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November 18, 2013

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

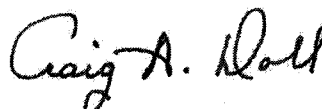
Re: Rulemaking Re: Motor Carrier Vehicle List And Vehicle Age Requirements  
Docket No. L-2013-2349042  
Via E-Filing

Dear Secretary Chiavetta:

Enclosed with this cover letter are the Comments of the Greater Pennsylvania Taxicab Association to the proposed changes in Commission regulations, promulgated at the above docket number. These Comments were e-filed this date.

If you have any questions, please feel free to contact me

Very truly yours,

  
Craig A. Doll

CAD/kmv  
Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking Re Motor Carrier Vehicle List : Docket No.  
and Vehicle Age Requirements : L-2013-2349042

**COMMENTS OF THE  
GREATER PENNSYLVANIA TAXICAB ASSOCIATION**

Respectfully submitted,

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Attorney I.D. # 22814

DATED: November 18, 2013

**I. Introduction and Procedural History**

By Proposed Rulemaking Order entered April 5, 2013, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) proposed to alter or eliminate certain motor carrier regulations found at 52 Pa. Code §§29.314 and 29.333 governing vehicle lists and equipment requirements for both call and demand service and limousine service.

The Commission’s Order in this proceeding provided that written comments were to be submitted within thirty (30) days of the publication of the Order and Appendix A in the Pennsylvania Bulletin. Publication occurred on Saturday, October 19, 2013 in Vol. 43, No. 42, page 6203 of the Pennsylvania Bulletin. These comments are submitted in response to Ordering Paragraph 5 of the Commission’s April 5, 2013 Order.

The regulations which are proposed to be modified originated as the result of the issuance of an Advance Notice of Proposed Rulemaking Order of September 25, 2002 which made fundamental changes in Chapters 29 and 31 of the Commission’s motor carrier regulations. As part of those changes, the Commission enacted Section 29.314 (c) and (d)<sup>1</sup> as well as Section 29.333(d) and (e)<sup>2</sup>. 52 Pa. Code §§29.314(c), (d) and 29.333(d), (e). Those provisions initially established the requirement that a motor carrier submit to the Commission a list of all vehicles in the carrier’s fleet and established an eight (8) model year limitation on vehicles used in the public service. In this proceeding, the Commission seeks to: (1) eliminate the vehicle list requirements for taxicabs and limousines currently found in 52 Pa. Code §§29.314(c) and 29.333(d); (2) eliminate the waiver exception for both taxicabs (52 Pa. Code

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<sup>1</sup> §29.314 relates to call or demand service.

<sup>2</sup> §29.333 relates to limousine service.

§29.314(d) and limousines (52 Pa. Code §29.333(e); and (3) substitute a mileage limitation in lieu of an age limitation on vehicles used in limousine service. 52 Pa. Code §29.333(e). While several companies which are members of the Greater Pennsylvania Taxicab Association ("Commentators")<sup>3</sup> possess limousine or other certificates from this Commission, these comments will address only those proposed changes which impact the providing of call or demand service.<sup>4</sup>

## II. Proposed Changes

### A. Vehicle List

As part of the Commission's 2005 Order, Section 29.314(c) was added as a vehicle requirement for call or demand carriers. Section 29.314(c) was adopted in response to a recommendation of the Legislative Budget and Finance Committee which suggested that as a method of the Commission possessing a comprehensive list of vehicles used in the transportation of passengers within the Commonwealth, all vehicles be registered with the Commission. The Commission's response was the enactment of 52 Pa. Code §29.314(c) for taxicabs. This provision required all certificated taxicab carriers to provide a list of **all** vehicles in a fleet that were devoted to providing service to the public once a year between December 1 and December 31, of each calendar year. Within this proceeding, the Commission seeks to eliminate this requirement due to "the list often [becoming] unreliable and outdated due to frequent vehicle turnover".

