

TO IRRC VIA EMAIL

CC: DENNIS WELDON, ESQ. PHILADELPHIA PARKING AUTHORITY via email

**Re: Public Comment by Philadelphia Taxi Association Inc , and its Members by its
counsel, Richard M Meltzer, Esq. and Susan P Halpern, Esq.**

IRRC NUMBER : 3116

PROPOSED REGULATION 126-12

AGENCY:PHILADELPHIA PARKING AUTHORITY

COMMENT PERIOD: OCTOBER 19, 2015

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IRRC

The undersigned are counsel to the Philadelphia Taxi Association, (PTA), located at 6930 Norwitch Drive, Philadelphia, PA 19153. PTA is comprised of more than 220 Philadelphia Taxi Medallion owners and Dispatchers. These Comments are made on behalf of the organization and its members.

PTA opposes installation of cameras under Proposed Regulation 126-12 of the Philadelphia Parking Authority (Authority) and requests IRRC to reject the Proposed Regulatory scheme in its entirety for reasons expressed below.PTA offers these comments to assist IRRC and the Authority to draft a regulation that cures many of the defects, problems, and issues with the present proposal.

PTA is willing to confer with the Authority to discuss the observations and issues expressed herein to assist the regulated community and the public.

BACKGROUND

The Authority implemented 52 Pa. Code §1017.71a) which originally required that safety cameras be installed in all Philadelphia taxicabs by February 23, 2015.

This deadline has been extended numerous times and currently is scheduled for October 15,2015. Although the Public Comment period does not end until October 19, 2015, the Authority currently intends to begin implementing installation of cameras on that date. Thus, it is illegal to enact any Regulation prior to compliance with required statutory administrative procedure. IRRC'S comments are not due until November 18, 2015, well beyond the camera installation deadline set by the Authority.

On August 6, 2015, the Authority submitted Proposed Regulation 126-12 to IRRC.

Proposed Regulation 126-12 pertains to safety camera requirements and specifications.

It removes the requirement set forth in 52 Pa. Code §1017.74 (g). It is not clear at this time whether Proposed Regulation 126-12 will pass in its current form or whether it will be revised or revoked. PTA believes it must be revoked.

Proposed Regulation 126-12 can only be promulgated after the following steps are taken: the Authority receives IRRC's comments, the Authority submits a final-form regulation, the final regulation is published and receives IRRC approval, House and Senate Committee deem the regulation approved and the regulation is published in the Pennsylvania Code.

Proposed Regulation 126-12 directly affects the type of safety camera system that PTA members and Medallion owners in general must purchase. As a result, it also affects which vendors the Authority approves to provide safety camera systems if the Proposed Regulation 126-12 is resolved.

PTA and its members have filed a Waiver Request with the Authority to defer the proposed installation requirement, if any, because such requirement is premature, illegal, and will cause Petitioners irreparable harm.

PTA believes that IRRC should reject the Regulation 126-12 and any requirement to install cameras on the regulated industry.

BASIS FOR REJECTION

1. Partitions adequately protect drivers and passengers. For many years, the partitions have existed; the Public Utility Commission, which regulates taxis throughout the Commonwealth, has no requirement for cameras. Some taxis operate in Philadelphia and outside the City. Which requirement controls?
2. The Regulation is vague, ambiguous and contrary to the public interest because it fails to advise who will be responsible to make repairs. Cabs are required to be out of service during the period the system is not operating. Yet, the Authority's Regulation proposal fails to set forth the identity of the repair shop, its capabilities, its familiarity with the vendor's product, or its ability to address immediate repairs on a 24x7 basis. All these aspects need evaluation. Since it appears that there currently are only two proposed vendors to supply the devices, it is critical that the Authority advise the regulated community of these details and not act prematurely by putting "the cart before the horse". The Authority's regulatory scheme is silent on any of these critical aspects and is incomplete.

The Authority has failed to produce any study or evidence of the capability of the proposed vendors to install and service the cameras or the warranty behind the cameras. Removing vehicles from service because of a defective camera not only affects the taxi industry by a potential loss of revenue, but it also harms the public because there are fewer taxis available. As a condition of being an approved vendor, the

Authority's Regulation must set forth the vendor's financial responsibility for loss of revenue. A security deposit should be mandated as a condition precedent to being an approved vendor, especially when the proposed vendors are not local businesses.

3. The vendors should be subject to a competitive bidding requirement that includes a history of the vendor, its customers, its financial condition and warranty at the very least. The camera system is premature without adequate consideration of these elements. The Authority fails to consider the regulated industry when it proposes a regulatory scheme without inclusion of any findings covering these aspects.

4. The Regulation fails to consider those who already have cameras installed as a requirement of their insurance carriers. Will the Authority permit the insurance carrier's cameras? If not, the Regulation imposes an unfair expense and burden on the regulated community that the Authority has failed to consider in responding to the IRRC Regulatory Form.

4. The Commonwealth Court concluded in June 2015 in the matter of Black Point Taxi et al v Philadelphia Parking Authority, No. 76 MD 2015 that the industry may be harmed because they are required to purchase cameras from approved vendors which allegedly are "unwilling or unable to provide a system that complies with the Regulation." P.9 (Opinion of Senior Judge Friedman, June 3. 2015.) This Opinion applies despite the proposed change in Regulation.

Judge Friedman also determined that "whether a compliant safety camera system exists can be resolved only through discovery and the development of a full record." P. 9 Id. Thus, since such is lacking, the Regulation cannot be imposed at this time on the regulated community.

This lawsuit is still pending and raising various constitutional objections. The Authority's effort to dismiss the lawsuit has failed. Until the completion of the suit, requiring a camera system is premature and will lead only to additional expensive litigation.

5. The Regulation is invalid because it does not apply across the board since it excludes limousines as well as other car services. See Black Point Opinion, P.9. What findings or studies did the Authority conduct before proposing to whom the camera system should apply?

6. The same Commonwealth court concluded, "questions exist whether there is a vendor capable of installing the safety camera system" Id P 9. The Authority has changed vendors during this entire process, which only supports the conclusion of the Commonwealth Court. Without assurances of the vendor's capabilities as outlined herein, the Regulation should not be imposed at this time. IRRC should advise the Authority many of these holes must be filled prior to allowing the camera system.

7. In addition, the Regulation does not apply to the illegal operation of Uber X, which the Authority has failed to regulate or to enforce any compliance with its Regulations. The Authority has continually failed to close down the illegal operation which has no safety cameras or any other alleged safety regulations imposed upon the regulated industry. .

The Regulation Analysis Form at paragraph 13 provides "that the regulation will not impact any other regulation." It is PTA's position that Uber X is the same as taxis. By failing to require Uber X to comply with this or any other Regulation, the Authority is acting in a discriminatory manner and adversely affecting PTA and the industry.

The alleged basis for the cameras is to protect drivers and the public. Yet, by permitting Uber X to operate without any regulatory oversight, how can the Authority protect the public?

8. Despite the effort to impose the Regulation 126-12, the Authority concedes there is "potential reintroduction of a transmission system requirement in the future." (See "Regulatory Analysis Form from Authority dated August 6, 2015 at paragraph 10). The passage of the Regulation cannot be permitted under these conditions. When will the Authority make its decision that will effectively reverse the present proposed Regulation and impose additional costs to an industry financially suffering because of illegal competition from the Uber X operation?.

CONCLUSION

WHEREFORE, PTA respectfully request that IRRC deny the proposed Regulation and require the Authority issue proposed regulation containing the above factors.

Respectfully submitted

/s/

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