Reporting a service interruption by dispatcher of more than 30 minutes

Subsection (b) requires a dispatcher to report to the director in writing within two hours of the beginning of a service interruption for more than 30 minutes. Is this timeframe practical, particularly for a written report? Also, why should a written report be the priority when a dispatcher is trying to address the outage during a service interruption? Would a phone call, email or text message to PPA suffice? PPA should explain what is required by this provision and why it is necessary and practical for a written report to be produced within two hours from first experiencing problems.

“Interruption of service” and “suspension of service”

This section uses the terms “interruption of service” and “suspension of service.” However, the regulation is not clear regarding what specifically constitutes an interruption of service or suspension of service. The regulation should define these terms so that the regulated community knows what needs to be reported.

43. Section 1011.14. Voluntary suspension of certificate. – Statutory authority; Reasonableness; Clarity.

Voluntary suspension

This section discusses the process for a certificate holder to achieve PPA approval for voluntary suspension of their certificate in order to avoid penalties for violations relating to interruptions of service. We raise three issues.

First, the Act grants PPA the power to rescind certificates, revoke certificates and to grant temporary certificates, but not to suspend them. See 53 Pa.C.S.

§ 5711. Therefore, what is PPA's statutory authority for permitting this suspension process?

Second, Subsection (a) allows the suspension to occur subject to prior approval by the Director, who may, "in his sole or peculiar discretion...attach conditions as found to be necessary or proper." What does PPA consider "peculiar discretion"? Also, what kinds of conditions would the Director consider "necessary or proper"? The final-form regulation should clarify these issues.

Finally, Subsection (b) states that voluntary suspension of a certificate may occur "after a report is issued as provided in Section 1011.13." However, this section does not mention an actual report. Is this subsection referring to 1011.13 where a certificate holder is required to "report" an interruption of service? PPA needs to clarify how the term "report" is applied in these two sections, and include a cross-reference to Section 1011.13.

Five percent or more

Subsection (e) states PPA will not grant a voluntary suspension if it "will result in a reduction of five percent or more of the aggregate number of authorized medallion taxicabs in Philadelphia." A commentator is concerned that this provision might be applied unreasonably if the voluntary suspension was for lack of business or if insurance was not available. PPA should explain how it determined that five percent is the appropriate percentage. PPA should also consider amendments to this provision to exclude certain circumstances when it may be appropriate to suspend certificates.

44. Section 1011.15. Death or incapacitation of a certificate holder or certain persons with controlling interest. – Economic impact; Reasonableness.

A commentator requests that this section be clear that medallions are assignable by a will or other succession of personal property. PPA should consider adding this provision.

CHAPTER 1015. PARTIAL RIGHTS TAXICABS

45. Section 1015.3. New or additional rights restricted. – Consistency with statute; Reasonableness.

One commentator supports the provision that sets a limit on the number of partial rights taxicabs. However, other commentators affected by the limit oppose it. Consistent with our general comment on partial rights taxicabs, PPA should explain how this specific provision is consistent with the statute and is reasonable.

CHAPTER 1017. VEHICLE AND EQUIPMENT REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

46. Section 1017.1. Purpose. – Economic impact; Reasonableness; Clarity.

Subsection (b) includes definitions, which normally are not included in the “Purpose” section of a regulation. To improve clarity, we recommend that Subsection (b) be included in its own separate section titled “Definitions.”

Antique vehicle

What does the PPA consider to be “substantially in conformance” with manufacturer specifications? The final-form regulation should clarify this issue.

Hybrid vehicle

In Subsection (b), this definition states:

A motor vehicle that allows power to be delivered to the drive wheels by a nongasoline energy sources, but which also incorporates the use of a gasoline combustion engine and which meets the applicable Federal motor vehicle safety standards. The primary source of power for the motor must be the nongasoline energy source.

This definition provides the framework for provisions in Subsection 1017.3 (c) relating to hybrid vehicles. A commentator questioned what vehicles would comply, how ethanol based fuels will be evaluated and also questioned why electric and compressed natural gas vehicles would not fall under the same regulatory scheme. Although the definition is accurate in its description of hybrid vehicles, we also question why other vehicles, such as electric vehicles or even highly efficient vehicles that only use gasoline, would not qualify for the same advantages under Subsection 1017.3 (c).

Additionally, we note a typographical error in this definition. It states “...by a nongasoline energy sources....”

47. Section 1017.3. Taxicab age parameters. – Statutory authority; Economic impact; Need; Implementation procedure; Reasonableness.

Statutory authority for the age limitations of a taxicab in the regulation

Under its general rulemaking authority, PPA may prescribe regulations under 53 Pa.C.S.A. Chapter 57 *Taxicabs and Limousines in First Class Cities*. See 53 Pa.C.S.A. § 5722. Regarding a limitation on the age of vehicles, Chapter 57 of the statute states that “...No vehicle which is more than eight years old shall continue in operation as a taxicab....” 53 Pa. C.S.A. § 5714(a).

In contrast to the statute, Paragraphs (b)(1) and (c)(2) of the regulation provide three age limits that are inconsistent with 53 Pa. C.S.A. § 5714(a):

- Subparagraph (b)(1)(i) states “A taxicab that is 5 years old or older is not eligible for inspection...and shall be removed from taxicab service....”
- Subparagraph (b)(1)(ii) states “A vehicle may not be introduced for service as a taxicab...if the age of the vehicle is 1 year old or older.”
- Subparagraph (c)(2) states “A taxicab that is wheelchair accessible or a hybrid vehicle, or both, may not be introduced for service as a taxicab, or reenter service after having been removed from taxicab service by the certificate holder, if it is 3 years old or older.”

We believe that the statute is clear in only establishing a maximum vehicle age of eight years old. Furthermore, the statute does not establish either a minimum age or an age limitation to reenter service. Commentators believe these provisions are not consistent with the statute. Some are willing to discuss legislative changes, provided the limitations are cost effective and necessary to improve service. PPA should either delete these provisions from the regulation or explain its existing statutory authority to enforce them. Alternatively, PPA should seek statutory amendments before including them in regulation.

Economic impact, need and reasonableness of the age limitations of a taxicab in the regulation

If PPA can convincingly establish its authority for these three provisions, we further request that PPA provide support for how these provisions meet the criteria of economic impact, need and reasonableness. We recognize that newer vehicles may be safer, more comfortable and aesthetically pleasing. On the other hand, PPA is required by statute to inspect the taxicabs twice a year and also spot checks vehicles that are providing service. We are concerned that the regulation will impose significant costs to the taxicab industry and ultimately to customers because the regulation:

- Requires the purchase of essentially new vehicles to enter service to meet the requirement of Subparagraph (b)(1)(ii) that the vehicle be less than one year old to enter service. The depreciation of vehicles is very high in the first few years of a vehicle's service life. The regulation would require the purchase of a vehicle at the highest cost and prohibit the savings that could be realized by purchasing vehicles that are older.
- Requires vehicles to be retired at 5 years old under Subparagraph (b)(1)(i) when the vehicle would otherwise have three remaining years of service under the statute. This precludes three years of use of vehicles that otherwise meet the statute and pass PPA's inspections.
- Prohibits the introduction or reentry to service of wheelchair accessible and hybrid vehicles that are more than three years old. This precludes the use of vehicles that otherwise meet the statute and pass inspections. It is our understanding that there are not any wheelchair accessible vehicles currently operating in PPA's jurisdiction. It would appear this limitation may further discourage them. Also, it is not clear why PPA treats hybrid vehicles differently than any other type of vehicle.

Commentators stated that one-year old cars with less than 15,000 miles are not readily available. They provided a comparison that the difference in cost between a used vehicle and new vehicle is approximately \$23,000, which in turn will require:

- Financing in most situations at a cost of approximately \$750 per year,
- Higher insurance costs estimated at an additional \$2,000 per year,
- More expensive leases, and
- Higher rates to the riding public.

Commentators question the effectiveness of the age limits and state PPA has not demonstrated a link between the age of vehicles, service complaints and violations. Commentators also question why taxicab standards are more stringent than limousines standards.

PPA should explain why limitations on the age of vehicles are needed and reasonable. PPA should provide a comparison of taxicab vehicle costs under the statute that only limits the age of the vehicle to eight years versus the age limitations in the final regulation. PPA should establish beyond anecdotal presumption that newer vehicles will improve safety and service beyond what is accomplished by biannual inspections of vehicles. PPA should also provide how the difference in cost will affect the ultimate fares paid by taxicab customers.

Implementation procedures

In addition to the concerns above, it is not clear how the age limitations in the regulation will be implemented. For example, the regulation does not contain a grandfather clause and if implemented as written, may impose immediate retirement of vehicles and significant costs in replacing those vehicles. PPA should provide a study of the ages of vehicles currently in service. PPA should then explain the status of those vehicles under the final-form regulation, and the economic impact of the transition to those age limitations.

Subsection (c) Wheelchair accessible taxicabs and hybrid vehicles

A commentator believes this provision does not provide enough incentive to implement wheelchair accessible taxicabs or to encourage the use of hybrid vehicles. It is our understanding that there are currently no wheelchair accessible taxicabs currently in service. PPA should explain how the provisions in Subsection (c) will adequately address the need for wheelchair accessible vehicles and encourage vehicles that use either alternative fuels or more efficient use of gasoline.