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<sup>3</sup> A list of those companies actively participating in these comments is attached as Exhibit "A".

<sup>4</sup> Those companies who are also members of the Philadelphia Regional Limousine Association ("PRLA") have filed separate comments under the PRLA name.

While there may exist a frequent turnover in the taxicab industry, due to frequent and constant maintenance, age may not be a true indicator of the safety of a particular vehicle. Despite this, the Commentators herein support the elimination of the furnishing of an annual list of all vehicles, but would recommend that if the Commission adopts the Commentators' suggested changes to §29.314(c), a carrier be required to furnish a listing of any vehicle that would meet the criteria for elimination from a fleet pursuant to the proposed §29.314(d) at the beginning of a year or the 4<sup>th</sup> quarter of the year prior to when the vehicle would "age out". Such a list would enable the Enforcement Division of the Commission's Bureau of Investigation and Enforcement to schedule any necessary inspections occasioned by securing a waiver of the current 8 year "age out" rule. The elimination of this requirement will decrease the time and costs associated with compiling this information on all vehicles and submitting it to the Commission.<sup>5</sup> Additionally, the Commentators agree with the Commission that an Enforcement Officer may request that a vehicle be presented for inspection at any time he visits the carrier's premises pursuant to the provisions of 52 Pa. Code §29.406; and 66 Pa. C.S. §§307 and 506. Coupled with the Commentators other suggested language changes, the furnishing of a list of the vehicles that will reach 8 model years of age, will enhance the ability of the Enforcement Division to manage its schedule of special inspections. There is nothing to prohibit an Enforcement Officer from conducting a special "wheels off" inspection of 8+ year old vehicles at the same time as the annual inspection currently conducted. Conducting these inspections at the same time will obviate the need for a return visit by Enforcement personnel and result in greater efficiencies and cost savings.

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<sup>5</sup> Carriers generally track their vehicles for PennDOT licensing and insurance purposes.

As a substitute to the reporting of all vehicles in a particular fleet on an annual basis and consistent with the recommendations contained elsewhere in these comments, it is suggested that during the first quarter of a calendar year or the fourth quarter of the year preceding the vehicle becoming 8 model years old, a company provide a listing of vehicles that are anticipated to exceed the mileage limitation in that calendar year. In that manner, the Enforcement Division and the Commission can prepare for and have sufficient time to schedule any necessary inspection of vehicles which will exceed the mileage limitation during the coming calendar year for which a waiver (or as suggested later, a "wheels off" inspection) would be sought. By furnishing a list and current odometer reading, if the Commission should determine that a special inspection must be scheduled rather than being conducted during the annual inspection, that inspection can be scheduled throughout the year. The furnishing of this list will provide an advance notification to the Division, which, in turn, will avoid any end of the year rush to inspect multiple vehicles. To that end the Commentators propose the following language change to 52 Pa. Code §29.314(c):

(d) *Vehicle List.* [Between December 1 and December 31] During the first quarter of each calendar year, carriers shall provide the Commission with a current list of all vehicles utilized under its call or demand authority which will exceed 8 model years old during the succeeding twelve months. The list must contain the year, make, vehicle identification number, current odometer reading and registration number for each vehicle. The list shall be mailed to the Commission Bureau of Investigation and Enforcement, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

## **B. Replacement of Vehicle Age Limitation (Section 29.314(d))**

The modification proposal for this subsection is comprised of a substantive change. It is proposed that the language (“unless otherwise permitted by the Commission”) be eliminated. This language currently provides the Commission the discretion to grant individual vehicle waivers. This change is an apparent attempt to make the rule absolute. The Commentators oppose this change and have suggested additional changes in §29.314(d) which would eliminate the concerns of the Commission expressed in its Order.

### **1. Elimination of Commission Discretion**

As set forth in the Commission’s Order<sup>6</sup> the original purpose of the “unless otherwise permitted by the Commission” language was to provide the Commission with “a certain amount of discretion” to grant a vehicle by vehicle exception to the current 8 year age limitation. The Commentators recommend that this language be retained.

