

RECEIVED
IRRC

2013 NOV -4 PM 5:11

3033

RECEIVED

OCT 25 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Fox Rothschild LLP
ATTORNEYS AT LAW

2000 Market Street, 20th Floor
Philadelphia, PA 19103-3222
Tel 215.299.2000 Fax 215.299.2150
www.foxrothschild.com

Barnett Satinsky
Direct Dial: (215) 299-2088
Internet Address: bsatinsky@foxrothschild.com

October 25, 2013

VIA FEDERAL EXPRESS

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Motor Carrier Vehicle List and Vehicle Age Requirements, L-2013-2349042

Dear Secretary Chiavetta:

I represent Willow Grove Yellow Cab Co., t/d/b/a Bux-Mont Transportation Services Co. ("Bux-Mont"), a common carrier which possesses both Call or Demand and Limousine operating authority. I submit these comments on Bux-Mont's behalf in response to the proposed rulemaking published at 43 Pa.B. 6203 (October 9, 2013) on the subject of Motor Carrier Vehicle List and Vehicle Age Requirements. *These comments are limited to the proposed Call or Demand regulation at 52 Pa. Code §29.314.*

In essence, the proposed regulation is based on the burdens imposed on Commission staff, but gives little, if any, weight to the economic burdens on the regulated carriers.

I. **Vehicle Inspections Can Be Staggered or Consolidated with Other Enforcement Activity**

The proposed rulemaking identifies a hardship on Commission staff caused by multiple carriers waiting until just prior to the filing deadline to submit waiver requests, causing the enforcement staff to squeeze vehicle inspections and processing into a relatively short window of time towards the end of the calendar year. There are at least two potential solutions to this reported phenomenon.

First, the Commission could stagger the dates by which carriers need to file their waiver requests, in much the same way as the Pennsylvania Department of Transportation ("PADOT") staggers the inspection dates associated with motor vehicle registrations. In the proposed rulemaking, the Commission reports that waiver petitions were filed for a total of 112 vehicles. In comparison, there were 11,508,559 active vehicle registrations reported by PADOT in 2012, of which 7,901,771 were

A Pennsylvania Limited Liability Partnership

California Colorado Connecticut Delaware District of Columbia
Florida Nevada New Jersey New York Pennsylvania



Fox Rothschild LLP
ATTORNEYS AT LAW

Rosemary Chiavetta, Secretary
October 25, 2013
Page 2

RECEIVED

OCT 25 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

passenger vehicles¹. Obviously, the resources of the PUC's enforcement office are far less than the raft of licensed inspection stations and administrative employees who process the PADOT inspection data. However, the point remains that if PADOT can manage its volume effectively using a staggered system, the same type of approach should be considered by the PUC.

Second, the enforcement staff could combine inspections associated with waiver petitions with other existing enforcement activity. For example, on June 19, 2013, an enforcement officer visited Bux-Mont to perform an annual taxi inspection; and then returned on September 27, 2013, a scant 3½ months later, to inspect one of the same taxis for purposes of the age waiver petition. In the same vein, during the 31 month period from June 1, 2009 through December 12, 2012, Commission enforcement personnel were present at Bux-Mont's facility on 31 separate days, performing a variety of functions ranging from checking log sheets to inspecting vehicles (including vehicles used in call or demand, paratransit and limousine service).

To the outsider it would seem as if some of the existing enforcement activity could be consolidated, with more than one task being the object of each visit. Admittedly, regulated carriers do not know the inner-workings of the Commission's bureaus, but it is respectfully suggested that less compartmentalization of staff assignments might help to alleviate some of the administrative burden.

2. The Waiver Process Could Be Simplified

The proposed rulemaking describes the multi-step process which is used to administer the current waiver program. The administrative process, with several potential layers of review, is intended to insure that carriers are treated fairly. However, some of the back-and-forth dialogue between the specialist and the carrier may be a function of the lack of clear criteria for what information the Commission expects to see in a waiver petition.

The level of detailed financial documentation which is required sometimes varies from year to year. In some instances, the level of detail required (for instance, invoices for oil filters, which may be bought in bulk) seems attenuated from the apparent objective of the age restriction, of making sure that vehicles are properly serviced and in good running order. In one year, a single petition covering multiple vehicles is permitted; in the next year, it is not. Clear, consistent instructions which do not vary from year to year might reduce the amount of staff time required to interface with carriers who seek a waiver.

The waiver process could be made more efficient by improving the instructions and document requests. Rather than eliminate the call or demand waiver program altogether, an attempt should be made to improve the existing process.

¹ The Report of Registrations for Calendar Year 2012 may be accessed on the Pennsylvania Department of Transportation website at www.dmv.state.pa.us.



Fox Rothschild LLP
ATTORNEYS AT LAW

Rosemary Chiavetta, Secretary
October 25, 2013
Page 3

3. A Mileage Standard is Preferable to an Age Standard

In the case of Limousines, the proposed rulemaking sensibly changes from an age-based standard to a mileage-based standard, using 200,000 miles as the milestone. The same standard should be applied in the case of vehicles used in Call or Demand service.

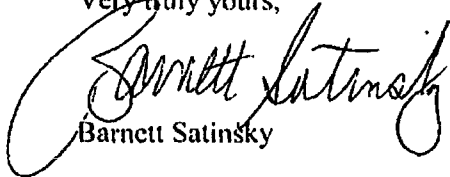
Although taxis driven predominantly in urban centers may "age" somewhat rapidly, the same is not necessarily the case for similar vehicles driven less frequently and in suburban areas. Taxis which perform the predominant amount of their work in dense urban areas such as Philadelphia, with a very active nightlife and heavier public transportation demands, often are operated on double shifts, increasing the mileage and vehicle wear and tear. Based on the riding habits of the population it serves, Bux-Mont, like many suburban carriers, rarely has the need to operate its vehicles on double shifts. There is no reason to prematurely retire vehicles which may be (and often are) well maintained, clean, and with relatively low mileage, given their business purpose. The 200,000 mile threshold is no less pertinent to one type of carriage than another.

In a difficult economic climate, it seems the Commission is punishing, rather than rewarding, those carriers which properly maintain their vehicles. If waivers will not be entertained, then a more reasonable standard for measuring the condition of Call or Demand vehicles should be adopted. Then, if during a regular, annual inspection a particular vehicle is deemed not to be road-worthy, the enforcement staff can initiate existing procedures to have the vehicle taken off the road. This would meet both the objective of reducing unnecessary administrative time and still insuring that the riding public is transported in safe, clean vehicles.

Please file the original of these comments and return to me a date-stamped copy in the enclosed, self-addressed, stamped envelope.

Thank you for your cooperation.

Very truly yours,


Barnett Satinsky

BS:s

cc: Kenneth R. Stark, Esq., Assistant Counsel, Law Bureau (*via first class mail*)
Mr. Samuel Valenza (*via email*)

RECEIVED

OCT 25 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU