

Dear Members of Independent Regulatory Review Commission and the Philadelphia Parking Authority,

Below are comments to Docket numbers 126-3 and 126-4.

Proposed Amendment to Regulation 1011.2

§ 1011.2. Definitions.

Partial-rights taxicab—A taxicab authorized by the Authority to provide common carrier call or demand transportation of persons for compensation on a non-citywide basis, under Chapter 1015 (relating to partial rights taxicabs) and section 5711(c) [(2)]{2J} of the act (relating to power of authority to issue certificates of public convenience) and 5714(d)(2) of the act.

Before I analyze this section I would like to make it clear that we are not in possession of a Certificate of Public Convenience issued by the Authority. See Exhibit "A" Therefore as written, the regulation would not apply to Germantown because we were not authorized by the Authority to provide common carrier call or demand transportation.

These are the definitions contained in the Public Utility Code.

"Common carrier." Any and all persons or corporations holding out, offering, or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by, through, over, above, or under land, water, or air, and shall include forwarders, but shall not include contract carriers by motor vehicles, or brokers, or any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis.

"Common carrier by motor vehicle." Any common carrier who or which holds out or undertakes the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes any motor vehicle, with or without driver, for transportation or for use in transportation of persons or property as aforesaid, and shall include common carriers by rail, water, or air, and express or forwarding public utilities insofar as such common carriers or such public utilities are engaged in such motor vehicle operations, but does not include:

Germantown Cab has always been defined as Common Carrier. The addition of the term Partial Rights has created a new term that is not used in the PPA's statutes or anywhere in the PUC's terminology. For example under the Public Utility Law, we are defined as a **"Common carrier"** and a **"Public utility,"** AND we are commonly referred to as a Neighborhood Cab a Non-Medallion Cab a Motor Carrier, and a Suburban Cab. The PPA has invented this new term "Partial Rights" and wants you to believe that this definition was used prior to them taking over Medallion taxicab program in the City of Philadelphia. WE have always been classified and treated like all the other Non-Medallion motor carriers in the state with the exception of the Medallion Taxicab. For this reason, the use of the term "Partial Rights" is confusing. The regulation should be re-written to correspond to existing statutes and regulations and to more clearly define the carriers to which the section applies.

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Along with those definitions there are other applicable parts of the Public Utility Code including **Chapter 23: Common Carriers**. The PPA's definition of a common carrier is not the same as the PUC's definition. The PUC's definition applies to the entire **Commonwealth**, while the PPA only applies to the city of Philadelphia. In an attempt to tailor the definition to Act 94 the Authority has fundamentally changed the meaning of the term. By using the term common carrier in the definition of "partial rights" taxicab, the Authority is fundamentally changing what has traditionally been understood as a common carrier. It is questionable whether its enabling statutes have given the Authority the power to change such a fundamental concept of PUC law with this regulatory definition.

PPA's Definition of a ☐☐ Common Carrier—

- (I) A common carrier by motor vehicle, within the scope of the act, who or which holds out or undertakes, directly or indirectly, the transportation of passengers within the City of Philadelphia by motor vehicle for compensation.
- (II) (ii) The term does not include common carriers by rail, water or air, and express or forwarding public utilities insofar as the common carriers or public utilities are engaged in these motor vehicle operations.

Regulation at § 1011.2. Definitions could not be applied to Germantown Cab

The PPA's rationale for the need of this definition is to "amended to reference the changes made to one statutory provision." Its reasoning is not valid and neither Section 5714 nor 5711 apply.

Reading section 5714 in plain English, it appears that in order to be subjected to its provision Germantown Cab would have to possess a certificate of public convenience issued by the Parking Authority. **Germantown Cab has never been issued a certificate of Public Convenience from the Parking Authority.** So what is the effect of this regulation then? Proof of our claim that the PPA never issued a certificate of public convenience to Germantown is as follows:

On December 13, 2012, through my attorney, we submitted a request to the Authority under the Open Records Law requesting: "Any order issued by the Authority approving, granting, or issuing a certificate of public convenience to any partial rights taxicab company." A correct copy of this answer is attached as Exhibit "A."

On January 22, 2013, the Authority responded to our request stating:
"On December 13, 2012, you requested documents pertaining to orders issued by the Philadelphia Parking Authority approving, granting or issuing a certificate of Public Convenience to any partial rights taxicab company. The Authority is not in possession of any orders responsive to your request; therefore your request is denied".

So, Germantown is a PUC certified carrier only. It has no "authority issued by the Authority." This view is consistent with the Commonwealth Court's view of Germantown's status as a PUC-certified carrier. On 2/14/2013, in **MCT Transportation, Inc. v. Philadelphia Parking Authority**, a case where we were a party. The Commonwealth Court, once again, recites the **FACT** that Germantown "holds a certificate of

public convenience issued by the Pennsylvania Public Utility Commission that authorize[s] [it] to provide call or demand service in **certain designated areas of Philadelphia** and its suburbs.” See n.2. Exhibit “B”

The issue of whether Germantown is a carrier authorized by the PPA to provide transportation services in Philadelphia on less than a citywide basis is important because the proposed regulation does not otherwise apply to Germantown. In fact, it is not clear that the regulation applies to any carrier, since there are no carriers within this category that were authorized by the Authority to provide transportation service in Philadelphia. All of them were authorized by the PUC. And, with the amendments enacted by Act 119, the PPA no longer has the power to issue any certificates to common carriers to provide service on less than a citywide basis, so the proposed regulation will not have any effect in the future either. In effect, it applies to no one.

When the PPA enacted its first set of regulation in December of 2011, it specifically limited their applicability to parties with rights “issued by the Authority” as of December 3, 2011. Germantown is not included in this group.

§ 1001.1. Purpose.

b) Certificate holders, brokers, taxicab drivers, limousine drivers, and other persons with current and **valid rights issued by the Authority** on December 3, 2011, shall maintain those rights through the Authority consistent with this part and the act.

Proposed Regulation 1015.2(c)(d)

§ 1015.2. Certificate required.

(c) A partial-rights taxicab may not provide taxicab service to two points in Philadelphia unless one, or both, of those points is within the geographical boundaries identified in the partial-rights taxicab certificate holder's Authority approved tariff.

Significantly, Germantown Cab does not have an “ authority approved tariff.”

This proposed regulation, for the first time, defines the offense of “operating outside of territory.” The Authority had no such regulation prior to this proposed regulation. The authority failed to create a regulation that prohibited this activity when it established its original body of regulations. I do not believe this regulation is needed because all carriers under the PPA’s jurisdiction are citywide operators and therefore this regulation is unnecessary. It is not in the PPA’s power to control territorial restrictions set by the PUC. These are defined in the certificates issued by the PUC. The Authority cannot change the terms or conditions of a certificate by regulation. The quality of a PUC carriers’ service, including the regulation of its territorial violations, is the responsibility of the Public Utility Commission.