The origin of this language is of particular interest. As originally proposed, §29.314 did not include the “unless otherwise provided” language. In adding this language the Commission stated:

Finally, much commentary was provided on the vehicle age requirement. Generally, the commentators suggested that this requirement would unnecessarily increase costs, including insurance costs. Further, commentators suggest that a vehicle’s age is not an accurate barometer of the vehicle’s condition.

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<sup>6</sup> *Rulemaking Re Motor Carrier Vehicle List And Vehicle Age Requirements, L-2013-2349042*  
Slip Op. 2

While we understand that age is not synonymous with condition, we are also cognizant that age is one of the most important factors to ensure a vehicle is fit for service. We have the difficult task of ensuring a safe and reliable taxi fleet for the public, with only limited tools available to meet this challenge. Age of a fleet is a viable, efficient tool for this job.

However, we recognize that this requirement may cause undue hardship on select carriers. Therefore, we will allow a compromise. We will continue to impose an 8 year limit, subject to a specific exemption. A carrier may request our enforcement personnel to inspect any vehicle more than 8 years old to determine if that vehicle is fit for service. While this necessitates a certain amount of discretion be exercised by our enforcement personnel, this is the necessary result when the clear cut 8 year litmus test is rejected.

(footnote added). The Commission has, in this proceeding, recognized that the age of a vehicle is not an accurate barometer of condition for vehicles used in limousine service, replacing the age limitation with a mileage limitation. The Commentators submit that use of the age limitation as the sole criterion for elimination of a particular vehicle in a taxicab fleet does not reflect the safety of the vehicle. Unlike the premise set forth in the Commission's Order, many rural taxicab vehicles are not in constant use and transport individuals over greater distances than vehicles used in a metropolitan area. In this regard they are used more like limousines. While the Commentators do not espouse the use of a mileage limitation for taxicabs, it is necessary for the Commission not to link any one generalized criterion for a determination of whether a vehicle is "safe". Such overgeneralization ignores the varying conditions under which these vehicles operate. The Commentators have proposed an alternative procedure which would relieve the administrative burden upon the Commission; promote efficiency; decrease costs to both the Commission and the carriers; and continue to insure that safety is not compromised.



As a result of rejecting an absolute 8 year test, considering other factors, and the potential hardship upon the industry, the Commission, in its final form regulation, inserted the "unless otherwise permitted" language in §29.314. This hardship rationale which the Commission found so compelling is equally applicable today and would prohibit a company from the utilization of antique or different types of vehicles as well as older vehicles with limited mileage.<sup>7</sup>

It is vital that the Commission retain its discretion to provide a vehicle for the industry to obtain Commission approval to utilize older, limited mileage vehicles on an individual basis while at the same time eliminate the cumbersome process that was initially developed under the current provision.

In order to ascertain whether the Commission should grant a vehicle specific waiver of the 8 year limitation, the Commission established an elaborate process whereby a carrier submitted to the Commission: photographs, detailed maintenance records, justification for the waiver for that particular vehicle, and whatever additional information that the Commission deemed necessary. Submission of reams of paper to the Commission required an extraordinary amount of time for the carrier to compile and Commission personnel to review.<sup>8</sup>

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<sup>7</sup> Several companies over the years have held informal discussion with the Commission regarding the use of "Checker" or other reconditioned vehicles in taxicab service. These discussions have been without positive result. Due to the cessation of production, these vehicles exceed the 8 year limitation.

<sup>8</sup> See pages 5-7 of the Commission's Order in this proceeding which pages provide further details of the process. Currently, this administrative process is applicable to both taxicab and limousine service.

As justification for removing the Commission's discretion provided by the "unless otherwise permitted" language, the Order states that of the vehicles presented "less than 15% passed the Commission's safety and reliability standards for taxis to operate in motor carrier service for the public."<sup>9</sup> The Commentators can appreciate that administrative costs can outweigh any public benefit and with these comments the Commission seeks to streamline the process. Little doubt exists that a reliable vehicle benefits both the public and the carrier. If a carrier cannot rely upon his vehicle to be available for service, that carrier's reputation and revenues will suffer. None of the Commentators are seeking to put unsafe vehicles on the road, however members of the industry apply a standard that takes into account multiple factors rather than a single criterion. The Commentators suggest that the Commission recognize that the maintenance practices of most if not all of the motor carriers are paramount to the safety and convenience of the traveling public.<sup>10</sup> To that end, the Commission could do away with the cumbersome pre-inspection process and rely upon a special "wheels off" inspection of those vehicles which will exceed the 8 model year rule rather than utilize an absolute single factor criterion. Such an inspection could be conducted under the Commission's current annual vehicle inspection or at any time pursuant to the general authority granted to the Enforcement

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<sup>9</sup> Emphasis added. The statistics can be misleading without additional information. For example, does the 15% represent the vehicles that passed the wheels off inspection or did Commission staff only approve 15% of the vehicles submitted for waiver to be subject to an inspection and all of them passed the inspection. How many applications were denied because incomplete information was furnished; the carrier failed to respond to staff questions within the 10 day period allotted; the reviewer was of the opinion that the number of miles on the vehicle exceeded some arbitrary figure unknown to the industry; or the reason for the waiver request was deemed insufficient.

<sup>10</sup> To knowingly place an unsafe vehicle on the road subjects any carrier to business ending civil liability.

Officers to inspect in service vehicles at any time.<sup>11</sup> The changes proposed by the Commentators will drastically reduce administrative costs and burden to both the industry and the Commission staff while maintaining safety and reliability.

In eliminating the "discretion" language, the Commission notes in footnote 3 on page 8 of its Order that: "A carrier regulated by the Commission may still file a petition for waiver of Commission regulations. 52 Pa. Code §5.43. While this is true, reliance upon this provision provides additional pitfalls. First; the administrative burden will not be eliminated but transferred within the Commission and may even increase. Section 5.43 provides:

A petition to the Commission for the issuance, amendment, waiver or repeal of a regulation must set forth clearly and concisely the interest of the petitioner in the subject matter, the specific regulation, amendment, waiver or repeal requested, and cite by appropriate reference the statutory provision or other authority involved. The petition must set forth the purpose of, and the facts claimed to constitute the grounds requiring the regulation, amendment, waiver or repeal. Petitions for the issuance or amendment of a regulation shall incorporate the proposed regulation or amendment.<sup>12</sup>

Nothing in the Commission's Order hints that the criteria currently being utilized by the Commission's Bureau of Investigation and Enforcement will be any different in the case of an application for a waiver under §5.43. Secondly, it is presumed that any such regulation waiver request would be assigned to a Commission Bureau for review and the preparation of a report for Commission consideration. Third, as provided by 52 Pa. Code §5.43(b), any waiver of a regulation must be served upon Staff the Office of Trial Staff, the Office of Consumer Advocate,

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<sup>11</sup> 52 Pa. Code §29.406

<sup>12</sup> The Petition must be served upon anyone directly affected by the request, the Office of Trial Staff, OCA, and OSBA.

and the Office of Small Business Advocate; resulting in the expenditure by those entities of time to review the filing. In the event any of these entities disagreed with any portion of the requested waiver, they possess the statutory right to intervene in the proceeding which could potentially lead to the necessity of the holding of evidentiary hearings before an Administrative Law Judge.

The substitution of one regulation for another would be far from cost effective. As it is under the current system, the request for waiver under §5.43 is fact specific. Thus, it should be assumed that the same information that is currently required will also be required in a Petition under §5.43. Upon receipt of the Petition, the Commission, after docketing by the Secretary's Bureau, would presumably forward the Petition to the Bureau with the specific expertise to provide an analysis of the Petition – presumably the Bureau of Investigation and Enforcement in conjunction with the Law Bureau. Thus begins the Commission's review of the worthiness of the Petition. Upon review of all factual allegations, the Commission may determine that additional facts are necessary to complete its analysis. As stated previously, one or more of the additional parties may offer facts that call into question the facts put forth by the Petitioner or the rationale for the request. In such a case, it is safe to assume that the Commission would refer the matter to the Office of Administrative Law Judge to ascertain the true facts in the matter. Upon the holding of hearings, the filing of briefs, the issuance of an Initial Decision, and the filing of exceptions, the matter would come before the Commission for decision. The use of this procedure would do nothing more than add additional layers and delays on to the process. Additionally, since a corporation, LLC, or partnership is required by §1.21 to be represented

before the Commission, even the very act of filing the Petition would require the retention of counsel at a considerable expense to the carrier.

Even assuming no disputes arise, the Petition and Staff analysis and recommendation would come before the Commission for decision, taking additional time out of the Commissioner's schedules. By requiring the motor carrier to petition the Commission for the waiver of the regulation, the work load upon the Commission and its Staff does not change and may increase. The effect of such a process would be to further deter legitimate requests for the waiver through the imposition not only of the current onerous burden placed upon carriers, but imposing additional costs.

Of additional concern is the fact that 52 Pa. Code §5.43 would arguably allow waiver of §29.314(d) for all vehicles owned by a particular motor carrier; does not require a special inspection; and would apply forever unless modified at a later date. Should the Commission determine to make an order vehicle specific, it will be faced with multiple §5.43 petitions as each vehicle approaches the established mileage limitation. For example, any carrier that possesses a fleet of any size devoted to the public service would be required to file a petition as each vehicle approaches the 8 year limit and seek a waiver for that specific vehicle. Essentially, that is no different than the process currently in use. However, and unlike the proposal of the Commentators, the Commissioners would be required to rule on each individual request at a public meeting.

Assuming the Commission Order in each case requires a special inspection of any vehicle for which a Petition is successfully filed, the work load on the Enforcement Officers will be no different than it is today and is redundant given the ability of the Enforcement Officers to

inspect any vehicle at any time pursuant to 52 Pa. Code §29.406. Only a visual “wheels off” inspection, which currently takes place, can truly determine whether the individual vehicle is safe for use in the public service. As the Commentators suggest elsewhere in these comments, efficiency would dictate that any vehicle for which a waiver is sought be inspected at the same time as the Enforcement Officer conducts his or her annual review of all vehicles in a fleet.

A review of the Commission’s rationale for the change in the language would appear to indicate that it is concerned over the amount of paperwork generated by the current process over a condensed period of time.<sup>13</sup> Elimination of the discretionary language in the regulation does not solve the problem. In order to eliminate the mound of paperwork which needs to be processed over a shortened period of time and then inspect the vehicle for safety, the solution is quite simple – eliminate the automatic and absolute regulation and replace it with a “wheels off” inspection for any vehicle that will be 8 model years old in the forthcoming year.<sup>14</sup>

While physical age and mileage are indicators to any owner for the need for increased vigilance with respect to a particular vehicle, it does not necessarily follow that expenses increase as mileage and age increases. Consistent routine maintenance and attention to minor mechanical and cosmetic issues can avoid major expenditures as the vehicle ages. This is particularly important to the smaller operator who simply cannot afford a high rate of turnover in its fleet.

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<sup>13</sup> There is currently no stated window for filing, but it appears that most requests are filed near the end of the calendar year.

<sup>14</sup> To prevent the filing of frivolous requests, the Commentators are willing to discuss with the Commission the payment of a minimal “inspection fee” for any vehicle that fails for multiple reasons.

Imposition of any absolute rule takes away the discretion not only of the Commission, but the carrier as well who deals with his or her vehicles and makes daily business decisions to determine when it is appropriate to retire a vehicle from service. Of course each operator would be thrilled to generate sufficient revenue to replace an entire fleet on an annual basis. However, in a declining economy with decreased ridership, such a utopian goal is totally unrealistic.