48. Section 1017.4. Taxicab mileage parameters. – Statutory authority; Economic impact; Need; Reasonableness.

Statutory authority for taxicab mileage parameters

Again, under its general rulemaking authority, PPA may prescribe regulations under 53 Pa.C.S.A. Chapter 57 *Taxicabs and Limousines in First Class Cities*. See 53 Pa.C.S.A. § 5722. Regarding a limitation on the age of vehicles, Chapter 57 of the statute states that “...No vehicle which is more than eight years old shall continue in operation as a taxicab...” See 53 Pa. C.S.A. § 5714(a). However, we have not found a parameter relating to taxicab mileage in Chapter 57 of the statute. Therefore, we question the authority to invoke the minimum and maximum mileage limitations in Subsections (a) and (b) of the regulation. PPA should either delete Section 1017.4 from the regulation or explain its existing statutory authority to enforce it. Alternatively, PPA should seek statutory amendments before including these provisions in regulation.

Economic impact, need and reasonableness of the mileage limitations of a taxicab in the regulation

If PPA can convincingly establish its authority for Section 1017.4, we further request that PPA provide support for how these provisions meet the criteria of economic impact, need and reasonableness. We recognize that newer vehicles may be safer, more comfortable and aesthetically pleasing. On the other hand, PPA inspects the taxicab vehicles twice a year and spot checks vehicles that are providing service. We are concerned that the regulation will impose significant

costs to the taxicab industry and ultimately to customers because the regulation:

- Requires a new vehicle to have less than 15,000 miles on the odometer to meet Paragraph (a)(1).
- Requires a wheelchair accessible or hybrid vehicle to have less than 35,000 miles on the odometer to meet Paragraph (a)(2).
- Requires removal of taxicab vehicles that have more than 200,000 miles under Paragraph (b)(1) and removal of wheelchair accessible and hybrid vehicles that have more than 300,000 miles under Paragraph (b)(2).

Commentators' concerns with mileage are similar and directly relate to their concerns with the age limitations in Section 1017.3. Commentators stated that one-year old cars with less than 15,000 miles are not readily available. They provided a comparison that the difference in cost between a used vehicle and new vehicle is approximately \$23,000, which in turn will require:

- Financing in most situations at a cost of approximately \$750 per year,
- Higher insurance costs estimated to cost an additional \$2,000 per year,
- More expensive leases, and
- Higher rates to the riding public.

Commentators question the effectiveness of the mileage limits and state PPA has not demonstrated a link between the mileage of vehicles, service complaints and violations. Commentators also question why taxicab standards are more stringent than for limousines.

PPA should explain why limitations on the mileage of vehicles are needed and reasonable. PPA should provide a comparison of taxicab vehicle costs under the statute that only limits the age of the vehicle to eight years versus the mileage limitations in the final-form regulation. PPA should also provide how the difference in cost affects the ultimate fares paid by taxicab customers.

Implementation procedures

In addition to the concerns above, it is not clear how the mileage limitations in the regulation will be implemented. For example, the regulation does not contain a grandfather clause and if implemented as written, may impose immediate retirement of vehicles and significant costs in replacing those vehicles. PPA should provide a study of the mileages of vehicles currently in service. PPA should then explain the status of those vehicles under the final-

form regulation, and the economic impact of the transition to those mileage limitations.

49. Section 1017.5. Basic vehicle standards. – Reasonableness; Economic impact; Need; Implementation procedures.

Subsection (a)

This subsection requires vehicles to comply with state standards imposed by the Department of Transportation, “except where those standards are exceeded or otherwise altered by this subpart.” However, it is unclear when such circumstances would occur. The final-form regulation needs to explain these exceptions and how they will be implemented.

Subsection (b)

Paragraph (b)(3) requires a taxicab to have “an operable two-way radio and a mobile data terminal connected to a dispatch radio system....” A commentator believes that cell phones can be used effectively and safely and are a superior solution to the 1950s two-way radio technology. PPA should review public comments on newer technology and amend the regulation accordingly or explain why the regulation is limited to two-way radios.

Paragraph (b)(22) requires a taxicab to contain a map for use by the driver. A commentator observes that every taxicab is required to have a GPS system. PPA should explain the need for a map in addition to a GPS system.

Subsection (c)

This subsection refers to a federal requirement for interstate drivers that “No requirement of this **subpart**...may be interpreted to disrupt or interfere with....” (Emphasis added.) We have two concerns. First, Section 1017.5 is a section, not a subpart. Second, since this section relates to vehicle standards not drivers, we question the need for Subsection (c) in this section.

Subsection (e)

This subsection bans advertising on the exterior or interior of a taxicab with the exception of roof-top advertising panels. A commentator believes this is an unreasonable restriction and believes taxicabs should be allowed to supplement income with advertising. The commentator believes external advertising should only be restricted if it interferes with the taxicab markings and that internal advertising should be allowed. PPA should explain the need to restrict advertising in Subsection (e) and why less restrictive regulation of advertising is not allowed.

Subsection (f)

This subsection requires a daily inspection of a taxicab by a certificate holder. By definitions in Section 1001.10, a certificate holder is the holder of the certificate of public convenience. Commentators made the point that when a taxicab is leased, the certificate holder would not see the taxicab on a daily basis. PPA should amend this provision so that a driver who leases a medallion could also perform the daily inspection.

SUBCHAPTER B. COLORS AND MARKINGS

50. Section 1017.12. Required markings and information. – Need.

Paragraph (a)(2) requires the name of the certificate holder to appear on the front fenders of a taxicab in five-inch print. A commentator points out that over 700 corporations own medallions in Philadelphia and therefore questions the benefit of putting the names on the taxicabs. PPA should explain the need for this provision.

SUBCHAPTER C. METERS

51. Section 1017.23. Approved meters. – Economic impact; Reasonableness.

This section implies there is a list of approved meters on PPA's website. We have two concerns. First, it is our understanding that there is only one approved meter at this time. PPA should explain whether other meters are acceptable and how to submit an alternative meter for PPA approval. Second, we were unable to locate this list on the website. We request that PPA provide the list and the link to its specific location on the website in the final-form regulation.

52. Section 1017.24. Meter activation and display. – Economic impact; Reasonableness.

Paragraph (d)(4) sets a limit on fees associated with the credit card and debit card transactions of five percent of the total fare amount. Is the maximum of five percent above the market cost for typical credit card and debit card transactions for other businesses? Is the processing of credit and debit card services provided by either a competitive process for the service or multiple service providers who must compete for services? PPA should explain why the limit of five percent is reasonable and whether there were any other regulatory options it considered in developing the regulation.

SUBCHAPTER D. TAXICAB INSPECTIONS

53. Section 1017.33. Failure to appear for scheduled inspection. – Fiscal impact; Reasonableness; Need.

This section states that if a taxicab fails to appear for a scheduled inspection, the certificate holder will not only be charged a rescheduling fee, but will also be subject to penalties. Does this fee apply to all cancelled inspections due to any circumstance? What if it was the first time the driver failed to appear or it was an emergency? In those circumstances would a rescheduling fee be required and penalties imposed? PPA should explain the need for these fees in the Preamble to the final-form regulation. Additionally, the final-form regulation should set forth under what circumstances penalties would be imposed.

54. Section 1017.37. Inspection subsequent to vehicular accident or damage. – Need; Economic impact; Reasonableness; Clarity.

Subsection (a)

Paragraphs (1) to (5) set forth incidents that require removal of a taxicab from service. A commentator believes these provisions are too stringent. Another commentator is concerned that the economic impact of this provision falls on the driver who loses wages, while the medallion holder's lease must still be paid. We have the following concerns with the drafting of this provision:

- Paragraph (2) requires a vehicle to be removed from service for “An incident involving contact with a vehicle owned or operated by any government entity.” We have three concerns with this provision. First, it is not clear why the government ownership of the vehicle “involving contact” is determinative in removing a taxicab from service. Second, as written, this would require the taxicab to be removed from service even if, for example, a parked taxicab is dented by a government vehicle. Third, this requirement would impose a financial penalty on the taxicab through loss of service time when there is minor contact and no damage to either vehicle. We recommend that Paragraph (2) either be deleted or rewritten so that it provides reasonable parameters for removing a taxicab from service.
- Paragraph (3) requires a vehicle to be removed from service for “An incident resulting in damage to the taxicab which requires more than \$500 to repair.” We have three concerns with this provision. First, it is not clear how a driver could immediately determine the dollar amount of a repair to a vehicle and therefore determine whether the vehicle must be removed from service or not. Second, the dollar amount of damage does not necessarily equate to a safety concern. For example, a minor scratch

or dent to a vehicle may cost \$500 to repair, but may not affect the safe operation of the vehicle. Third, how did PPA determine that \$500 is the appropriate amount? We recommend that PPA review this provision and either delete it or amend it so that it provides a reasonable parameter for removing a taxicab from service.

- The incident in Paragraph (5) includes “a motor vehicle accident resulting in injury or death to any person.” However, this incident is already included in Paragraph (1) which requires a taxicab to be removed from service if an incident must be reported to the police under 75 Pa. C.S. § 3746. Paragraph 3746(a)(1) of that statute specifically includes “injury to or death of any person.” Therefore, we recommend deleting Paragraph (5) since it duplicates Paragraph (1).

Subsection (b)

This subsection requires the certificate holder and driver to contact the Manager of the Enforcement Department “immediately upon the occurrence of any incident set forth in subsection (a)....” We note that Paragraph (a)(1) requires notice to the police under 75 Pa.C.S. § 3746 (relating to immediate notice of accident to police department). Notice to the police department can provide many other needed services including notifying emergency responders and traffic control. Therefore, the requirement in Subsection (b) to immediately contact PPA could be in conflict with the statutory requirements of 75 Pa. C.S. § 3746 in some circumstances. We note that Section 1021.15 also provides actions required by the driver after an accident. We recommend that PPA review Subsection (b) and rewrite the requirement so that it is clear that the police must be contacted first when there is an accident that requires immediate notice to a police department. PPA should also explain why Subsection (b) is needed in addition to Section 1021.15.

Subsection (c)

There appears to be a typographical error in this subsection. The reference to Subsection (b) should be changed to Subsection (a).

55. Section 1017.41. Attendance at scheduled inspection. – Need; Economic impact; Reasonableness.

53 Pa. C.S. § 5714(a) states PPA shall require “that each medallion holder submit to a periodic vehicle inspection of its taxicab by authority personnel.” This section of the regulation goes further than the statute by requiring a certificate holder or attorney-in-fact to attend the inspection. What need obviates attendance by a certificate holder or a hired attorney that justifies the cost to the certificate holder. Typically, a car owner can drop off a car for a state inspection at a garage and pick it up after the work is done. Why must a

person attend a taxicab inspection? What service or expertise can the person provide while the taxicab is inspected by PPA personnel? Again, PPA should delete this entire section or explain how the costs imposed on the regulated community are justifiable.

56. Section 1017.43. Approved models and conditions. – Reasonableness; ; Implementation procedures; Clarity.

This provision states “The Authority will publish a list of approved makes and models of vehicles permitted for use as taxicabs....” Based on discussion with PPA, it is clear this list is not intended to be exclusive but rather is intended to give guidance to a person purchasing a vehicle on what vehicles have been approved in the past. We recommend that this provision be rewritten so that it is clear how other vehicles can be approved and added to this list and that the list is not exclusive.

SUBCHAPTER F. TAXICAB LEASES

57. Section 1017.62. Taxicab leases. – Reasonableness.

A commentator believes this section and specifically Paragraph (c)(9) do not reflect the varied relationships between drivers and medallion owners. There are DOVs, multiple drivers and different types of leases. PPA should review this section and explain how it appropriately accommodates taxicab leases.

58. Section 1017.63. Wages, maximum lease amounts and uniform rates. – Consistency with statute; Need.

Applicability

Subsections (a), (b) and (c) essentially restate statutory provisions in regulation. 53 Pa.C.S. § 5720(a) states “each medallion owner shall pay at least a prevailing minimum wage rate or, in the alternative, charge at most a prevailing maximum lease amount to the drivers of its taxicab, as determined by the authority upon investigation.” Also, 53 Pa.C.S. § 5720(b) states that “all taxicabs...shall charge a uniform rate to passengers, as determined by the authority upon investigation.” Why are Subsections (a), (b) and (c) needed in regulation?

Employee benefits

Employee benefits are addressed in 53 Pa.C.S. § 5720(a) which states, in part, “...**The minimum wage rate** and the maximum lease amount, as established by the authority, **may include employee benefits.**” (Emphasis added.) Subsection (c) of the regulation states “Upon investigation, the Authority may establish, by order, prevailing employee benefits for taxicab drivers, **in addition to a minimum wage.**” (Emphasis added.) The phrase “in addition to

a minimum wage” implies the minimum wage and the employee benefits are separate. PPA should explain how the regulation is consistent with 53 Pa.C.S. § 5720(a).

CHAPTER 1019. DISPATCHERS

59. Section 1019.2. Ineligible persons for dispatcher service. – Reasonableness; Implementation procedures; Clarity.

Paragraph (2)

This paragraph states an applicant is ineligible to be a dispatcher if:

The applicant is incapable of providing dispatching services through persons or communication devices that speak, read and write the English language sufficiently to clearly communicate with the public and respond to Authority investigations and comply with reporting requirements of the Authority's regulations.

It is not clear what standard this provision sets. How is it determined, by whom and when, that the applicant can or cannot “speak, read and write the English language sufficiently to clearly communicate with the public”? This provision should either be deleted or rewritten to provide a clear standard of compliance for both PPA and persons applying to be dispatchers.

60. Section 1019.8. Dispatcher requirements. – Economic impact; Reasonableness; Need.

Paragraph (6) requires dispatchers to have at least one display advertisement in a telephone book and a website which displays information necessary to order a taxicab. A commentator believes that dispatchers should not be required to do both. Can taxicab service be effectively provided using just a website? What is the need for requiring these types of advertisements in both the telephone book and on the web?

CHAPTER 1021. TAXICAB DRIVERS

61. Section 1021.3. Maximum number of taxicab driver's certificates. – Statutory authority; Economic impact; Reasonableness; Need.

Maximum of 3,000 taxicab driver's certificates

Subsection (a) establishes a maximum of 3,000 taxicab driver's certificates, and Paragraph (b)(2) states that PPA will accept new applications only when the number of taxicab drivers is below 3,000. Under 53 Pa.C.S. §§ 5711(c)(2) and 5713(b), PPA can issue a maximum of 1,600 certificates of public convenience for taxicab service (and five certificates for limited service).

Based on public comment, the limitation to 3,000 taxicab driver's certificates is among the most controversial provisions in the regulation. One commentator supports the 3,000 driver cap, stating it will end exploitation of drivers. Many other commentators question the statutory basis for a limit and how the number of 3,000 was determined. They point out that this provision could stop unemployed people and underemployed people from working in the taxicab industry. They are concerned that inactive drivers who hold certificates would preclude new drivers from getting certificates. A commentator requests that PPA develop an analysis of drivers to contribute towards understanding how many drivers the region needs, but ultimately wants the marketplace to determine the number of drivers.

We believe the commentators have raised legitimate questions with the maximum of 3,000 taxicab driver's certificates. PPA should either delete this provision or establish its authority and enforcement powers to set a maximum number of drivers. If PPA establishes that authority, it should explain why a maximum is needed and in the public interest. PPA should explain why a maximum of 3,000 taxicab drivers is the optimum number of drivers to serve the interests of drivers, medallion owners and the public. In addition, PPA should provide any studies it has done in determining that the number of 3,000 drivers is in the best interest of all who provide and use taxicab service.

62. Section 1021.4. Ineligible persons for taxicab driver certificate. – Reasonableness; Need.

Paragraph (6) requires a driver to have "...a driving history in the United States of at least 1 continuous year...." A commentator believes it is unnecessary to prohibit persons who were drivers in other countries, such as Canada, and have lived in the United States for less than one year. Why does the regulation require a driving history in the United States of at least one continuous year?

63. Section 1021.5. Standards for obtaining a taxicab driver's certificate. – Fiscal impact; Reasonableness; Need; Clarity.

Criminal history report and record

Paragraph (b)(6) references both a criminal history report and a criminal history record. "Criminal history report" is defined in Section 1001.10, whereas a "criminal history record" is defined in the Criminal History Information Act, 18 Pa. C.S.A §§ 9101, *et seq.* Did PPA intend for there to be a distinction between the two phrases? If not, then only one should be used in the final-form regulation.

Reports from each jurisdiction

Paragraphs (b)(6) and (8) require criminal history and driver history reports from each jurisdiction, other than Pennsylvania, in which the applicant resided

in the five preceding years. A commentator believes these provisions may be unnecessarily burdensome for immigrants who would have to get this information from foreign governments. We recognize the safety aspect for the riding public of the criminal history and driver histories of applicants. Nonetheless, if a person immigrated legally into the United States, would a sufficient criminal history check have already occurred by the United States government? We request an explanation of what specific documentation PPA will accept from foreign governments, how this documentation can be obtained, and possible costs imposed on the applicant for requesting this information. We also request an explanation of the need for criminal checks for persons who have immigrated legally.

Other rights in which the applicant has a controlling interest

Subsection (b) provides a list of all the information that must be included with an application for a taxicab driver's certificate. Paragraph (b)(10) requires a list of all PPA or PUC certificates or "other rights in which the applicant has any controlling interest." Subsection (b) does not explain whether this includes rights pertaining to interests unrelated to taxicabs. This provision is vague and the final-form regulation needs to define what comprises "other rights."

Current on all reports

Paragraph (b)(11) requires the applicant to include a written statement verifying certain things. Subparagraph (b)(11)(iii) requires verification that the applicant is current on all "reports" due to PPA. It is unclear what "reports" PPA is referring to. To improve clarity, we recommend that the final-form regulation include cross-references to the appropriate sections of the regulation relating to reports.