The 2nd issue is with respect to the “ tariff on file with the Authority” is: what is the effect of this regulation since Germantown does not have an “ Authority approved tariff” on file with the PPA, and the only tariff Germantown has is on file with the PUC? Our PUC tariff, which includes a description of our entire operating authority, has the force of law and is binding on both the utility and the customer.

The PUC defines a tariff as follows: "**Tariff.**" All schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, include contracts for interchange of service, and, in the case of a common carrier, schedules showing the method of distribution of the facilities of such common carrier. When the PPA refers to an "Authority-approved tariff" in connection with taxicabs, it is not clear what this means because none of the existing regulations that use the term tariff apply to Germantown. In fact, all of them only apply to limousines. So it is difficult to understand what the Authority means with regard to tariffs in connection with partial rights taxicabs. Germantown maintains a tariff on file with the PUC, which was approved by the PUC. It has never filed a tariff with the PPA and the PPA has never approved a Germantown tariff. The PPA believes that Germantown's rates should be uniform with Medallion taxicabs, so it is not clear why partial rights taxicabs need to have a tariff on file with the Authority but Medallions don't.

- §1005.42. Compliance with orders prescribing rates.
- §1053.33. Tariff and schedule requirements. This section only applies to "airport transfer carrier operating on a scheduled basis"
- § 1063.1 is the Definition of a tariff as it pertains to limousines.
- § 1063.2. Limousine rates and tariffs.

The regulations 1015.2 A and B which accompany these proposed regulations, impose any standards requiring a territorial description in its certificate or tariffs and the lack of this requirement goes against the basic principals of public utility law. Both the PUC and the PPA are using the term certificate and Tariff interchangeably. The Public Utility law requires:

§1101 "The commission's certificate of public convenience granted under the authority of this section shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied.

How does the PPA know what our geographical boundaries are without referring to our PUC approved Tariff and Certificate? The PPA does not have the power to determine territory as all of the carriers within its jurisdiction have citywide authority and other carriers, such as Germantown have authority defined by the PUC in their certificates.

Proposed regulation § 1015.2

d) A partial-rights taxicab may only accept a street hail for taxicab service at a location within the geographical boundaries identified in the partial-rights taxicab certificate holder's Authority approved tariff.

Once again, it should be noted that Germantown Cab does not have a PPA approved tariff on file with the PPA, only with the PUC.

The PPA's proposed rulemaking order claims that they "do not believe that either of these provisions are controversial, but instead are consistent with the long established limitations of partial-rights taxicabs in Philadelphia."

The above statement is completely false. The PPA already knows the exact language that is in our license. Our Certificate authorizes us to pick up a street hail outside of our territory as long as that trip terminates within our territory. Limiting our hail rights has been on the PPA's wish list and is only one of the PPA's many attempts to deprive us of rights that we already possess. Any regulation restricting our territory is illegal. The PPA cannot change the authority granted to Germantown through regulation.

This proposed regulation violates Germantown's due process rights and is specifically targeted only at Germantown for retaliatory purposes. Germantown's rights allow it to pick up hails outside of its territory, as long as the trip terminates within its authorized territory. The words "vice versa" at the end of the description of its operating rights give Germantown this right. This right was approved by the PUC and cannot be taken away by the PPA without due process and cannot be modified by way of regulation. The proposed regulation is an attempt to define rights. The PPA does not have the statutory power to define the nature and scope of Germantown's operating authority. Germantown followed a process set forth in the statute by filing an application stating what service it wanted to provide and its request was approved by the PUC. The service proposed in its application was to provide point-to-point call or demand service within its territory, from its territory to points outside its territory and vice versa. This means that it can pick up hails outside its territory and bring passengers back to its territory. Germantown is a recognizable brand to the residents of Germantown. Members of the public throughout the city who desire to travel to Germantown recognize its logo and hail cabs throughout the city because they want to go back to Germantown. The PPA does not like this fact but it does not have the power to modify Germantown's authority by enacting a regulation.

It is a basic premise of Public Utility law that a general policy formulated by the PPA is not a substitute for the evidence necessary to affect a change in substantive rights of a holder of a Certificate of Public Convenience.

The PPA is not a super-board of director for Public Utilities and it has no right to manage Public Utilities, its sole power being to see that in the matter of rates, service, and facilities utilities, treatment of the public is fair. The PUC decided that the manner in which Germantown chose to provide its service was fair and the PPA cannot by regulation micro-manage the manner in which Germantown conducts its operations once that determination has been made by the PUC.

Proposed amendment to Regulation 1017.14

§ 1017.14. Taxicab numbering.

c) Partial-rights taxicabs must be identified by a unique sequential number, as follows:

(1) Taxicabs with rights through [Germantown Cab Company (Pennsylvania Public Utility Commission A-00110733)] Certificate No. 1011748-02 shall be numbered "G-1" for the first vehicle, "G-2" for the

second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

The PPA is proposing that, "subsection(c) of this section be amended to delete reference to the old Pennsylvania Public Utility Commission ("PUC") certificate of public convenience numbers. Those numbers were associated with each given partial-rights taxicab Philadelphia service area prior to the transfer of regulatory authority from the PUC to the Authority pursuant to the act. Those PUC certificate numbers were replaced with the Authority certificate numbers issued after the regulatory transfer date in April 2005. The PUC does not regulate taxicab service within Philadelphia, including taxicab service by partial-rights taxicabs. The failure to include the Authority certificate of public convenience numbers issued to each partial-rights taxicab company at the time that section 1017.14 was originally promulgated was an oversight."

The above statement was made supporting the amendment to Regulation 1017.14. and is completely false as seen by the Authority's previous rulemaking order at #2885. In the PPA's Proposed Regulations the PPA had attempted to use these imaginary certificate numbers, but intentionally removed them to include the only number that is binding, which is our PUC certificate numbers. There are no certificate numbers for "Partial Rights carriers" because the PPA never issued any certificates to these carriers. This is because all existing carriers were grandfathered from regulation under Act 94 and all of the carriers remain in existence up to the present date. The PPA never issued any certificates to new carriers, which would remain under their authority and now, with the amendment of Act 94 by Act 119, the Authority no longer has the power to issue certificates. So the regulation has no applicability to any of these types of carriers.

There normally would be no reason to object to this provision because this is a requirement of the PUC, but the intentions of the PPA is to justify what they failed to do, **issue an order granting Certificate of Public Convenience**. The PPA will say that they issued us a number, but an imaginary number does not satisfy the requirements of a CPC and without a description of the territory and a order issuing that certificate, simply issuing a number doesn't mean anything, except as a grandfathering clause, as seen by Exhibit A. Since, there was never an order issuing any Partial-Rights a certificate, there would be no requirements for us to file a tariff.

