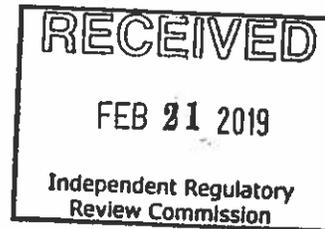




Taxicab and Limousine Division
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February 20, 2019

The Honorable George D. Bedwick
Chairman
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

Re: *An Update on the Availability of Wheelchair Accessible Vehicle Service in the Commonwealth*

Dear Chairman Bedwick:

I would first like to thank you and Vice Chairman John F. Mizner for extending an invitation to the Philadelphia Parking Authority ("Authority") to submit comments and to testify before the Independent Regulatory Review Commission's public hearing on February 21, 2019 entitled *An Update on the Availability of Wheelchair Accessible Vehicle Service in the Commonwealth*.

An Authority representative will testify at the February 21, 2019 hearing. Additionally, the Authority submits the following written comments concerning the current status of wheelchair accessible vehicle ("WAV") service provided by for-hire vehicle services in Philadelphia.

As you are aware, the Authority is the sole regulator of all taxicab, limousine and transportation network company ("TNC") services in Philadelphia.¹ Act 164 of 2016 ("Act 164")² legally changed the landscape of the for-hire industry in Pennsylvania when it established and provided for the regulation of TNC service throughout the Commonwealth, including Philadelphia.³ Act 164 also amended certain regulatory requirements related to Philadelphia taxicab and limousine services.⁴

¹ See the Act of July 16, 2004, (P.L. 758, No. 94), 53 Pa.C.S. §§ 5701 *et seq.*

² See the Act of Nov. 4, 2016, P.L. 1222, No. 164.

³ See 53 Pa.C.S. Chapter 57A (relating to transportation network companies).

⁴ See 53 Pa.C.S. Chapter 57B (relating to regulation of taxicabs and limousines in cities of the first class).

Act 164 provides for certain WAV requirements applicable to TNCs and lowered some of the existing WAV standards that applied to taxicabs. The current status of WAV service in Philadelphia varies between the two types of service.

WAV Taxicab Service

Through Act 119 of 2012 ("Act 119"), the Pennsylvania Legislature authorized the Authority to issue an additional fifteen (15) Philadelphia taxicab medallions, provided that those medallions were used for the purposes of providing WAV service.⁵ Additionally, Act 119 permits the Authority to issue 15 more medallions each year until there is a total of 1,750. The Authority may continue to issue those medallions with identical or similar restrictions as the first 15 WAV medallions.⁶ All of these new medallions must be sold through a public auction.⁷

In 2014, the Authority promulgated regulations concerning WAV service requirements (i.e. vehicle and driver standards, dispatching and service criteria) and procedures for medallion sales and began selling WAV taxicab medallions in 2015.⁸ The Authority's Board has decided to apply WAV standards to every new Philadelphia taxicab medallion. There are currently 28 WAV taxicabs operating in Philadelphia and we anticipate that 31 more will be in service within the next few months. By June 1, 2019, 45 more medallions will be available for sale. However, past participation at the WAV medallion auctions held by the Authority was sparse.

There are currently only 43 WAV taxicab drivers certified by the Authority. To obtain a special WAV driver certificate, an individual must be a certified taxicab driver and attend 6 hours of in-class instruction. The applicant must pass a test administered by the Authority, which covers all aspects of WAV taxicab service, including the operation of a WAV taxicab and the entry, exit and securing of a passenger in a wheelchair. A certified WAV taxicab driver must complete this training every 2 years. Authority regulations provide for zero tolerance of unlawful discrimination, including discrimination against persons with disabilities. WAV taxicab drivers are also required to give preference to a person seated in a wheelchair who requests taxicab service over a potential customer that is not in a wheelchair. As an incentive, the Authority covers all WAV driver training costs and pays a \$50.00 stipend to everyone who successfully completes the training course. During 2018, the Authority's Taxicab and Limousine Division ("TLD") issued 7 citations to drivers related to WAV taxicab service. One citation involved discrimination.