64. Section 1021.9. Taxicab driver test. – Reasonableness; Implementation procedures; Clarity.

This section explains the development by PPA of a test for taxicab drivers. However, it is unclear in Paragraph (c)(5) how it would be determined that a person has appropriately "demonstrated" that they can read and write English. The final-form regulation should clarify this issue.

65. Section 1021.10. Expiration and renewal of certificate. – Implementation procedures; Clarity.

Redundant provision

This section discusses the process for expiration and renewal of a driver's certificate. Subsection (a) establishes that certificates expire one year from the date of issuance and are annually renewed, all of which is already contained in Section 1011.3. Therefore, Subsection (a) is redundant and should be removed

from the final-form regulation. We also recommend that to improve clarity, Subsections (b)-(d) be moved to Section 1011.3.

In good standing

In Subsection (b), who determines and how is it established that a taxicab driver is “in good standing”? The final-form regulation should clarify these issues.

66. Section 1021.12. Additional requirements. – Need; Economic impact; Reasonableness; Protection of the public safety.

Subsection (b)

This subsection states:

Each taxicab driver shall provide a weekly average of at least 24 hours of taxicab service for each year the taxicab driver's certificate is issued and a minimum aggregate number of 1,248 hours of taxicab service each year.

We question what this requirement accomplishes. Why is there a need to exclude drivers who may be able to work just one day a week while holding down another job? Why exclude a driver who could fill in for a regular driver who is sick? PPA should explain why this provision is needed and reasonable. PPA should also explain the economic impact of the recordkeeping by the driver and the cost of enforcement of this provision by PPA.

In addition, it is our understanding from public comment that PPA has used a maximum number of hours in the past for safety reasons and quality of service reasons. Why wasn't a maximum number of hours included in the regulation?

67. Section 1021.15. Taxicab driver reports after accident. – Reasonableness; Need; Implementation procedures; Clarity.

This section describes the necessary steps taken by a taxicab driver after an accident. Paragraph (2) requires a driver to take “necessary precautions to prevent further accidents” and Paragraph (3) requires a driver to “render reasonable assistance to injured persons.” Because terms in these two paragraphs are vague, implementation may result in drivers acting outside the scope of their licensed duties. For example, a driver should not be expected to stop a fire or render assistance to injured persons without a medical license or proper training. Therefore, the final-form regulation should specifically explain the types of “precautions” and “assistance” a driver is expected to administer.

68. Section 1021.17. Partial-rights taxicab driver log. – Clarity; Reasonableness; Need.

Subsection (b)

Paragraph (b)(11) requires a service log to include “other information as may be required by this subpart.” This provision is vague. Subpart B is lengthy and it would be difficult to determine what other information may be required.

Paragraph (b)(11) should either be deleted or replaced with specific information that is required to be placed on the log.

Subsection (f)

This subsection states that PPA may require use of a specific trip sheet form and will provide it on the website. Why is Subsection (f) necessary given that Subsection (b) provides specific information that must be included in the service log? Under what circumstances would PPA require the specific trip sheet form in Subsection (f) in addition to the requirements in Subsection (b)?

CHAPTER 1025. INSURANCE REQUIRED

69. Section 1025.2. Insurance forms and procedures. – Clarity; Reasonableness.

Paragraph (c)(2) states that PPA may prescribe additional information and content necessary for endorsements and notices required by this section. This provision is vague and would allow changes to be made to requirements outside the rulemaking process. We recommend deleting Paragraph (c)(2).

70. Section 1025.3. Insurance required. – Economic impact; Feasibility; Implementation procedures; Reasonableness.

Subsection (b) sets forth the following insurance requirements:

The liability insurance maintained by a taxicab certificate holder shall be in an amount of at least \$50,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$50,000 minimum coverage is split coverage in the amounts of \$20,000 bodily injury per person, \$40,000 bodily injury per accident and \$10,000 property damage per accident. This coverage must include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$25,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits must conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the taxicab

driver of taxicabs must meet the requirements of 75 Pa.C.S.
§ 1711 (relating to required benefits).

Commentators stated that insurance currently costs approximately \$4,000 per taxicab and that implementation of this provision could increase rates as much as 200 to 300% mostly attributable to the increase in first party benefits, commonly referred to as "PIP." Insurers commented that the increased limits are so significant that it could affect the number of insurers willing to write these policies.

PPA should provide an analysis of the insurance limits in the final-form regulation regarding the feasibility of multiple insurers providing the insurance required by the regulation and the affordability of the insurance for the regulated community.

71. Section 1025.5. Standards for adjustment and payment of claims. – Clarity.

The opening paragraph of this section requires common carriers to "comply with fair claims settlement and compromise practices." The regulation should provide a direct citation to these practices so that the regulated community knows how to comply.

CHAPTER 1027. SALE OF RIGHTS

72. Section 1027.2. Definitions. – Need; Clarity.

Medallion taxicab certificate

Chapter 1027 is not the first time this term is used in the regulation. Therefore, to improve clarity, we recommend that this definition be moved, consistent with our comment on Section 1001.10.

Sale

What does PPA consider "securities" and "other ownership interests"? Do these include securities and interests unrelated to taxicabs? The final-form regulation should clarify these issues.

73. Section 1027.3. Authority approval of sale of rights. – Reasonableness; Need; Clarity.

This section defines the sale of transferable rights. Subsection (b) states that: "The sale of **any number** of securities or **other ownership interest**...will be considered a sale...." (Emphasis added.) According to subsequent sections, like Sections 1027.6 and 1027.7, a "sale" requires PPA approval of an application and various documents. In regard to similar provisions for

limousines, Philadelphia Regional Limousine Association (PRLA) contends that by requiring an application for “any” number of securities, this could result in an unreasonable burden on the ability of a corporate entity to freely transfer stock. We recommend that the final-form regulation specify the number of securities that would constitute a sale. In addition, the final-form regulation should explain what “ownership interests” are subject to a sale.

74. Section 1027.6. Application for sale of transferable rights. – Reasonableness; Implementation procedures.

Subsection (d) pertains to the sale of multiple rights. It states that the amount of transfer fee imposed will be determined “based on the higher of the aggregate value of the sale or the transfer fee for each right....” PPA should explain how it determined this was a reasonable method of calculation.

75. Section 1027.9. Financial fitness generally. – Implementation procedures; Clarity.

This section explains what documents PPA will review to determine the financial fitness of a proposed buyer for a sale. We have two concerns.

First, Paragraph (a)(1) states that PPA will review bank statements of accounts holding “not less than the greater of \$5,000 or 2% of the **sale price in unencumbered and available funds...**” (Emphasis added.) PPA should explain how it determined these were appropriate account holdings for consideration, and why the funds must have been in the account for six months.

Second, in Paragraph (a)(4), why must a buyer demonstrate the absence of any **civil** judgments against the parties required to submit a **criminal** history report?

76. Section 1027.10. Regulatory compliance review. – Clarity.

In Subsection (a), what is a “regulatory compliance record”? The final-form regulation should explain this term.

CHAPTER 1029. BROKERS

77. Section 1029.4. Ineligible persons for broker certification. – Statutory authority.

Consistent with our comment on Section 1011.5, we question how PPA will enforce Paragraph (1) if a person is arrested but has not been found guilty of a crime. Under what authority can PPA classify a person as ineligible who has been arrested and is awaiting trial?

78. Section 1029.6. Broker training. – Consistency with statute; Protection of the public welfare; Reasonableness.

Subsection (a)

This subsection states that PPA will schedule and conduct training. PPA should explain how this is consistent with the Act.

Subsection (b)

This subsection states broker training will consist of a minimum of two hours of instruction. How is two hours of training sufficient to perform the duties of a broker? Also, does PPA accept any national licensure for brokers? PPA should explain how the requirements for broker training are adequate.

SUBPART C. LIMOUSINES.

CHAPTER 1051. GENERAL PROVISIONS.

79. Section 1051.2. Definitions. – Consistency with the statute; Reasonableness; Clarity.

Common carrier

This definition states:

A common carrier by motor vehicle, as defined in 66 Pa.C.S. § 102 (relating to definitions), transporting passengers....

This definition is complicated and vague. Under 66 Pa.C.S. § 102, there are two entirely *different and separate* definitions for the terms “common carrier” and “common carrier by motor vehicle.” Therefore, it is not clear what the definition in the regulation describes and whether it encompasses carriers that are not under PPA’s jurisdiction.

We recognize the Act uses the term “common carrier by motor vehicle” in 53 Pa.C.S. § 5703(g). PPA should consider whether the term “common carrier” should be used in the regulation. If the term is retained, PPA should explain why it is the appropriate term and clarify its definition for the final-form regulation.

Key employee

The term “other entity identified by the Authority” is vague and the final-form regulation should provide examples of this term.

Limousine

The proposed regulation defines this term as “A vehicle meeting the definition provided in section 5701 of the act (relating to definitions).” However, as the PA Bus Association (PA Bus) correctly points out, this section of the Act does not include a definition for “limousine.” The final-form regulation should define “limousine” without cross-referencing the Act.

Limousine service

The proposed regulation defines this term as: “The transportation of passengers or offering to transport passengers in a limousine through a certificate or registration issued by the Authority.” However, this definition is inconsistent with the statutory definition. Section 5701 of the Act defines “limousine service” as:

- (1) Except as provided in paragraph (2), a motor vehicle providing any of the following services:
 - (i) Local, nonscheduled common carrier service for passengers on an exclusive basis for compensation.
 - (ii) Common carrier service for passengers for compensation:
 - (A) From any airport, railroad station or hotel located in whole or in part in a city of the first class; or
 - (B) To any airport, railroad station or hotel located in whole or in part in a city of the first class from a point within the city of the first class.
- (2) The term does not include any of the following:
 - (i) Taxicab service.
 - (ii) Service that was otherwise exempt from the jurisdiction of the commission prior to the effective date of this subparagraph.
 - (iii) Other paratransit service.
 - (iv) Employee commuter van pooling.

We recommend that the final-form regulation reference the statutory definition.

A commentator states that certain “chauffeured services” are not properly classified as “limousine services.” According to the commentator, there are circumstances where passengers are transported in the same manner as a limousine service, but the bill is submitted to a third party (for example, an insurance company). The final-form regulation needs to clarify whether these types of services would be required to comply with the regulation.

Moving violations

The definition should read: “Any debt owed to the Commonwealth or one of...” The word “of” should be added to the final-form regulation.

Regulated person

This definition states, “A certificate holder, broker, limousine driver, or other person subject to the act, **this part, or an order of the Authority.**” (Emphasis added.) We recommend deleting the phrase “this part or an order of the Authority.” The authority for the regulation (Part II) and PPA orders are

derived from the Act. Therefore, we suggest rephrasing this definition so that it is clear that PPA will not be establishing “regulated persons” by regulation or order beyond the bounds of the Act.

Rights

What does the phrase “other authorization” refer to? The final-form regulation should clarify this issue.

Stretched vehicle

This definition states that a “stretched” vehicle is one that accommodates 16 passengers or more, including the driver. However, a commentator suggests that if a vehicle has more than 16 passengers it is regulated by federal law. We request that PPA explain how the definition is consistent with federal law, and if necessary, amend the definition.

80. Section 1051.3. Annual rights renewal process. – Reasonableness; Need; Implementation procedures; Clarity.

This section describes the process for annual rights renewal for limousine drivers’ certificates. We raise seven issues.

First, Paragraph (a)(1) states that “A certificate will expire on July 1 of each year.” We question how it is reasonable to apply that date to every certificate awarded. If a certificate is awarded in June, how can it still require a July 1st renewal? In the Preamble to the final-form regulation, PPA needs to explain the significance of the July 1st expiration date.

Second, Paragraph (a)(2) states that a limousine driver’s certificate will expire one year from the date of its issuance or renewal. However, it is unclear why PPA chose a one-year expiration since most licenses are issued for a longer time period (for example, PA drivers’ licenses are issued for a period in excess of one year). PPA should explain how it determined that the one-year expiration was appropriate.

Third, Paragraph(b)(2) states that driver certificates that have been expired for 60 days or more will be deemed cancelled. How did PPA determine that 60 days was an appropriate timeframe? This subsection also does not state whether the driver will be provided with notice that the certificate was deemed cancelled. The final-form regulation should clarify these issues.

Fourth, in Paragraph(c)(2), under what circumstances would renewal forms require the submission of additional documents or information to conform to an “order of the Authority”? The final-form regulation should provide examples of such instances.

Fifth, Subparagraph (c)(3)(i) requires certain renewal forms for limousine certificates to be filed on or before May 15th of each year. Since the proposed regulation requires limousine certificates to expire on July 1, has PPA considered whether six weeks is enough time to review and renew certificates?

Sixth, Subparagraph (c)(3)(ii) requires forms for renewal of driver's certificates to be filed 60 days before expiration. Like Subparagraph (c)(3)(ii), we question whether 60 days allows the driver enough time to submit these forms. PPA should explain how it determined this is an appropriate timeframe.

Finally, Section 1011.3, relating to the annual rights renewal process for taxicabs, includes provisions relating to waivers and suspension of rights. Why does Section 1051.3 not contain similar provisions for limousines?

81. Section 1051.4. Annual assessments and renewal fees. – Fiscal impact; Need; Implementation procedures.

Subsection (a) states that annual assessments or renewal fees are established each year in accordance with the Act. A commentator notes that there is a large difference in the fees imposed by the PUC and the same fees imposed by the PPA (with PPA's being higher). Does PPA discuss its proposed fees with the regulated community before they become effective? The final-form regulation should explain why there appears to be an increased fiscal impact between PPA and PUC regulations for annual assessments and renewal fees.

Paragraph (d)(1) states that any assessments or renewal fees not paid before 3 p.m. on the due date will be considered late. Since offices normally don't close until closer to 5 p.m., what is the need for this deadline?

82. Section 1051.5. Ineligibility due to conviction or arrest. – Implementation procedures; Clarity.

Subsection (d) states that if criminal prosecution is initiated against a regulated party, the Enforcement Department may seek immediate suspension of rights pending the conclusion of the criminal proceedings. However, PRLA notes this provision could have consequences for entities not involved in the alleged criminal activity. For example, PRLA states that in the event that a driver is accused of a crime, this subsection would allow PPA to suspend the rights of not only the driver, but also the limousine company, regardless of its non-involvement or whether the offense occurred independent of the driver's employment with the limousine company. The final-form regulation should clearly specify whose "rights" would be suspended during a criminal proceeding. In addition, we request an explanation of how PPA can enforce this provision without violating the rights of a limousine driver accused but not convicted of a crime.

83. Section 1051.6. Payment of outstanding fines, fees, penalties and taxes. – Statutory authority; Economic impact.

Subsection (a) specifically mentions payment of assessments, fees, penalties and other payments due under the Act. However, Subsections (b), (c) and (d) address parking violations, moving violations, Commonwealth taxes, city taxes and a Business Privilege License. PPA should delete Subsections (b), (c) and (d) or explain its authority to require information and enforce the provisions in Subsections (b), (c) and (d). PPA should also explain how much of its resources are devoted to these provisions, whether the costs are subsidized by other enforcement agencies and why it is appropriate for PPA and the entities under the Act, and ultimately fare paying customers, to bear the burden of these costs. Finally, PPA should provide an estimate of the cost to the regulated person to provide documentation to the satisfaction of PPA that they have complied with Subsections (b), (c) and (d).

84. Section 1051.7. Facility inspections. – Clarity.

This section requires inspections of “operating locations” and a “facility inspection.” However, these terms are vague and the final-form regulation should define them.

85. Section 1051.8. Limousine service limitations. – Statutory authority; Need; Reasonableness.

This section discusses limousine service limitations. Subsection (c) states:

This section does not apply to an individual hired by a funeral home to drive an Authority-certified limousine for funeral related services. The funeral service drivers may not be in violation of § 1051.5 (relating to ineligibility due to conviction or arrest), shall submit to a criminal background check by the TLD and evidence possession of a valid State-issued driver's license.

This is the first time “Authority-certified” limousines for funeral services are mentioned in the regulation. These types of limousines are also not mentioned in the Act. What is PPA’s statutory authority to regulate limousines for funeral-related services? Why are these vehicles and drivers not included in Subsection (a)? If they are not properly included under Subsection (a), what is PPA’s authority to require compliance with Section 1051.5, and require a criminal background check and possession of a valid driver’s license?

86. Section 1051.10. Record retention. – Economic impact; Need; Reasonableness; Clarity.

Subsection (a)

We have two concerns. First, rather than stating “all records required under the act,” the regulation should cite the specific sections of the Act for which records must be kept.

Second, this subsection requires records to be retained that are “otherwise kept in the ordinary course of business.” PPA should either clarify this phrase or delete it.

Subsection (c)

This subsection requires records to be stored in dry areas “protected by a fire suppression system.” We have three concerns. First, it is not clear why these records need to be protected by a fire suppression system. What specifically is in these records that requires this level of protection? Also, if the information is that sensitive, why doesn’t the regulation require a copy to be filed with PPA?

Second, it is not clear what will meet the requirements for a “fire suppression system.” For example, it would appear that fire-proof file cabinets could be sufficient. However, the regulation requires a “fire suppression **system.**” (Emphasis added.) A system may require a sprinkler system at significant cost. We recommend that the regulation clearly establish what meets the requirement for a “fire suppression system.”

Finally, PPA should provide an estimate of the cost to implement the fire suppression system required by the regulation.

Subsection (d)

This subsection requires electronic records to be “stored at a location that is separate by at least 1 mile from the office where the record originated.” The requirement for storage of these records a distance of at least 1 mile from the office means that a business would have to maintain a separate location or pay for this service. PPA should explain the need for storage 1 mile away from the office, the costs imposed by this requirement and why the costs are justified.

Subsection (e)

Will PPA’s request for records under this subsection be in writing?

87. Section 1051.12. Interruptions of service. – Reasonableness; Need; Clarity.

Subsection (a) requires a written statement to the Director when a vehicle is out of service for more than 48 hours. A commentator questions what types of interruptions in service that would include. PPA should explain the need for this provision and what PPA will do with the information.