"The PUC does not regulate taxicab service within Philadelphia, including taxicab service by partial-rights taxicabs."

The above statement, quoted from the PPA support to amend 1017.14, is again entirely false, as we always have and continue to be regulated by the PUC inside and outside of Philadelphia. For example, recently one of our vehicles had been stopped, cited and placed out of service for a violation by the Parking Authority. The Authority then lodged their complaint with the PUC who then initiated their own investigation, even though the Authority's citation states that the trip in question was point to point in the City of Philadelphia.

Questions for the Authority

1. Why would you need to file a complaint with the PUC if you had subject matter jurisdiction over us?
2. Why do you keep referring complaints to the PUC if we are under your Authority? See Exhibit "C"

The definition of a Certificate in Act-94 and 119, as seen below, is flawed and could not apply to any carrier under the authority of the PPA other than a Medallion. There are many sections that raise serious conflicts. For example, the only definition in the statute I could find for a certificate is in 5713(b), and there is nowhere in their regulations that comes near the provisions of the Public Utility code requiring a description of one's territory for the simple reason that all taxicabs under the PPA share the same Authority, a citywide authority. The Medallion Act only applied to Medallion Taxicabs. Based on the definition of the certificate provided in Act 94, it would be impossible for it to apply because our license does not accompany a Medallion and our license permits the operation of more than one vehicle.

(b) Licensing rights -- A certificate of public convenience is a licensing right, which accompanies each Medallion and authorizes the operation of one taxicab within a city of the first class. No property interest shall exist in the certificate itself. A certificate may not be pledged to lenders or creditors as security on debt. A certificate may be canceled by the authority, upon due cause shown, for violation of this subchapter or authority regulations. If the authority cancels a certificate, the certificate holder shall have the right to sell the accompanying Medallion within six months of the date of cancellation, and the certificate holder must turn the Medallion over to the authority office within five days of cancellation of the certificate for safekeeping until the Medallion is sold. This six-month time period shall be extended during the pendency of a petition for reinstatement of the certificate of public convenience. If the Medallion is not sold within the statutory period, the Medallion will become nontransferable, and possession must be surrendered to the authority."

Proposed Amendment to Regulation 1021.16

§ 1021.16. Service issues regarding people with disabilities. *****

b) This section may not be interpreted to require or permit a taxicab to provide service in an area outside the rights identified in the taxicab certificate holder's rights. For example, this section does not permit a partial-rights taxicab to stop for a [hail] hail outside of its defined geographical area.

Even though the authority is simply correcting spelling, this regulation accompanied by the remainder of these proposed regulations are not legal. What they're attempting to do is restrict our operating authority, as granted by the PUC. Regardless of whose jurisdiction Germantown would fall under, this is unconstitutional especially since our current rights allow us to pick up a hail outside our territory.

Germantown's original license dates back to 1926 and the language is intentional and is crucial to the nature of service we provide. Germantown provides "neighborhood service" and is bounded by a territory. We transport people back and forth over the imaginary lines and there are people who hail Germantown cabs outside of our border to receive transportation to go back into its authorized territory. This is legal under our certificate. The Authority can't change our authority by establishing a regulation

to change it. Furthermore, the use of an example that does not apply to every single certificate or has the effect of modify existing certificates is not appropriate. Examples that are not universally applicable should not appear in the body of a regulation.

If the PPA is correct that it has authority over Germantown, then all the language used within these regulations will have a direct impact on our operations in Montgomery County since our operating authority is describe in one paragraph which has a description of both Philadelphia and Montgomery county.

In anticipation to the Authority's response, in order for them to separate Germantown's Authority between the two counties, the PUC and the PPA would have to afford all their Due Process Rights, Rights that the Authority has attempted to ignored over the last 8 years.

In reviewing the Proposed regulations it is important to review the applicability's of the terms used by the PPA, especially the terms "Taxicab" and "call or Demand" because it is used in almost every regulation. As seen above and below the terms used by the PPA are not compatible with the services that we provide. The PPA's definitions are inconsistent with the statute and the definitions provided by the Public utility code. The term call or demand used in these regulations limits the rights of a taxicab, and is in conflict with the terms used in the Public utility code. The PPA's definition could not apply without it being considered a taken away of rights.

The definition of Call or Demand in these regulations prohibits the service on a nonexclusive basis, and is inconsistent with ACT 94 and the PUC regulations found in Chapter 29

The PPA's definition of the term call or demand as found in their statute at §5701. Definitions is as follows.

§ 5701. Definitions.

"Call or demand service" or "taxicab service." Local common carrier service for passengers, rendered on either an exclusive or nonexclusive basis, where the service is characterized by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both. The term does not include limousine service.

The PPA's definition in there regulations is inconsistent between their statute and their regulations. The PPA's definition does not permit a carrier to conduct non-exclusive services, and by conducting those services is considered unauthorized and subject to impoundment. A subject Germantown Cab brought up during the previous rulemaking.

PPA's regulations 1001.10

§ 1001.10. Definitions. ☐ ☐ *Call or Demand service—Local common carrier service for passengers, rendered on an **exclusive basis**, when the service is characterized by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both.*

The PPA's definition is also inconsistent with the PUC Definition of Call OR Demand found at § 29.13

(2) *Call or demand service.* Local common carrier service for passengers, rendered on either an **exclusive or a nonexclusive** basis, where the service is characterized by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both.

The term “call or demand” as defined by the PPA’s regulations couldn’t possibly apply because we have the rights to provide non-exclusive service and do provide this type of service hundreds of times per a day. Again, the nature of our services and the operating territory may not be modified or cancelled without due cause shown and without affording due process to the certificate holder.

The term “Taxicab” in the statute refers to the terms “call or demand,” yet the regulations contradicts the statute.

Section 5701

"Taxicab." A motor vehicle designed for carrying no more than eight passengers, exclusive of the driver, on a **call or demand service basis** and used for the transportation of persons for compensation either on:

Under the Public Utility code the definition of a taxicab could only be found in one place, in Chapter 24, also known as the Medallion Act. The PUC has determined that the terms of this chapter could not apply to any other class of carrier other than a Medallion, See Exhibit “D”

The PPA has attempted to group us with the Medallion Taxicabs and claim that because certain provisions of Act 94 uses the word taxicabs and not Medallions then those provisions must apply. What the Authority is neglecting to do is read the statute as a whole. Like the PUC and the Courts, the PPA should be using the word Taxicab and Medallion interchangeably.

In 1992, after the enactment of the Medallion Act (Act 21 of 1990), a similar issue regarding the status of our operating rights arose in the context of statutory provisions that required driver certification. After an uncertified driver of a Philly Cab was stopped by the Philadelphia Police Department, the Commission instituted an enforcement action under Docket No. A- 00107245M9506, G-29, to enforce its regulations requiring driver certification, which we defended on the grounds that we were “grandfathered” from regulation under the Medallion Act.

It was determined that the definition section of the Medallion act did not apply, even though the provision in question referred to a taxicab and not specifically a Medallion.

Further support that the PUC does not recognize the term taxicab as a class other then a Medallion cab, is supported by regulation 29.13 of the PUC.

§ 29.13. Scheme of Classification.

“The following standard classification of types of service furnished by common carriers of passengers is adopted, and the following is hereby recognized as a **standard class of common carrier 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*:"

- (1) *Scheduled route service*
- (2) *Call or demand service.*
- (3) *Group and party service.*
- (4) *Limousine service.*
- (5) *Airport transfer service*
- (6) *Other services: paratransit, experimental.*

- **As seen above Taxicab is not a class that applies to any other type of carrier.**
- **The definition of Call or Demand is inconsistent with the Act 94 and the Public Utility Code**

The way the PPA defines the term "TAXICAB" goes against the legislative intent of the Regulatory Review Act, by classifying all taxicabs as equal and subjecting them to the same standards without taking into account the unique differences of each class.

The legislative intent of the regulatory review act is designed to avoid precisely what the PPA is attempting to do through their definitions along with this rulemaking processes. Section #2 C (5,6,7,8,9) of the Regulatory Review Act is exactly designed to avoid what the PPA believes is best for the taxicab industry. In enacting and amending the Regulatory Review Act the legislature recognized issues like ours and were wise enough to see the potential harm in enforcing the type of regulatory environment envisioned by the parking authority

Section 2. Legislative intent. (c) Regulatory Review Act

"(8) The practice of treating all regulated businesses similarly may lead to inefficient use of regulatory agency resources, enforcement problems and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental and economic welfare legislation."

PPA's regulation 1001.10 defines taxicab

§ 1001.10. Reads:

"Taxicab—

(ii) The term includes *partial-rights taxicabs*, Medallion taxicabs and other vehicles authorized by the Authority to provide call or demand service."

The measure of a good administrative agency is respect for the rule of law. An agency must understand the limits of its power. An agency should always consider the rights of those affected by its action. These rights are incorporated into the Constitution of the United States and the Constitution of the Commonwealth. A good administrative agency should always choose the most reasonable and least burdensome action and apply its standards with consistency and fairness. We ask the authority to take this into consideration.

In reviewing the need for these regulations relating to impoundment it is important to note that the PPA has Regulation that allow them to address Public safety concerns:

§ 1003.32. Out of service designation.

(a) Vehicles. Upon observation of a condition of a taxicab or limousine that creates a public safety concern, the Enforcement Department may immediately place the taxicab or limousine out of service. Public notice of a vehicle's out of service status will be conspicuously affixed to the vehicle and may only be removed by the Authority after inspection as provided in § 1017.36 (relating to reinspection) or by order as provided in subsection (g)."

Proposed Regs.

§ 1017.51.General.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Impoundable offense—The Authority may immediately confiscate and impound a vehicle, equipment, or Medallion, pursuant to section 5714(g) of the act (relating to certificate and Medallion required) when used in any of the following circumstances:

(1) When an unauthorized taxicab provides, or attempts to provide, call or demand service in Philadelphia.

The standards set by these regulations poses a problem, as seen through out this Paper, and raises a legitimate question as to what is an "unauthorized taxicab" and who bears the responsibility of enforcing those provisions on PUC Certified Carriers. The PPA envisions these regulations to apply to PUC carriers that operate outside their geographical boundaries and any carrier that provides "Call or Demand" service in Philadelphia without a current PPA sticker.

#1 PUC Certificated Carriers

It is undisputed that the PUC has subject matter jurisdiction of PUC certified Carriers. The impoundment by the PPA on PUC certificated taxicabs has no real connection with the safety of the public. Any legitimate regulatory concerns the authority might have with a PUC carrier should be brought before the Public utility commission, where the standards imposed on those carrier is of the PUC and not the PPA, where the prosecution will be based on relevant portions of the Public Utility code and regulations, and not the Parking Authority

It is the PUC responsibility to regulate PUC carriers when they commit a territorial violation. It is the PUC's job to enforce safety standards, driver standards, rates, insurance, and vehicle standards on the carriers they regulate. The PUC has subject matter jurisdiction over PUC motor carriers including Germantown Cab. The PUC regulations provide for adequate standards to insure the safety of the riding public even in Philadelphia.

The Legislature recognized that the PPA would need to address issues with PUC carriers and understood who is ultimately responsible for those carriers, so the legislature provided an adequate remedy for the PPA under 5705(b) of the Parking Authorities Law. The legislature provided a forum where the PPA could commence and prosecute a complaint against a PUC carrier through the PUC. The Legislature did not intend for a PUC carrier to become intimate with the authority because the authority is not their regulator.

In order for a PUC carrier to get their vehicle back from impoundment or to challenge the circumstance that impoundment the carrier would have to go through a hearing at the PPA. From a practical standpoint it would make no sense to bring a PUC carrier in front of a PPA hearing officer when the standard of review is different, the appeal process is different and especially with the lack of remedies at the PPA disposal. For example, Main Line Taxi a PUC carrier decides not to pay the civil penalty or decides not to abide by the orders of the authority. The PPA is powerless, but the PUC is not.

The Appeals standards are also different between the PUC and PPA.

- An Appeal taken from a PUC order goes to the Commonwealth Court, while an appeal taken from a PPA action goes to the Philadelphia Common Pleas court.

The PPA knew how to file a complaint when it contacted the PUC to report an alleged violation committed by one of Germantown Cabs vehicles, after it was determined by the Authority that the trip was point to point in Philadelphia. The Authority placed the vehicle out-of-service, then voluntarily removed the out of service designation without even verifying that the appropriate corrections were made

My question for the PPA is why would you forward a complaint to the PUC when it is your position that you have exclusive jurisdiction to regulate us, especially a trip that was considered point-to point in the city of Philadelphia? Why did we not receive a violation for not having a PPA sticker when you state: *"The fact that every taxicab that is authorized to provide call or demand service within Philadelphia must have a current TLD inspection sticker attached by the Authority creates a bright-line distinction between authorized taxicabs and all other vehicles on the road. See 52 Pa. Code § 1017.32."*Page 3 proposed rulemaking. **See Exhibit "C"**

It should also be stated again for the record that the PUC has adequate safety standards for drivers, vehicles, facilities, insurance and any legitimate concerns the authority might have with respect to the safety of the public should be brought to the PUC and prosecuted under the Public utility code and not the PPA's regulations.

