

## Comments of the Independent Regulatory Review Commission



### Philadelphia Parking Authority Regulation #126-11 (IRRC #3103)

#### Modern Taxicab Standards

August 12, 2015

We submit for your consideration the following comments on the proposed rulemaking published in the June 13, 2015 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Philadelphia Parking Authority (PPA) to respond to all comments received from us or any other source.

#### **1. Whether the regulation represents a policy decision of such a substantial nature that it requires legislative review.**

The Preamble to this rulemaking states that the purpose of this proposal is to improve the quality and capability of taxicabs in Philadelphia. This will be accomplished by requiring all vehicles proposed for medallion taxicab service and 25 percent of each carrier's fleet of partial-rights taxicabs to be wheelchair accessible. In addition, the proposal will require all vehicles brought into taxicab service to be late model vehicles with less than 500 miles on the odometer. PPA anticipates a gradual upgrading of the taxicabs because the improvements will occur as existing vehicles are replaced.

Members of the riding public, advocates for individuals with disabilities and public officials from the City of Philadelphia have submitted comments expressing support for this proposal. Conversely, members of the regulated taxicab industry are opposed to it. This Commission recognizes the benefits this proposal will have for users of taxicabs in Philadelphia, particularly individuals with disabilities, and is aware of the negative fiscal impact the rulemaking could have on the taxicab industry. We are also cognizant of the impact that unregulated competitors providers are having on the taxicab industry in Philadelphia, the Commonwealth and throughout the country.

Against this backdrop, we believe that the proposal being offered by PPA is a policy decision of such a substantial nature that it requires legislative review. In the Regulatory Analysis Form submitted with the proposal, PPA states that it will, "act on its own when possible, seek active participation of the riding public and the regulated industry at all times and *may seek additional authorization from the Legislature* to bring about the level of taxicabs service demanded by today's more discerning customers." (Emphasis added.) We believe PPA's proactive approach to the many issues facing the taxicab industry in Philadelphia is laudable. Given the contentious

nature of this rulemaking, however, we encourage PPA to seek guidance from and work closely with the General Assembly as it moves forward with this proposal.

## **2. Whether the regulation is consistent with the intent of the General Assembly; Statutory authority.**

While this Commission does not question the policy goals of PPA and this rulemaking, we do question whether PPA has the statutory authority to pursue those goals as set forth in this rulemaking and whether the goals align with existing law, and therefore the intent of the General Assembly. As noted by commentators, it would appear that PPA is only authorized to issue a specific number of new certificates of public convenience and corresponding medallions for wheelchair-accessible vehicles (WAVs). 53 Pa.C.S.A. § 5711(c)(2) reads as follows:

The authority is authorized to issue the following:

- (i) Subject to the provisions of subparagraph (ii), a maximum of 1,600 certificates of public convenience and corresponding medallions for citywide call or demand service and an additional 15 certificates of public convenience and corresponding medallions restricted to wheelchair-accessible taxicab service as provided in this chapter.
- (ii) Beginning June 1, 2013, and each June 1 thereafter until there is a total of 1,750 certificates of public convenience and corresponding medallions, the maximum number of certificates of public convenience and corresponding medallions for citywide call or demand service shall be increased by 15. The authority, in its discretion, may issue the certificates and medallions authorized by this subparagraph with special rights, privileges and limitations applicable to issuance and use as it determines necessary to advance the purposes of this chapter and may issue the certificates and medallions authorized by this subparagraph in stages.

What is PPA's specific statutory authority to convert Philadelphia's existing fleet of certificated vehicles into WAV's? In addition, what is PPA's specific statutory authority that would allow it to require partial rights taxicab companies to convert 25 percent of their fleets into WAVs?

## **3. Determining whether the regulation is in the public interest.**

Section 5 .2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b) directs this Commission to determine whether a regulation is in the public interest. When making this determination, the Commission considers criteria such as the impact on small businesses and reasonableness. To make that determination, the Commission must analyze the text of the proposed rulemaking and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under §745.5(a) in the regulatory analysis form (RAF). Upon review of the RAF, we find that PPA has not provided an adequate analysis of how the regulation will impact small businesses and has not provided a description of any alternative regulatory provisions that were considered. Without this information, we cannot determine if this proposed regulation is in the public interest. In the RAF submitted with the

final-form rulemaking, PPA should provide more detailed information required under §745.5(a) of the RRA.