This section uses the terms “interruption of service” and “suspension of service.” However, the regulation is not clear regarding what specifically constitutes an interruption of service or suspension of service. The regulation should define these terms so that the regulated community knows what needs to be reported.

88. Section 1051.13. Voluntary suspension of certificate. – Statutory authority; Implementation procedures; Clarity.

This section discusses the process for a certificate holder to achieve PPA approval for voluntary suspension of their certificate in order to avoid penalties for violations relating to interruptions of service. We raise three issues.

First, the Act only grants PPA the power to rescind or revoke limousine certificates, not suspend them. See 53 Pa.C.S. § 5741.1 (c)(1). Therefore, what is PPA’s statutory authority for permitting this suspension process?

Second, Subsection (a) allows the suspension to occur subject to prior approval by the Director, who may, “in his sole or peculiar discretion...attach conditions as may be found necessary or proper.” What does PPA consider “peculiar discretion”? Also, what kinds of conditions would the Director consider “necessary or proper”? The final-form regulation should clarify these issues.

Finally, Subsection (b) states that voluntary suspension of a certificate may occur “after a report is issued as provided in § 1051.12.” However, this section does not mention an actual report. Is this subsection referring to 1051.12(a) where a certificate holder is required to “report” an interruption of service? PPA needs to clarify how the term “report” is applied in these two sections, and include a cross-reference to Subsection 1051.12(a).

89. Section 1051.18. Method of operation. – Consistency with the statute.

This section defines the method of operation for limousine service within PPA’s jurisdiction. The PUC comments that this section is inconsistent with Sections 5701(1)(ii) and 5741 (a.2) of the Act because it does not discuss the various types of service contained in these sections. We agree and recommend that the final-form regulation be revised to include all statutory methods of operation for limousine service.

CHAPTER 1053. STANDARD CLASSIFICATIONS OF LIMOUSINE SERVICE.

SUBCHAPTER A. CLASSIFICATIONS

90. Section 1053.1. Standard classifications of limousine service. – Consistency with the statute; Statutory authority; Reasonableness; Need; Clarity.

This section defines the different classifications of limousine service, including luxury limousine service, airport transfer service, and remote carriers. We raise five issues.

First, Subsection (b) states:

The following standard classification of types of limousine service is adopted, and the following is hereby recognized as a standard class of limousine service. **A certificated service which does not completely correspond to a standard class may be governed, where practicable, by the regulations for the standard class to which it most nearly corresponds.** (Emphasis added.)

The second sentence implies that there are services that do not comport with the definitions contained in the regulation, but PPA may unilaterally decide, at its discretion, that these services must comply without including them in the regulation. However, Section 5741(a) of the statute states that “the authority may **by regulation** define categories of limousine service.” (Emphasis added.) The final-form regulation should explain how PPA will determine that these types of services should be classified.

Second, Paragraph (b)(1) defines “luxury limousine service” and references “luxury-type vehicles,” but this subsection does not explain what this term means. It appears that Section 1053.23(b) defines this term. We recommend that the provisions contained in Section 1053.23(b) be moved, consistent with our comment on Section 1001.10.

Third, Paragraph (b)(2) defines airport transfer service. While this subsection refers to service which originates or terminates at an “airport, railroad station or bus station,” Section 5741 (a.2) of the Act does not include bus stations, and only permits service from any “airport, railroad station, **or hotel.**” (Emphasis added.) Therefore, we agree with the PUC that this definition is inconsistent with the Act and should be modified in the final-form regulation.

Fourth, Paragraph (b)(3) defines remotes carriers as:

A limousine operated by the holder of a certificate of public convenience from the PUC that engages in limousine service from any airport, railroad station and hotel located in whole or in part in

Philadelphia to a location outside Philadelphia and which is without rights issued by the Authority as provided in section 5741(a)(3) of the act (relating to certificate of public convenience required). For example, a limousine certified by the PUC to provide limousine service in areas outside of Philadelphia **may provide that service from the Philadelphia International Airport** without a certificate issued by the Authority, provided the to the requirements of this chapter are followed. (Emphasis added.)

However, section 5741 (a.3)(2) of the Act states that these types of carriers can transport: "from any point in a city of the first class to any point in this Commonwealth beyond the city of the first class upon advance reservation in accordance with the service authorized under its certificate of public convenience, **excluding service from any airport, railroad station and hotel located in whole or in part in a city of the first class.**" (Emphasis added.) PPA should explain the difference between the language in the regulation and the Act.

Finally, there are two typographical errors in Paragraph (b)(3). First, the phrase "section 5741 (a)(3) of the act" should be replaced with "section 5741(a.3) of the Act." Second, the last phrase of Paragraph (b)(3) which states, in part, "the to the requirements of this chapter are followed." The phrase "to the" should be removed in the final-form regulation.

SUBCHAPTER B. LUXURY LIMOUSINE SERVICE.

91. Section 1053.22. Method of operation. – Implementation procedures; Clarity.

Subsection (a) states that a common carrier operating a luxury limousine service shall be subject to certain conditions "Unless otherwise specifically provided in this subpart **or the certificate of public convenience.**" (Emphasis added.) These conditions relate to transporting on an exclusive basis and charging for service. This section does not demonstrate the circumstances under which a certificate of public convenience would deviate from these conditions. The final-form regulation should provide specific examples. In addition, in this subsection, the word "following" should be inserted in the final-form regulation before the word "rights."

Subsection (a)(2) is unclear. An individual commented that the language seems to suggest that payment for service cannot be made by passengers, but only through a "single person or organization." The final-form regulation should clarify the appropriate means of payment.

SUBCHAPTER C. AIRPORT TRANSFER SERVICE

92. Section 1053.32. Method of operation. – Consistency with the statute; Implementation procedures; Clarity.

Opening paragraph

This paragraph states that a common carrier operating a luxury limousine service shall be subject to certain conditions “Unless otherwise specifically provided in this subpart **or the certificate of public convenience.**” (Emphasis added.) These conditions relate to transporting on an exclusive basis and charging for service. This section does not demonstrate the circumstances under which a certificate of public convenience would deviate from these conditions. The final-form regulation should provide specific examples.

Paragraph (2)

This section discusses various types of airport transfer service. While Paragraph (2) permits service to be offered on both a scheduled or requested basis, Section 5741(a.2) of the Act only permits scheduled airport limousine service without advanced reservation. We agree with the comments of the PUC and recommend that the final-form regulation be modified to be consistent with the Act.

SUBCHAPTER D. LARGE VEHICLES AND REMOTE CARRIERS

93. Section 1053.41. Large vehicles. – Statutory authority; Reasonableness; Need; Clarity.

Large vehicles

This section defines large vehicles. PA Bus states that the entire Subchapter D, as it pertains to buses (or luxury motorcoaches), is preempted by federal law. Based on the provisions contained in this section, it is unclear to what types of vehicles this regulation applies. For example, Subsection (a) states that a limousine with a capacity of 16 or more must hold a valid PUC certificate to hold Authority limousine rights. However, Subsection (b) states that limousines with a capacity of 16 or more are exempt from this chapter. The final-form regulation needs to clearly explain what constitutes a large vehicle, what vehicles are exempt, and how the regulation complies with federal law.

Licensure requirements

This section is also unclear regarding licensure requirements. Subsection (a) only states that a large vehicle must “hold” PPA limousine rights. Does that mean that these vehicles must obtain a valid PPA certificate or that vehicles

licensed by the PUC automatically achieve reciprocity with PPA? Does PPA have the statutory authority to permit these vehicles to conduct business in Philadelphia as large vehicles without a certificate? According to a commentator, a consequence of this provision would also be that buses would now be regulated by the PUC, PPA, and the US Department of Transportation. What is the need for having buses regulated by three different agencies? The final-form regulation should clarify these issues, and specifically explain how these vehicles properly obtain licenses from PPA.

94. Section 1053.42. Remote carriers. – Consistency with the statute; Clarity.

Subsection (a) explains the requirements for remote carriers. A commentator argues that this section is directly in conflict with the federal RIDE ACT which allows companies to pick up and drop off passengers at an airport without additional licensing or fees. See 49 U.S.C. § 14501(d). The Preamble to the final-form regulation should explain how the regulation is consistent with this federal law.

One of the two “relating to” phrases should be removed from the parenthesis at the end of Subsection (a) as it is a typographical error.

95. Section 1053.43. Certain limousine requirements. – Statutory authority; Need; Implementation procedures; Clarity.

Subsection (a)

This subsection states that the purpose of this section is to “address limousine service in Philadelphia that is within the jurisdiction of the Authority as provided by the Act, but is not commonly considered either Philadelphia service or limousine service by the public or other regulating agencies.” However, this subsection does not identify what types of vehicles would not be commonly considered to conduct limousine service, but would still be permitted to provide such services under the Act. The final-form regulation should identify examples of the vehicles included in this section.