#2 PPA “Unauthorized Cabs”

When ascertaining the intention of the General Assembly in the enactment of a statute, we may presume "[t]hat the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable."¹⁰ Applying this presumption to Act 2004-94, one may ascertain that the General Assembly did not intend to give the Authority power to regulate non-Medallion taxicab service. Clearly, it would be absurd, impossible, and unreasonable for one entity to comply with two sets of conflicting regulatory standards governing its operations administered and enforced by two separate agencies. Yet, the Authority is proposing; promulgating regulations that pertain to non-Medallion taxicab service.

It is our position that that it is absurd and unreasonable for common carriers with rights to provide call or demand service in territories that include a portion of Philadelphia to comply with two sets of conflicting regulations, administered and enforced by two separate regulatory agencies, while every other motor carrier in Pennsylvania is subject to only one set of regulatory standards, administered and enforced by one regulatory agency. We believe that we remain under the PUC, but for the sake of responding to the definition of “ Unauthorized Cabs” we will assume for the moment this provision applies.

According the Proposed rulemaking the Authority states *“The fact that every taxicab that is authorized to provide call or demand service within Philadelphia must have a current TLD inspection sticker attached by the Authority creates a bright-line distinction between authorized taxicabs and all other vehicles on the road. See 52 Pa. Code § 1017.32.”*Page 3 proposed rulemaking.

Number 1, this statement is false because none of Germantown’s cabs have a current PPA sticker. In Fact, the TLD has withdrawn numerous prosecutions against Germantown, for not having a valid TLD inspection sticker and for failure to appear for scheduled inspection. Most of those tickets were cited for violating section 5714 of the statute and were withdrawn by the PPA with prejudice

This is precisely what occurred in the enforcement proceeding under Docket No. 11-05-34, where the Authority issued 200 citations, for failure to appear for inspection, a violation the PPA prosecuted under 5714(a) of Act 94. The authority requested approximately \$70,000 in fines and the suspension or revocation of Germantown’s operating rights. We raised all or most of the issues related to Jurisdiction as evidenced by a copy of the record in the proceeding at Docket No. 11-05-34, a copy of which is attached as Exhibit “E”. Germantown asserts that it is an abuse of prosecutorial discretion to withdraw a prosecution after a hearing has occurred and certainly after a party has submitted a brief. So either the PPA conceded on the issue, or the authority abused its power. The decision to withdraw, in all but the most exceptional circumstances, should occur before a hearing on the merits. Otherwise, parties make substantial investments of time, energy and money in litigating issues that never get resolved. So, it is **unclear** why the PPA would represent that *“The fact that every taxicab that is authorized to provide call or demand service within Philadelphia must have a current TLD inspection sticker attached by the Authority creates a bright-line distinction between authorized taxicabs and all other vehicles on the road. See 52 Pa. Code § 1017.32.”*Page 3 proposed rulemaking.”

What's not in dispute?

It is not disputed that the Commission inspects Germantown's vehicles, reviews background checks on its drivers, requires Germantown to file proof of insurance, regulates its rates, and assesses it for regulatory expenses on an annual basis.

"Attempting" to provide service

Attempting" to provide service is different then "actually" providing service. Impounding a person's property without actually proving that they committed an offence is an abuse of power and a deprivation of Due Process. It should also be note that 99% of the taxicab drivers in Philadelphia are independent contractors.

In the past we have had our vehicles impounded, and in most cases the authority was unable to prove their case. Since they had already had impounded the vehicle, the damage was already done, our business was interrupted without any compensation for lost wages, expenses and time. The Authority has tarnished our reputation with the Public, Legislature, the Medallion industry, our drivers, and there own staff. Through the use of impoundment, the Authority has already done a tremendous amount of damaged to our business.

I am asking here for the Parking Authority to meet with us to resolve these issues. I am asking them to take an alternative approach that can meet their goals while maintaining our identity. I am asking for them to create an environment, that enforces regulation that doesn't conflict with the Public Utility Commissions, and doesn't handicap us with all other call or demand common carriers in the state.

Below are a few questions I have for the Authority related to this issue:

1. If Germantown Cab Picks up a hail pursuant to its certificate outside its territory but goes back into its territory, will that vehicle be impounded?
2. If a Germantown Cab has been determined to picking up a the Hail outside its territory is going back to its authorized territory, is that considered "Attempting" to provide service, will that vehicle being impounded? Even if that license permits that type of service?
3. If a Member of the Public hails the driver, due to an emergency, needing help, how will the PPA determine if the driver was assisting that member of the Public or if that driver was attempting/? What safeguards will the Authority put in place to ensure that vehicles are not accidentally impounded?
4. If a member of the riding public jumps in the back of a Germantown Cab and it is determined that they were not going back to our territory and we do not transport them, did we "attempt" to provide service? Can the PPA then impound our vehicle even if we didn't actually transport someone point to point outside our territory?
5. Since Germantown Cab is not in possession of a PPA issued CPC and is only operating under its PUC certificate in Philadelphia are we considered an unauthorized cab?
6. Since Germantown Cab is subjected to the PUC inspection requirements and does not have its vehicles inspected by the PPA, nor does any of its vehicles have a PPA inspection sticker as seen below does that make us an authorized Cab?
7. Is Germantown Cab considered an unauthorized cab if the meter has a rate on it that is not uniform

with a Medallion?

8. Are Germantown cabs considered unauthorized cabs because it does not pay assessments to the PPA, as seen in MCT Vs PPA 481 MD 2012? See Exhibit "B"
9. Could the PPA impound our vehicle for Failure to Pay assessment, before the opportunity to be heard?
10. Is Germantown Not an authorized Cab because it does not have a Tariff on file with the PPA?
11. What training, if any does the PPA staff/enforcement officer receive regarding PUC regulations, policy, law and procedures?
12. What continual training is in place for the TLD staff, particularly the enforcement officers
13. What training does the Authority TLD enforcement officers currently receive related to live stops, impoundment, and on how to conduct searches? Will that training now be expanded?
14. What criteria is needed for a person to become a PPA enforcement officer?
15. What is the Job description
16. Are there TLD staff that are non-enforcement who participate in impoundment efforts by the authority, for example: Sting operations?
17. Were any PPA officers required to take a civil service exam before obtaining employment with the PPA

"The fact that every taxicab that is authorized to provide call or demand service within Philadelphia must have a current TLD inspection sticker attached by the Authority creates a bright-line distinction between authorized taxicabs and all other vehicles on the road. See 52 Pa. Code § 1017.32."

Proposed Regulation § 1017.51. (2)

(2) When a taxicab provides, or attempts to provide, call or demand service in Philadelphia through the use of a meter not approved by the Authority as provided in § 1017.23 (relating to approved meters) or a meter that has been manipulated to charge a fare not authorized by the Authority as provided in section 5703 or 5720 of the act, or both (relating to rates: and wages).