WAV dispatchers certified by the Authority are required to have at least 10% of the authorized WAV taxicabs in its association at all times. This requirement is intended to ensure that WAV taxicab service is available 7 days a week, 24/7. Currently, there are 2 certified WAV dispatchers in Philadelphia. In the event a dispatcher cannot provide a WAV taxicab to a customer within 20 minutes, the request for service must be forwarded to all other dispatchers

⁵ See the Act of July 5, 2012, P.L. 1022, No. 119.

⁶ See 53 Pa.C.S. § 5711 (c) (relating to power of authority to issue certificates of public convenience).

⁷ See 53 Pa.C.S. § 5717 (b) (relating to additional certificates and medallions).

⁸ See 44 Pa.B. 5017 (relating to taxicab medallion sales by the Authority); see also 44 Pa.B. 5662 (relating to wheelchair accessible vehicle taxicabs).

using an immediate and simultaneous communication method approved by the Authority. The TLD monitors this requirement daily. During 2018, the TLD issued 7 regulatory citations to dispatchers for failing to forward a request for WAV service. However, these citations were issued as a result of undercover operations performed by the TLD and not from any complaint filed by the riding public.

When the Authority promulgated regulations for WAV taxicab service standards in Philadelphia, it took great consideration to address the need to provide high-quality, safe and reliable WAV taxicab service in Philadelphia, while balancing the interests of service providers and the general public. The passenger information monitors installed in all Philadelphia medallion taxicabs are accessible to customers who are blind, visually impaired, deaf and hard of hearing. Some of those vehicle standards went above the ADA guidelines and require specific training and testing for WAV drivers along with criteria to ensure WAV taxicab service is provided safely. These standards were applauded by advocates for the disabled community. For example, the Authority required a 32-inch wide entrance ramp for WAV taxicabs versus 28-30 inches required by the ADA. The Authority's requirement of a wider ramp represented the interests of those who use wider mobilized wheelchairs, which is much more common today.

Unfortunately, Act 164 statutorily imposed lower WAV standards and the Authority has been compelled to comply.⁹ Before Act 164, all taxicabs, including WAV taxicabs, were required to be inspected twice a year by the Authority to ensure safety. Act 164 now limits those inspection to only once every four years. Under the Authority's regulations, all WAV taxicabs were required to adhere to higher standards, including the use of new or nearly new vehicles. However, Act 164 removed entry mileage requirements and now permits WAV vehicles to remain in service until reaching 8 years of age or 350,000 cumulative miles. Additionally, Act 164 states that requirements for WAV taxicabs shall be consistent with those of the ADA. Therefore, the larger width of a WAV taxicab ramp that the Authority required along with other modernized vehicle specs are no longer in place.

During 2018, WAV taxicabs provided 1,939 trips, which equates to less than 1% of all medallion taxicab trips provided in Philadelphia.¹⁰ At least half of those WAV trips were provided through contracted services. While the Authority has received a few generalized allegations from members of the disabled community concerning lack of WAV taxicab service in Philadelphia, there has not been a single formal complaint filed with the TLD during the last year concerning a specific incident. During 2018, the TLD issued a total of 16 citations related to WAV taxicab service, which is less than 1% of all regulatory citations issued. The TLD continually performs integrity checks and undercover operations to ensure that proper WAV taxicab service is being provided in Philadelphia under the guidelines outlined in the law.

WAV TNC Service

Act 164 also provides for certain WAV requirements as it relates to TNCs. The Authority has licensed 2 TNCs to operate in Philadelphia, these are the companies commonly

⁹ See 53 Pa.C.S. § 57B02 (c)(2) and (6) (relating to taxicabs and limousines).