Subsection (b)

With respect to “certain limousines covered,” Subsection (b) states that this section applies to remote carriers. However, Subsection 1053.41(b), which does not reference remote carriers, includes a cross-reference to Subsections 1053.43 (c)-(f). Therefore, it is unclear whether this section applies to other types of limousines in addition to remote carriers. The final-form regulation should clarify the applicability of this section

Subsection (c)(4)

This subsection requires a registration for a limousine subject to this section to expire on June 30 of each year. However, the regulation states that a certificate holder seeking “continued registration” must fill out and file the appropriate forms contained in Paragraph (c)(1). Is “continued registration” the same as renewal? The final-form regulation should clarify this issue. Why must the forms be completed in February when registrations expire in June? The final-form regulation should explain how it determined whether these timeframes were appropriate.

Subsection (d)

Paragraph (d)(2) refers to “Authority staff.” PA Bus questions who these staff members are. The final-form regulation should define this term.

Paragraph (d)(3) is unclear. It states that:

Except as provided in this chapter, limousines subject to this section must adhere to the regulations and orders of the PUC and are not required to adhere to regulations of the Authority while providing limousine service in Philadelphia. The Authority may pursue enforcement of PUC regulations before the PUC, as appropriate.

If these vehicles are required to adhere to the PUC regulations and orders and not those of PPA, how does PPA have jurisdiction over them? Furthermore, why would they be required to fill out registration forms with PPA as contained in Subsection (c), and display a PPA sticker on their vehicle as required by Subsection (f)? Why wouldn’t these vehicles simply be required to use the necessary documents and forms from the PUC? The Preamble to the final-form regulation should explain the need for and the implementation of this subsection.

CHAPTER 1055. VEHICLES AND EQUIPMENT REQUIREMENTS.

SUBCHAPTER A. GENERAL PROVISIONS

96. Section 1055.1 Purpose. – Reasonableness; Clarity.

Subsection (b) includes definitions, which normally are not included in the “Purpose” section of a regulation. To improve clarity, we recommend that Subsection (b) be included in its own separate section titled “Definitions.”

Antique vehicle

What does the PPA consider to be “substantially in conformance” with manufacturer specifications? The final-form regulation should clarify this issue.

Compliance inspection

Based on the provisions contained in this definition, the final-form regulation should explain why emissions testing will not occur for limousines.

97. Section 1055.3. Limousine age and mileage parameters. – Statutory authority; Fiscal impact; Reasonableness; Need; Clarity.

Subsection (b) Age

This subsection prohibits a vehicle from providing limousine service if it is more than eight years old. Since the Act only places age limits on taxicabs, what is PPA’s statutory authority for this prohibition? In addition, what is the need for removing them from service within this timeframe?

Subsection (c) Mileage

This subsection establishes mileage requirements for vehicles first introduced for service and for vehicles removed from service. Since the Act does not include such provisions, what is PPA’s statutory authority for mileage requirements on limousines?

Subsection (d) Imputed mileage

According to this subsection, when the odometer reading differs from the amount of miles actually traveled, PPA will impute mileage equal to “3,333 miles per month from the last reliable odometer recording through the date of inspection.” How did PPA determine this was an appropriate calculation?

Fiscal impact

It is clear that the need for new vehicles after a certain time period and imposing mileage requirements will impose added costs on limousine owners. However, PPA has not included an analysis of these costs in the regulatory package. In the final-form regulation, PPA should provide a complete fiscal analysis of these costs and explain how the new vehicles and mileage requirements are in the public interest.

98. Section 1055.4. Basic vehicle standards. –Fiscal impact; Reasonableness; Need; Implementation procedures; Clarity.

This section establishes the basic vehicle standards which limousines must comply with. We raise six issues.

First, Subsection (a) requires vehicles to comply with state standards imposed by the Department of Transportation, “except where those standards are exceeded or otherwise altered by this subpart.” However, it is unclear when such circumstances would occur. The final-form regulation needs to explain these exceptions and how they will be implemented.

Second, in the first phrase in Paragraph (b)(15), the word “posting” should be replaced with “postings.”

Third, in Paragraph (b)(16), a commentator questions whether it would be reasonable to expect companies to install a separate heating and air system if they cannot meet the temperature requirements included in Subsection (b)(12). What will be the fiscal impact of this requirement for limousine owners?

Fourth, Subsection (c) refers to a federal requirement for interstate drivers that “No requirement of this **subpart**”...may be interpreted to disrupt or interfere with.... (Emphasis added.) We have three concerns. First, Section 1055.4 is a section not a subpart. Second, since this subsection relates to vehicle standards not drivers, we question the need for its inclusion in this section. Finally, the same language is contained in Section 1057.13, which pertains not to vehicles, but actually to limousine drivers. We recommend that this language be deleted from Section 1055.4 and remain in Section 1057.12.

Fifth, PPA needs to explain why Subsection (e) prohibits advertising on vehicles.

Finally, in Subsection (f), considering our comments relating to taxicabs in Section 1017.5, is it practical to expect limousine certificate holders to inspect limousines on a daily basis?

SUBCHAPTER B. LIMOUSINE INSPECTIONS

99. Sections 1055.11. Scheduled compliance inspections and 1055.12. Offsite inspections. – Fiscal impact; Reasonableness; Need; Clarity.

These two sections require 25% of a limousine certificate holder’s fleet to be presented for inspection by PPA. First, how did PPA determine 25% was an appropriate amount?

Second, PRLA indicates that it is unclear whether these sections apply to remote carriers. If remote carriers are included, PRLA contends that this would

require these types of vehicles to submit to inspections from two different agencies, PPA and the PUC, which is not only unnecessary, but costly. PRLA also states that Section 1055.12 would cause further hardship on certain remote carriers because onsite inspections can only occur for fleets in excess of 50 vehicles, located within 30 miles of PPA headquarters. The final-form regulation should specifically state whether these sections apply to remote carriers.

100. Section 1055.13. Failure to appear for scheduled inspection. – Fiscal impact; Reasonableness; Need.

This section states that if a limousine driver fails to appear for a scheduled inspection, the driver will not only be charged a rescheduling fee, but will also be subject to penalties. Does this fee apply to all cancelled inspections due to any circumstance? What if it was the first time the driver failed to appear or it was an emergency? In those circumstances would a rescheduling fee be required and penalties entered? PPA should explain the need for these fees in the Preamble to the final-form regulation. Additionally, the final-form regulation should set forth under what circumstances penalties would be imposed.

101. Section 1055.18. Attendance at scheduled inspection. – Reasonableness; Need; Economic impact.

This section of the regulation requires a certificate holder or attorney-in-fact to attend the inspection. While there is clear authority for the inspection of the vehicle, PPA should either delete this entire section or explain its authority to require attendance of the certificate holder or an attorney-in-fact at a vehicle inspection.

If PPA can establish authority, we further question what need obviates attendance by a certificate holder or a hired attorney that justifies the cost to the certificate holder. Typically, a car owner can drop off a car for a state inspection at a garage and pick it up after the work is done. Why must a person attend a limousine inspection? What service or expertise can the person provide while the limousine is inspected by PPA personnel? PPA should delete this entire section or explain how the costs imposed on the regulated community are justifiable.

102. Section 1055.20. Approved models and conditions. – Reasonableness; Implementation procedures; Clarity.

This provision states “The authority will publish a list of approved makes and models of vehicles by classification permitted for use as limousines....” Based on discussion with PPA, it is clear this list is not intended to be exclusive but rather is intended to give guidance to a person purchasing a vehicle on what vehicles have been approved in the past. We recommend that this provision be

rewritten so that it is clear how other vehicles can be approved and added to this list and that the list is not exclusive.

SUBCHAPTER C. IMPOUNDMENT OF VEHICLES AND EQUIPMENT

103. Section 1055.31. Impoundment of vehicles and equipment. – Consistency with the statute; Legislative intent.

This section states that the sections of the regulation relating to impoundment of taxicabs are the appropriate sections for impoundment of limousines. According to Section 1017.52, impoundment of taxicabs is included in Section 5714(g) of the Act. However, impoundment of limousines is contained in its own separate section of the Act. See § 5741(f). Therefore, it appears that the legislature did not intend for impoundment requirements for taxicabs to apply to limousines. In order to be consistent with the statute, in the final-form regulation this section should be revised to reflect the process for impoundment of limousines only.

CHAPTER 1057. LIMOUSINE DRIVERS

104. Section 1057.5. Standards for obtaining a limousine driver's certificate. – Fiscal impact; Reasonableness; Need; Clarity.

Criminal history report and record

Paragraph (b)(6) references both a criminal history report and a criminal history record. "Criminal history report" is defined in Section 1001.10, whereas a "criminal history record" is defined in the Criminal History Information Act, 18 Pa. C.S.A §§ 9101, *et seq.* Did PPA intend for there to be a distinction between the two phrases? If not, then only one should be used in the final-form regulation.

Reports from each jurisdiction

Paragraphs (b)(6) and (8) require criminal history and driver history reports from each jurisdiction, other than Pennsylvania, in which the applicant resided in the five preceding years. We recognize the safety aspect for the riding public of the criminal history and driver histories of applicants. Nonetheless, if a person immigrated legally into the United States, would a sufficient criminal history check have already occurred by the United States government? We request an explanation of what specific documentation PPA will accept from foreign governments, how this documentation can be obtained, and possible costs imposed on the applicant requesting this information. We also request an explanation of the need for criminal checks for persons who have immigrated legally.