Erie Transportation Company, with a fleet of 25 vehicles illustrates the absurd results that have occurred under the current process as well as what would occur under the proposed absolute 8 year regulation. Within its fleet there exist some 2007 model year vehicles with in excess of 400,000 miles. This vehicle does not need to go through the waiver process. However, within that same fleet is a 2005 vehicle with 175,000 odometer miles which is in mint condition. Under the current rule, Erie was required to file for a waiver for this vehicle. Under the proposed rule, that vehicle would not be able to be used at all. Additionally, due to the durability of vehicles a carrier is able to purchase a clean, low mileage vehicle at a reasonable cost when compared to a brand new vehicle. Frequently these previously used vehicles are financed over a period of 5 or more years. Assuming adequate maintenance of the vehicle, it is entirely possible that the payments on this vehicle will not have been completed prior to its forced retirement resulting in a capital loss to the carrier. A review of recent vehicle auction prices indicates that a late model (2009) limited mileage vehicle is selling for approximately \$20,000. Having financed this vehicle, and assuming the Commission does not alter its

proposed regulations, a carrier would have four years to recover not only the original purchase price, but financing costs as well.<sup>15</sup>

Additionally, insurance rates are not only based upon prior losses and recognized risks, but are also affected by the age of a vehicle as well as volume discounts. As a vehicle ages and its value decreases, the premium decreases. The same is true of volume discounts; that is, the more vehicles on a fleet policy the lower the unit cost.<sup>16</sup> The replacement of an older vehicle with a brand new vehicle will increase insurance premiums due to the increased cost of replacing the new vehicle. Failure to replace the vehicle jeopardizes the volume discount. Additionally, carriers are generally required to pay their insurance premiums in advance. The removal of a vehicle from service may result in the forfeiture of that advance premium.<sup>17</sup>

Due to cash flow problems experienced by many carriers, it is more financially feasible to spend \$300 per month to maintain a vehicle than to replace with a newer model for \$6,000 which vehicle may only be available for service for a few years of use until replacement is mandated under the proposed regulations. Failure to be able to keep an "aged out" but well maintained vehicle in service has further implications – the immediate loss of jobs. If the 8 year old vehicle was operated on a three shift, 24/7 basis; was forced to be removed from service;

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<sup>15</sup> Depending upon the mileage on the odometer, the \$20,000 figure can easily rise to \$25,000 excluding finance costs.

<sup>16</sup> This is no different that the multiple car discount for personal cars or the discounts applied for placing insurance on a home, etc. with one company.

<sup>17</sup> Although, the Commentators have been unable to compile statistics regarding accident and safety rates, actual experience would seem to suggest that more taxicab accidents are caused by operator error than mechanical failure.



and not able to be replaced by the carrier for whatever reason, three individual drivers will lose their jobs.

It is only logical for any operator to sideline a vehicle for a few hours or a day to attend to minor issues than to have that vehicle being out of service for a week for a major overhaul or having to replace the vehicle. To minimize costs, many of the major carriers employ their own mechanics. Smaller carriers attempt to enter into long term agreements with independent mechanics at reduced parts and labor costs. The Commentators agree with the Commission that maintenance is the key factor in insuring the safety and reliability of a particular vehicle. With adequate and regular maintenance today's vehicles are made to exceed a useful life of 8 years if properly and routinely maintained. The consensus among the Commentators is that vehicles are generally voluntarily replaced when the costs to maintain a vehicle, whether related to cosmetics or poor performance issues reach such a level that a prudent businessman would replace the vehicle, regardless of age or mileage.

To make the 8 year rule an absolute rule ignores the potential financial hardship which gave rise to the insertion of the language in the first place. In rural portions of the Commonwealth the vehicles are generally not subject to the same road conditions of city streets in major metropolitan areas resulting in less wear and tear. In these rural areas the ridership is comprised of mostly elderly individuals whose ability to pay is hampered by fixed incomes and rising costs. To require a rural carrier to purchase a newer vehicle every year or several years would necessitate an increase in rates which many of that carrier's ridership could not afford resulting in a further decrease in ridership.