This section will lead you to believe that the PPA is concerned with a carrier manipulating the meter to be "fast" where the Public could be harmed. In their proposed rulemaking order the PPA states:

"The use of unapproved or manipulated taxicab meters also represents the type of grave malfeasance necessitating immediate impoundment to stop further public abuses. Permitting the offending taxicab to simply drive off with a citation and the bad meter would undermine public confidence in all fares charged by taxicabs and permit, if not encourage, the continued abuse by the offending party and others. Meter rigging is exactly the type of egregious conduct that merits immediate impoundment."

The PPA has technology in all Medallion Cab, thanks to the Hospitality initiative that allows the Authority to remotely disabled all those "Bad Meters" so when those drivers drive off with a citation the use of that taxicab will be rendered useless. So why does the Authority find it necessary to impound those vehicles? By disabling the meter this will give the driver the opportunity for that person to either see a Hearing officer on the out-of-service designation or to demonstrate to the Authority that the issue

has been corrected before being put back into service. Most importantly, this procedure won't undermine the "public confidence" and should not "encourage the continued abuse by the offending party and others" So, if the PPA has the ability to remove that threat why would they need to impound that Taxicab?

For the last 8 years the PPA has attempted to control our rates by forcing us to comply with a standard that historically only applied to Medallions taxicab, uniformed rates. The PPA has attempted to force us to comply with the Medallion rates without determining if the rates are "just and reasonable", which is the most basic Principal of Public utility law. The concept of uniformed rates contradicts the provisions found in 5703 related to the fair rate of return and the basic rate making standards set by the Public utility code

5703 (G): fair rate of return

g) 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 order to determine if the Rate is Just and Reasonable the Authority would need to take certain factors into account. The nature of the service that we provide and the nature of our authorized territory, which by necessity requires consideration of revenues and does not relate only to the number of vehicles operated.

Medallion taxicab service is different from any other call or demand service because it is limited to the operation of one vehicle and all Medallion taxicabs have operate in the same territory; therefore, the authority could determine the rate charged by a Medallion with out the necessity, or the regulatory burden, of taking revenues into account. It is not equitable to apply the same formula as a Medallion cab to any other common carrier because all other common carrier rights permit the operation of an unlimited number of vehicles and the revenue that each carrier may generate varies according to the unique characteristics of the territory in which it operates. Because of the unique demands within a territory, not every vehicle has the same earning potential. Accordingly, any methodology to determine rates that does not take revenues, operating expenses, or other important factors into account, would contradicts the Public utility law and Act 94. This regulation has no way of being enforced, and the statutory provision in 5720 is illegal.

The Authority cannot simply dictate the rates that we are allowed to charge without an investigation and any provision forcing us to charge the same rates as a Medallion is illegal. To Allowing the authority to impound for this reason is ridiculous. The PPA has other methods besides impounding a vehicle that could be used without imposing unnecessary burdens on small businesses. As seen above the PPA has alternative regulatory approaches that does not conflict with their stated objective, Placing a vehicle out of service is more than sufficient.

(3) When the condition of a taxicab will create an immediate threat to public safety if permitted to continue operation.

This section provides no guidance and is vague. I have compiled a list of questions, and find it hard to comment on a regulation that provides no real standards

1. Who will determines what is considered a threat to Public safety?
2. What types of violations would be considered an immediate threat?
3. Could the PPA provide us with a list of what they believe would constitute an immediate threat?
4. Does the Authority have written procedures for their employees on how to conduct themselves on the road, with drivers, the Public? Where can this be found?
5. If there is no PPA inspection sticker or if it is expired is that automatically considered an immediate threat even if there is no safety issue?
6. Is a vehicle that is operating without a shield an immediate threat?
7. Is operating a vehicle over 250,000 miles an immediate threat to the Public
8. Is using an unsealed meter or a meter sealed according to PPA standards an immediate threat to Public safety?
9. Is a Air-condition that that doesn't work an immediate threat?
10. Dirty trunk, no partition, Dom light not working, interior lights not working, a torn seat, a worn out tire, a Dirty vehicle considered impoundable? Are any of these violations considered an immediate threat
11. If the driver does not have a insurance card on them, but a E-form is on file with the Authority or the PUC will the Authority consider that impoundable, or a Public safety issue?

(4) When the continued operation of a taxicab by the driver will create an immediate threat to public safety, except when the certificate holder is able to promptly provide an alternate adult individual with a valid driver's license to assume control of the vehicle.

Q: What will constitute "immediate" threat to Public safety? In theory if the PPA would be allowed to impound property, the second part of this rule has good in it, but the whole regulation is vague, and lacking any real substance. The Authority should create clearer standards. For example:

I have had my vehicles impounded in the Past by the Authority. Whenever one of my vehicles was being towed by the PPA, and I had the opportunity to speak with that PPA's enforcement officer, I would always ask for the opportunity to retrieve my vehicle before it got impounded. EVERY time I was told that it was too late, that the "tow has already been called" and that they could not do anything about it, once the tow truck was called

Questions regarding alternative drivers

1. When impounding the vehicle, please describe what procedures will be used, from start to finish?
2. Does the Authority consider operating outside of rights a threat to public safety?
3. How long will the certificate holder have to send someone to assume control of the Vehicle?
4. What type of Paper work other than a valid drivers license will that person need?
5. Could the certificate holder send a tow truck?
6. If the Immediate threat requiring a tow is at a inopportune time, for example late at night, or

on a religious, holiday could the company send a tow and have the vehicle towed back to their property? Must that person be a key employee?

7. If the Certificate holder confirms that they are sending someone to retrieve the vehicle, would that extend the time limit afforded to the certificate holder to retrieve their vehicle?
8. If the Authority already called for their tow truck and the certificate holder is unable to confirm before that call of the PPA's tow occurred, will the certificate holder still be able to recover the vehicle?
9. Will the Authority abandon the driver or will they create a policy that takes taxi driver safety into consideration?

All these regulation related to impoundment does not take the driver into account and could lead to issues including the safety of that person. Previously the Authority seizes the property and then abandons the driver without even offering to take him to the nearest train station, bus stop etc. These impoundments appear to apply to the entire city including some of the city's most dangerous neighborhoods. See Exhibit "F". The attachment is the statement of one of our drivers who had its vehicle impounded and left in 18 degree weather, at night, without a ride, without his vehicle, and abandon in a potentially dangerous situation that could have been life threatening.

(5) When a vehicle provides, or attempts to provide, call or demand service in Philadelphia with a counterfeit Medallion.

Could the authority provide us some statistics on how many vehicles have been discovered since 2005, to be operating with a counterfeit Medallion?

There are additional issues that should be considered when deciding the extent of what the PPA's impoundment powers should be.

Q: How will the PPA determine where the customer is going? Unlike a Medallion cab with city-wide rights the Authority would have to determine other factors, like where we are coming from, where we are going, what authority are we working under? For example: Germantown Cab transports contract medical patients throughout the city on non-exclusive basis, which undisputedly falls under the PUC.

In many cases, when the Authority stops our vehicle the client is in the vehicle. This places the client in a very uncomfortable situation, regardless if a violation is found. These stops create a feeling that there was something wrong with that person's driver and ride. This creates a real problem because all those clients are protected under HIPAA Laws. In order for the authority to determine who the client is, where the client is coming from and where the client is going, the authority would either need to ask the driver for the clients relevant information, forcing the driver to violate HIPAA laws, or obtain it from the passenger directly

HIPAA Laws do not allow the driver to release the information of the customer to anyone without the clients consent, in the alternative the Authority would have to obtain the information from the client directly who is protected under HIPAA and is not required to provide that information to the Authority.

This situation happens to often where the authority has impounded a cab or placed them out of service where their own hearing officer had determined they did not have jurisdiction. The problem is, the

Damage was already done! Our service was interrupted, and the driver was forced to violate other laws, and has had to experience loss of income and time without any compensation.

A good example happened this year when the Authority stopped a driver, took the medical patients protected information knowing that it was not in their jurisdiction, and still placed the vehicle out of service.

The Authority then NEGLECTED to give us a timely hearing. After 11 days with the vehicle OUT- OF- SERVICE, the Authority's hearing officer placed the vehicle back into service, clarifying that the trip was not under their jurisdiction and that they had no evidence. Under these proposed regulations the vehicle would be considered unauthorized and impoundable even though the hearing office found no liability.

This situation is damaging to our reputation, business, and the people that depend on their rides to their medical appointments, such as dialysis. Also, these live stops average a half an hour or more, causing discomfort to the Patients we transport. Some who are on a time sensitive ride, such as dialysis and chemotherapy. These live stops in most cases cause the driver to be late for a scheduled pick up and causes the patients to be late to their medical appointments. If the PPA would be allowed to seize the Property while the driver is in route with the customer, this could cause a life threaten situation for that medical patient, and this scenario could ruin our relationship with the contractor regardless if we are found innocent later down the Road.

It should also be noted, that the PPA, while prosecuting this case, simultaneously forwarded this complaint to the PUC who then came out to our property and conducted their own investigating. See Exhibit "G"

Questions:

1. If the PPA had jurisdiction over this trip, why would you forward this complaint to the PUC?
2. If you determined that you lacked jurisdiction, why would you not automatically remove the Out of service designation, and force us to spend time, and money litigating a case that you believed was not under your authority?

Why did it take 11 days to receive an out of service hearing, when the regulations provide for an automatic hearing in 3 days? See section § 1003.32. Out of service designation.

I would also like to ask PPA to list all circumstances they believe a vehicle would be impounded? for example based on there previously invalidated standards the authority impounded vehicles for:

§ 1003.32. Out of service designation.

(e) Hearing to be scheduled. Upon notification of an out of service designation as provided in subsection (c), the Clerk will schedule a hearing before an Adjudication Department presiding officer within 3 days of the out of service designation.

Proposed amendments to Regulation § 1017.52. Impoundment of vehicles and equipment.

§ 1017.52. Impoundment of vehicles and equipment.

a) Impoundment. Upon observation of an impoundable offense, the Enforcement Department may direct the immediate impoundment of a vehicle, equipment or Medallion and have the impounded property removed to a place of safe storage under the control of the Authority.

See above comments

(b) *Notice of impoundment.* The Authority will serve immediate notice of impoundment on the registered owner and registered lienholder, if any, by first class mail as provided in section 5714(g)(2) (relating to certificate and Medallion required). The notice of impoundment will include the following information:

- (1) The location of the impounded property.
- (2) The manner in which the impounded property may be reclaimed.
- (3) The date the impounded property will be sold at public auction if action is not taken to reclaim the impounded property or stay the auction as provided in this section.
- (4) Such other information required by section 5714(g)(2)(ii) of the act.

Why are the requirements found in § 1005.13. Citation complaints by the Authority not included with this section

(c) Impoundment hearing.

(1) The registered owner may file a hearing request with the Clerk at any time after impoundment solely to regain possession of impounded property by contesting the compliance of the impoundment with this section or the act, or both.

This Process is time consuming, since the only way to file a appeal is in person. Then wait for a hearing, then come to the Hearing, then track down the Manager of enforcement who needs permission from their managers, then eventually get a release, then go to a separate impoundment lot, wait in line with another person who can drive on of your cars, then Pay for the tow, then retrieve the car, then find the PPA's officer who placed the vehicle out of service, then drive 14 miles back to my garage. This is the perfect scenario and extremely expensive, I will outline the cost in response to the PPA's final rulemaking.

This procedure also makes no sense as compared to **§ 1003.32. Out of service designation**" e) Hearing to be scheduled. Upon notification of an out of service designation as provided in subsection (c), the Clerk will schedule a hearing before an Adjudication Department presiding officer within 3 days of the out of service designation.

This regulation makes more sense, it is less expensive, less time consuming and achieves the same goal **(2) Upon request as provided in paragraph (1), the Clerk will immediately schedule an impoundment hearing to be conducted within two days before a presiding officer.**

See comments in section one

(3) In the event the presiding officer determines, by order, that the impoundment was not proper, the

impounded property may be immediately reclaimed by the registered owner without need to pay any penalty or cost associated with the impoundment.

What about the loss of income, the legal fee, the driver lost of income, compensation time sitting

- Will the Authority have a fund or mechanism in place to compensate for lost wages and time in the event the presiding officer determines that the impoundment was not proper?

(4) Where the impoundment is determined to have been appropriate, the presiding officer may, by order, establish terms for the release of the impounded property including the posting of collateral and inspections by the Enforcement Department.

This procedure/regulation is unnecessary and inappropriate. We have had situations where a vehicle was impounded and did not receive hearings for two years. We have also had our vehicles impounded where the Authority, after a year decides that they are simply going to withdraw the citations. We have also had hearings over a year later, after the vehicle was impounded and we were found not liable.

Why should we tie up our money in a process that has no timetable and has already proven to be flawed? Why should the authority require a bond when they are so intimate with the certificate holders and since their civil penalties have the force of law, that they could easily enforce it?

(g) Final disposition of impounded property.

(1) If the respondent is found not liable for each violation averred in the Enforcement Department complaint, the impounded property may be reclaimed by the registered owner within 30 days of the adjudication without payment of any penalty, fee or cost.