Other rights in which the applicant has a controlling interest

Subsection (b) provides a list of all the information that must be included with an application for a limousine driver's certificate. Subsection (b)(10) requires a list of all PPA or PUC certificates or "other rights in which the applicant has a controlling interest." Subsection (b) does not explain whether this includes rights pertaining to interests unrelated to limousines. This provision is vague and the final-form regulation needs to define what comprises "other rights."

Current on all reports

Paragraph (b)(11) requires the applicant to include a written statement verifying certain things. Subparagraph (b)(11)(iii) requires verification that the applicant is current on all "reports" due to PPA. It is unclear what "reports" PPA is referring to. To improve clarity, we recommend that the final-form regulation include cross-references to the appropriate sections of the regulation relating to reports.

105. Section 1057.9. Limousine driver test. – Reasonableness; Implementation procedures; Clarity.

This section explains the development by PPA of a test for limousine drivers. However, it is unclear in Paragraph(c)(5) how it would be determined that a person has appropriately "demonstrated" that they can read and write English. The final-form regulation should clarify this issue.

106. Section 1057.10. Expiration and renewal of certificate. – Implementation procedures; Clarity.

This section discusses the process for expiration and renewal of a driver's certificate. Subsection (a) establishes that certificates expire one year from the date of issuance and are annually renewed, all of which is already contained in Section 1051.3. Therefore, Subsection (a) is redundant and should be removed from the final-form regulation. We also recommend that to improve clarity, Subsections (b)-(d) be moved to Section 1051.3.

In Subsection (b), who determines and how is it established that a limousine driver is "in good standing"? The final-form regulation should clarify these issues.

107. Section 1057.16. Limousine driver reports after accident. – Reasonableness; Need; Implementation procedures; Clarity.

This section describes the necessary steps taken by a limousine driver after an accident. Paragraph (2) requires a driver to take "necessary precautions to prevent further accidents" and Paragraph (3) requires a driver to "render reasonable assistance to injured persons." Because the terms in these two

paragraphs are vague, implementation may result in drivers acting outside the scope of their licensed duties. For example, a driver should not be expected to stop a fire or render assistance to injured persons without a medical license or proper training. Therefore, the final-form regulation should specifically explain the types of “precautions” and “assistance” a driver is expected to administer.

CHAPTER 1059. APPLICATION AND SALE OF RIGHTS

108. Section 1059.2. Definitions. – Need; Clarity.

Limousine certificate

Chapter 1059 is not the first time this term is used in the regulation. Therefore, to improve clarity, we recommend that this term be moved, consistent with our comment on Section 1001.10.

Sale

What does PPA consider “securities” and “other ownership interests”? Do these include securities and interests unrelated to limousines? The final-form regulation should clarify these issues.

Transfer fee

This section defines this term as: “The nonrefundable fee charged by the Authority to review an application to sell transferable rights.” A different definition for this term is included in Section 1051.2, which states that it is a “fee paid to the Authority for its review of a sale application as provided in Chapter 1059....” Why is the fee non-refundable in Section 1059.2 but not in Section 1051.2? PPA needs to clarify whether the fee is “non-refundable.” Additionally, we recommend that the definition be moved, consistent with our comment on Section 1001.10.

109. Section 1059.4. Authority approval of sale of rights. – Reasonableness; Need; Clarity.

This section defines the sale of transferable rights. Subsection (b) states: “The sale of **any number** of securities or **other ownership interest**...will be considered a sale....” (Emphasis added.) According to subsequent sections, like Sections 1059.6 and 1059.7, a “sale” requires PPA approval of an application and various documents. PRLA contends that by requiring an application for “any” number of securities, this could result in an unreasonable burden on the ability of a corporate entity to freely transfer stock. We recommend that the final-form regulation specify the number of securities that would constitute a sale. In addition, the final-form regulation should explain what “ownership interests” are subject to a sale.

110. Section 1059.5. Agreement of sale. – Statutory authority; Reasonableness; Need.

Subsection (b) states that an agreement of sale is void “if not executed by all parties in the presence of the Director or a designee.” PRLA states that even if an owner wishes to transfer shares to a family member, according to this subsection, the requirements for “the filing of a transfer application, a review of the application by PPA, a determination of whether that individual met unspecified PPA criteria as to their suitability to be a stockholder in the company, and that all [the owner and the family member] appear at the Director’s office” would still apply. PRLA, therefore, contends that these requirements are “simply unworkable and unreasonable.” PPA should explain the need for requiring execution of an agreement of sale to occur in this manner. Similar concerns apply to Sections 1059.6 (a)(2), 1059.6(b)(1), and 1059.8 (b)(1).

111. Section 1059.6. Application for sale of transferable rights. – Reasonableness; Implementation procedures.

Subsection (d) pertains to the sale of multiple rights. It states that the amount of transfer fee imposed will be determined “based on the higher of the aggregate value of the sale or the transfer fee per right....” PPA should explain how it determined this was a reasonable method of calculation.

112. Section 1059.9. Financial fitness generally. – Implementation procedures; Clarity.

This section explains what documents PPA will review to determine the financial fitness of a proposed buyer for a sale. We have three concerns.

First, Paragraph (1) states that PPA will review bank statements of accounts holding “not less than the greater of \$25,000 or 2% of the **medallion sale price....**” (Emphasis added.) Since limousines don’t operate under medallions, we recommend that the word “medallion” be removed. PPA also should explain how it determined these were appropriate account holdings for consideration, and why the funds must have been in the account for three months.

Second, in Paragraph (4), why should a buyer demonstrate the absence of any **civil** judgments against the parties required to submit a **criminal** history report? (Emphasis added.)

Finally, the numbering in this section is incorrect and should be revised in the final-form regulation.

113. Section 1059.10. Regulatory compliance review. – Clarity.

In Subsection (a), what is a “regulatory compliance record”? The final-form regulation should define this term.

114. Section 1059.12. Approval process and closing on sale. – Statutory authority; Reasonableness; Need.

Subsections (b) and (c) relate to the process for a closing on a sale. Subsection (b) states that the Director will determine the time and location of the closing. Subsection (c) states that execution of the sale must be witnessed by a PPA staff member. PRLA states that while the sale of a taxicab medallion must occur at PPA offices, the Act only requires approval by PPA for the transfer of a limousine certificate. See § 5718 and 5741.1. Therefore, what is PPA’s statutory authority for not only requiring the Director to determine the closing location, but also that it be witnessed by PPA staff? In addition, PRLA suggests that these requirements impose an undue hardship on buyers and sellers who must travel to Philadelphia in order to effectuate a transfer. The Preamble to the final-form regulation should also explain the need for these closing requirements.

Subsection (c) also cites to Sections 5711(c)(5) and 5718 of the Act. Since these sections pertain solely to the regulation of taxicabs, they are inapplicable to this section and, unless PPA can demonstrate otherwise, should be removed.

CHAPTER 1061. BROKERS

115. Section 1061.1. Broker registration. – Statutory authority; Implementation procedures.

This section explains that to register as a limousine broker, an individual must apply to the Director of PPA, in the same manner as provided for taxicabs. Similar to our comments in Sections 1029.4 and 1029.6, we question under what authority can PPA classify a person as ineligible to register as a limousine broker who has been arrested and is awaiting trial. PPA should also explain how the requirements for broker training for limousines are consistent with the statute and how they are adequate.

CHAPTER 1065. INSURANCE REQUIRED.

116. Section 1065.1. Limousine insurance. – Economic impact; Feasibility; Implementation procedures; Reasonableness.

Paragraph (b)(2) sets forth the insurance requirements for limousines:

The liability insurance maintained by a limousine certificate holder shall be in an amount at least \$1,500,000 to cover liability for

bodily injury, death or property damage incurred in an accident arising from authorized service. The \$1,500,000 minimum coverage is split coverage in the amounts of \$500,000 bodily injury per person, \$900,000 bodily injury per accident and \$100,000 property damage per accident. This coverage must include first party medical benefits in the amount of \$100,000 and first party wage loss benefits in the amount of \$100,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits must conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the limousine driver of limousines must meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

Similar to our comments in Section 1025.3, relating to insurance requirements for taxicabs, we recommend that PPA provide an analysis for limousines of the insurance limits in the final-form regulation regarding the feasibility of multiple insurers providing the insurance required by the regulation and the affordability of the insurance for limousine service providers.

Facsimile Cover Sheet



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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

To: Dennis G. Weldon, Jr., General Counsel
Agency: Philadelphia Parking Authority
Phone: 215.683.9630
Fax: 215.683.9619
Date: March 16, 2011
Pages: 1
**(62 pages emailed
61 pages of comments
1 Cover letter)**

Comments: We have submitted the Independent Regulatory Review Commission's comments on the Philadelphia Parking Authority's regulation # 126-1 (IRRC #2885) via email to Dennis Weldon, General Counsel. There are a total of 62 pages – 61 pages of comments and 1 cover letter. As confirmation of receipt of the comments, please sign below and return to me immediately at our fax number 783-2664. We have sent the original via U.S. mail. You should expect delivery in a few days. Thank you.

Accepted by: _____

Date: _____

3/16/11