Forced elimination of vehicles will not only cost drivers their jobs, but will exacerbate the decline in ridership and revenues due to the current economic climate. A further decline in ridership and revenues has a snowball effect. Decline in ridership and revenues could result in the inability to replace additional vehicles as they "age out" or their removal from service due to inability to afford repairs.

The Commentators recommend that the Commission not adopt the regulation as proposed but have a "wheels off" inspection performed on any vehicle 8 model years old. Adoption of the special "wheels off" inspection paradigm will eliminate the mounds of paperwork as well as provide a concrete method of determining the safety of the vehicle in question.

## **2. Alternative Proposal**

In the alternative, the Commentators suggest that the Commission substitute an absolute 10 year rule for the current 8 year period. While this option does not solve the problem of a carrier seeking to utilize an unusual vehicle for service, it would permit existing carriers an opportunity to purchase low mileage vehicles at a reasonable price and establish a period of time during which they can update their fleets at a reasonable cost. None of the Commission's orders provide any evidence of the appropriateness of the 8 model years as the age when any vehicle becomes unsafe.<sup>18</sup> While the Commentators acknowledge that the Commission is responsible for insuring the safety of the traveling public, there exists no evidence in any Commission proceeding that after 8, 10, 15, or even 20 years any specific vehicle is unsafe. The Commentators believe that should the Commission be intent on retaining

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<sup>18</sup> As stated previously, the Commission has abandoned the age requirement for limousines as inappropriate.

an absolute age requirement, the limit should be established at 10 taxicab "service years". While the 10 year limit is just as arbitrary as an 8 year limit, a 10 year service limit would permit a carrier to utilize an older limited mileage vehicle.<sup>19</sup> To establish an appropriate service limit, the Commentators would gladly meet with Commission personnel to establish a mutually agreeable service years' limitation.

### **C. Proposed Regulation Modifications**

The Commentators herein applaud the Commission for revisiting what has become a cumbersome process for both the Commission and the taxicab industry. The Commentators appreciate the tremendous amount of time and effort expended by the Commission staff in devising a program to insure the safety of the traveling public while simultaneously recognizing the financial constraints currently being experienced by the taxicab industry. The Commentators also agree that the age and mileage of a particular vehicle are important factors in the wear and tear to which each vehicle is exposed, factors which can be overcome to a large part by routine maintenance and repair. Every part on a vehicle can be replaced or repaired if the owner is not concerned with cost. With replacement parts and proper maintenance, a 1950's Ford with 800,000 odometer miles can look and run better than a 2005 Ford with 20,000

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<sup>19</sup> These taxicab "service years" would be cumulative; that is, if a vehicle was used for 8 years in taxicab service for one carrier or in another state, it would have a useful life as a taxicab for an additional two years – no more.

odometer miles but which has never seen an oil change, dents and rust repaired, tires changed, etc.<sup>20</sup>

The Commentators agree that the current regulations are not the solution to the issue of safety – only a thorough inspection of the vehicle can reveal whether it is safe or not to be operated and the imposition of an absolute rule can lead to absurd results. For example, a 2000 Ford with 30,000 odometer miles driven only on weekends by a private owner would, intuitively, be in better shape than a 2010 vehicle with 120,000 miles. However, the 2000 Ford would not be permitted to be used in public service under current and proposed regulations but the 2010 vehicle could be operated for five more years without even having to be subject to either the current or proposed regulation.

As found by the Commission in its 2005 Order, the Commission's Enforcement Officers must be able to utilize their discretion in viewing both of these vehicles and consider all factors in making a determination whether to permit a vehicle to be used to provide service to the public. The Commission should not handicap an Enforcement Officer from exercising that discretion by imposing an absolute rule, whether age or mileage. The Commentators suggest that the Commission retain the "unless otherwise permitted by the Commission" language and adopt its other proposed changes.