This regulation is a problem because one might be found liable for another offence and not the impoundable one. If the authority was not successful with the impoundable offence why shouldn't they compensate the owner of that vehicle, who was inconvenienced by the Authorities actions. Impoundable offence

(2) If the respondent is found liable for any violation averred in the Enforcement Department complaint, the impounded property will be scheduled for public auction in not less than 30 days. A notice of the time, date and location of the auction will be provided to the registered owner and registered lienholder by first class mail.

We are asking the Authority to respect our business and create an alternative approach to achieving their goals. In this Paper we have chosen not to solely focus on demonstrating harm because Impounding ones Property is harmful by itself. Below is a sample of the experiences our drivers face dealing with the Authority and is only a sample of some of the things my drivers have reported to us, We hope the Authority will take this opportunity, to not only sit with the Medallion industry, but to sit with the people these regulations truly effect.

Joseph Gabbay
Germantown Cab Co.

AFFIDAVIT OF ROBERT MONTGOMERY

I, Robert Montgomery, being duly sworn according to law, hereby depose and say:

I am a 47 year old citizen of Pennsylvania and I live at _____ in Philadelphia. I am an experienced professional driver and hold a Commercial Driver's License with a hazardous materials endorsement issued by the Pennsylvania Bureau of Driver's Licensing. I have previous experience as a truck driver. At the end of June, I began to lease a taxicab from Germantown Cab Company.

I am issuing this statement about an incident that occurred on July 29, 2010, while I was operating a taxicab that I leased from Germantown Cab Company. I was asked to issue this statement by Joseph Gabbay, the General Manager of Germantown Cab Company. I met Mr. Gabbay for the first time when I went to his attorney's office to give this statement.

On July 29, 2010, at approximately 8:00 p.m., I was operating Germantown Taxi No. G-52. I came on duty at 6:00 p.m. At approximately 7:45 p.m., I received a call from our dispatcher to pick up a Ms. Chen at Wayne and Pulaski in Philadelphia. I picked her up and she requested to be taken to the Roxborough Postal Store located at 127 Green Lane, just off of Main Street in Manyunk. As I approached the destination, I drove down Main Street in Manyunk and turned right onto Green Lane, where I dropped the fare off. I then took the first right at Cresson and proceeded down to Cotton Street, where I turned right and got back on Main Street. I was heading back down Main Street and I was intending to head back to Wayne Junction.

Shortly after I got onto Main Street, a PPA patrol car came up behind me and flashed its lights and ordered me to pull over on the loudspeaker. I pulled over at Rector Street about half a block later when it was safe to do so. Two officers, _____ and _____ got out of their vehicle and approached my vehicle from each side. Officer _____ who was on the passenger side ordered me to turn my engine off and Officer _____ who was on the driver side ordered me to produce my license, vehicle registration, insurance and PPA Driver Certificate. I produced my license, registration and insurance, but I did not have a PPA Driver Certificate. In fact, I didn't even know what a PPA driver's certificate was. I asked the officer what it was and he said I was a "typical Germantown cab driver, don't have your shit right." I had no idea what he was talking about. He said, "You know since you don't have your driver's certificate, I can have your license suspended, I can have the cab booted, I can put you out of service, I can have the cab impounded. There are a million things I can do to fuck with you." I told him I didn't do anything wrong. I'm wearing my seatbelt. I used my turn signal and I wasn't speeding. I said, what are you guys, the cops, why was I pulled over?

He said I don't care about any of that. He said the difference between me and a police officer is that I don't need any reason to stop you. I can pull you over and inspect you anytime I want. After I pull you over and inspect you and let you go, if you go a 100 feet I can stop you again and inspect you. And then I can do it again and again and again until I get tired.

He told me to get out of the taxicab and move away from the vehicle and told where to remain while they inspected the vehicle. He told me to pop the trunk. He went into the trunk and took out the spare. He pulled out an instrument and checked the spare. He asked me if I had a lug wrench and a jack. I

showed him where it was and he pulled it out. He told me by law, the trunk has to be clean so people can put their clean luggage in the car. The trunk was clean, so I don't know why he was telling me this. The inspection of the trunk took about ½ of an hour.

Then he asked me to pop the hood. He went under the hood and started to fiddle with things under there. Then he called me over and said look at this. He showed me the battery and started to jiggle it. He said this battery is loose. I told him I wasn't a mechanic. I asked him what this had to do with me. He said the battery wasn't stable and could cause a fire in the vehicle. He continued to look around under the hood and commented on wires and things like that. I just sat back and allowed them to continue the inspection. The inspection under the hood took about ½ an hour.

After that he told me to get into the vehicle and put my foot on the gas to rev the engine. He told me to turn the wheel. When I did that he said – did you hear that squeak? He checked the turn the signals, the brake lights and the headlights. This took 15-20 minutes.

He then told me to get out of the vehicle again. got into the front and got into the back. They pulled on the floor mats and told me that loose floor mats are a health hazard. They checked all the seatbelts in the vehicle.

After all this, I told them “look man, I'm trying to make a couple of dollars. I'm just out here trying to make a living. Why are you guys doing this? This is unreal. replied, this shit ain't about you. You just happened to be caught in the shit storm. Your company thinks he can fuck with us. This is our way of showing that we can fuck with you all day. If enough of your guys start to get tired of this shit, they won't have a company anymore. Your boss thinks he won a lawsuit and he can operate without any laws. He thinks he's beyond the laws and he just doesn't know it's all about to change. That bullshit lawsuit that he won is bullshit. It's just a matter of time.

I said here we go, it's not about me and he said, no it's not. But this is our way of sending him a message.

At the time, I didn't know Joseph Gabbay or anything about the lawsuit against the parking authority. I first met Mr. Gabbay today when I gave this statement.

After they were finished, they stood around smoking cigarettes and they still didn't give me my papers back or allow me to leave. During this time, he continued to talk about the lawsuit and seemed to be taking it very personally.

I told him, they got the wrong guy, you're wasting my time. During this time, I continued to receive calls on the dispatch and I lost \$70 to \$80 in jobs. I have to earn fares to pay my lease and this stop cost me nearly a day's pay. During this time, I had to sit away from the vehicle and I was not permitted to leave. I had to just watch as they conducted their inspection and tell me about all the things they could do to me.

After two and a half hours, he decided to let me go. He said all you Germantown cab drivers have to have driver's certificates. I'll give you a month and if you don't have your certificate I'll put you out of service and suspend your license. There's a lot of things I can do, you don't even know.

After I was released, I resumed working. I was issued two citations for no driver's certificate and for the dome light not being synchronized with the meter.

IN WITNESS WHEREOF, I have set my hand this 13th day of August, 2010.

Robert Montgomery

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Included with these comments from Germantown Cab Company was Exhibits A through F. They were too large to scan, but a hard copy can be reviewed at our office at:

333 Market Street, 14th Floor
Harrisburg, PA 17101