#### **4. Economic or fiscal impact of the regulation.**

##### *Taxicab industry*

Commentators from the taxicab industry are concerned about the fiscal impact the proposal will have on them. They believe the cost estimates provided by PPA are understated and contend that the proposal will prohibit future financing of new vehicles. They also point out that the value of existing medallions will diminish. According to commentators, existing non-WAV medallions are valued at approximately \$350,000. However, WAV medallions are worth between \$80,000 and \$110,000. We ask PPA to address these concerns in the RAF and Preamble to the final-form regulation. We will evaluate PPA's responses to these issues in making our determination if the rulemaking is in the public interest.

##### *PPA*

We are also concerned about the fiscal impact this proposal could have on PPA. 53 Pa.C.S.A § 5706(a.1) (relating to wheelchair-accessible taxicab driver training), requires PPA to provide WAV certificated drivers a one-time stipend for each day of training the driver attends. It also provides that the annual WAV taxicab driver renewal fee is to be paid from the proceeds of sale of WAV medallions for each successfully renewed application. Since the number of WAV taxicab drivers will dramatically increase, the costs imposed by this statutory provision will also increase. We ask the PPA to quantify these costs and to include those costs in the RAF submitted with the final-form rulemaking.

#### **5. Possible conflict with or duplication of statutes or existing regulations; Implementation procedures; Reasonableness.**

If this rulemaking is adopted, and as standard taxicabs are replaced by WAV taxicabs, every taxicab driver will have to meet the requirements of Section 1021.5a (relating to special wheelchair accessible vehicle taxicab driver's certificate and requirements). We have two concerns about this requirement. First, Section 1021.5a(b)(7)(i) requires WAV taxicab drivers to have two years of experience driving a cab in Philadelphia. Commentators believe that this could lead to a shortfall of taxicab drivers in Philadelphia. Second, Section 1021.5a(c) establishes a cap on the number of WAV taxicab drivers. Under this subsection, the number of WAV drivers may not exceed the product of the number of WAV taxicabs multiplied by four. Is this provision still needed under this proposed rulemaking? In addition to addressing these issues, we ask PPA to review all provisions of 52 Pa. Code Chapter 1021 (relating to taxicab drivers) to ensure the proposed rulemaking is consistent and does not conflict with existing requirements.

**6. Section 1017.4. Age and mileage limitations. – Statutory authority; Possible conflict with or duplication of statutes or existing regulations; Clarity.**

The following language is being added to Paragraph (c), relating to antique vehicles: “The number of antique vehicles in operation in a fiscal year may not exceed 2% of the vehicles comprising the taxicab utility group.” What is a “taxicab utility group”? To improve the clarity of the proposal, we suggest that it be defined in the final-form regulation.

Under Paragraph (d)(1) every medallion taxicab must comply with Section 1017.8 (relating to wheelchair accessible vehicle taxicab specifications), and under Paragraph (d)(2), every partial-rights taxicab must comply with the age and mileage requirements of Section 1017.8(c) as a condition of eligibility for inspection as provided in Section 1017.2. This paragraph would require all vehicles brought into service for the first time to be late models with less than 500 miles and also limit the age of taxicabs to five years. We have two concerns. First, we question the reasonableness of the mileage limitation. This restriction would preclude a medallion owner or a partial-rights taxicab company from purchasing safe, yet cheaper vehicles. How did PPA determine that all new vehicles brought into service should have less than 500 miles? In the Preamble to the final-form regulation, we ask PPA to explain the basis for this decision. Second, the age limitation of five years conflicts with 53 Pa.C.S.A § 5714(a)(4), which allows vehicles to operate until they reach eight years of age. We ask PPA to explain how the proposed regulatory provisions are permitted under the cited statutory language.