To recognize the need for greater vigilance which should be paid to older vehicles and eliminate the massive amount of paperwork and time consumed by both the Commission's Staff and carrier employees, the Commentators recommend that the Commission eliminate the intermediate step of determining whether a particular vehicle is worthy of inspection in the

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<sup>20</sup> Under the Commission's "absolute rule" an antique vehicle (defined by PennDOT for license tag assignment) would by definition fail both the current and most likely the proposed regulation.

first place. The Commentators suggest that each carrier would provide notice to the Commission as suggested elsewhere in these comments which would set forth all vehicles that it anticipates will reach a predetermined age during the next 12 months. By providing such notice to the Commission, the Enforcement Division can plan to make inspections over the period of a year.<sup>21</sup>

At the appointed time, the vehicle will be presented to the Enforcement Officer for a comprehensive "wheels off" safety inspection. It should be noted that this special inspection would be in addition to any inspection made under the Pennsylvania Motor Vehicle Code or pursuant to the existing ability of Enforcement Officers under 52 Pa. Code §29.406 to make annual or random inspections. Assuming the vehicle passes this inspection, the carrier would be required to present this vehicle on an annual basis until the vehicle is retired from service. Should the vehicle fail the inspection, the vehicle would be placed "out of service" pursuant to 52 Pa. Code §29.406.

Consistent with the comments contained herein, the Commentators propose the following language modifications to §29.314:

(c) *Vehicle List.* [Between December 1 and December 31] During the first quarter of each calendar year, carriers shall provide the Commission with a current list of all vehicles utilized under its call or demand authority which will exceed 8 model years old during the succeeding twelve months. The list must contain the year, make, vehicle identification number, current odometer reading and registration number for each vehicle. The list shall be mailed to the Commission Bureau of Investigation and Enforcement, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

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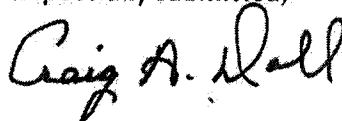
<sup>21</sup> With the furnishing of the current odometer reading, the Enforcement Division will have additional information and can prioritize the vehicles to be inspected.

(d) *Vehicle age.* Unless otherwise permitted by the Commission, a vehicle may not be operated in call or demand service which is more than 8 model years old unless the vehicle is submitted for and passes a special wheels off inspection in the presence of a Commission Enforcement Officer. This inspection shall be in addition to any routine inspection pursuant to the Motor Vehicle Code or 52 Pa. Code §29.406.

### III. Conclusion

For the reasons set forth above, the Commentators respectfully request that this Commission adopt the proposed changes suggested herein. Additionally, The Commentators appreciate the opportunity to provide these comments and express their willingness to engage in continuing discussions with Commission personnel regarding these or future changes in regulations impacting the transportation industry.

Respectfully submitted,



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Attorney I.D. # 22814

Attorney for the Greater Pennsylvania  
Taxicab Association

DATED: November 18, 2013

**EXHIBIT "A"**  
**Participating Companies**

1. AA Taxi, Inc.
2. A-1 Altoona Taxi
3. American Cab and Limo
4. Amigo Taxi
5. Blair Cab, Inc.
6. Capital City Cab
7. Corry Cab Company
8. Diamond Taxi
9. Dollar Taxi
10. Easton Taxi, Inc.
11. Erie Yellow Cab
12. EZ Taxi
13. Friendly Transportation
14. Good Cab
15. Greens Taxi, Inc.
16. Harrisburg Taxi
17. Keystone Cab
18. Pike County Taxi
19. Pioneer City Cab
20. Super Cab
21. Taxi Express
22. Time Saver Taxi
23. Tri County Access Co. Inc.
24. United Cab
25. Warren Taxi Service
26. Yellow Cab of Altoona
27. Yellow Cab of Lebanon
28. York Cab Co.