¹⁰ In 2018, there were a total of 4,457,007 medallion taxicab trips provided in Philadelphia.

known as “Uber” and “Lyft”. Pursuant to Act 164, the digital network used by each of those TNCs is accessible to customers who are blind, visually impaired, deaf and hard of hearing.¹¹ The digital networks also provide passengers with disabilities requiring the use of mobility equipment an opportunity to indicate whether they require a WAV. TNCs are required to ensure that the service provided by each TNC driver is offered in a nondiscriminatory manner. The TNC’s policy concerning nondiscrimination is required to be posted on the TNC’s website along with the procedure to report a complaint of discrimination to the Authority, which such information is also required to be provided to a passenger on the digital receipt.

However, Act 164 is very vague as to certain TNC WAV requirements. First, the TNCs combined were required to have an aggregate minimum of 70 WAV vehicles available “in the city” by June 30, 2017. Act 164 does not require an individual TNC to have a minimum number of WAVs. The TLD conducted an integrity check and this requirement was met. Today, the TLD has confirmed that there are 101 TNC WAV vehicles “available in the city” through a combination of both TNCs. But, Act 164 does not define what “available” means. Therefore, it is unclear how many hours per day a TNC WAV must be available to provide service on the platform. TNC drivers create their own hours. A TNC WAV driver could work only 1 day out of a month.

Act 164 also does not require a maximum amount of time WAV service is required to be provided upon a request for a WAV TNC. The Authority repeatedly hears from the disabled community that TNC WAV service takes exceptionally too long to be fulfilled, if being provided at all. Act 164 prohibits the Authority from certifying TNC drivers, including TNC WAV drivers. But each TNC is reporting that they ensure their drivers receive WAV training, including training from a third party. The TLD has performed undercover operational checks on TNC WAVs both during the day and night and on weekends. The TLD has found that TNC WAVs were available at those times and have only encountered a couple of instances concerning a TNC WAV driver who failed to properly secure a wheelchair in the vehicle.

The Authority has very limited auditing power under Act 164 concerning TNCs and TNCs have very limited reporting requirements. Due to specific limitations in Act 164, the Authority does not know how many TNC vehicles are in service at any given time, nor the identities of any TNC drivers. We do not know the number of actual TNC WAV trips, average wait times for requesting TNC WAV service, the number of complaints the TNCs receive concerning WAV service and the results of those complaints, etc. Unless a complaint is filed with the Authority, we have no knowledge of what standards of service a TNC actually provides. To date, the Authority has only received 1 complaint concerning a TNC WAV trip.

Since Act 164’s passing, the TNCs have reported to the Authority annually regarding the programs and best practices the TNC has implemented to improve accessibility service.¹² Some of the programs and/or practices currently being implemented, as reported by the TNCs,

¹¹ See 53 Pa.C.S. § 57A11 (relating to transportation network service accessibility).

¹² *Id.*

are financial incentives for WAV drivers, subsidies for WAV vehicles, third-party contracting to provide WAV service, driver training, etc.¹³

To address some of the vagueness of Act 164 and issues concerning TNC WAV service, the Authority intends to initiate a rulemaking to promulgate regulations to possibly fill those gaps.

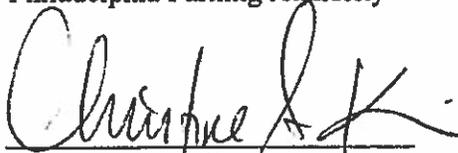
Act 164 also failed to provide adequate funding for the new TNC regulatory work required by statute in Philadelphia. It also removed approximately half of the taxicab and limousine regulatory appropriation from \$8.5 million to \$4.2 million. As a result, the Authority's TLD has reduced staff by 45% (16 employees). This steep reduction to the TLD's appropriation has rendered it unable to adequately perform all of its required statutory duties. The TLD's Enforcement Department now only consists of 7 inspectors to patrol 2,575 miles of streets in Philadelphia with 136,000 taxicab and TNC trips being provided in Philadelphia daily. In short, the Authority has not been provided the funding or tools necessary to adequately assure the public that a responsible level of regulatory review exists in Philadelphia, including WAV service.

Conclusion

In conclusion, Act 164 has not provided sufficient regulatory oversight of both taxicab and TNC WAV service and requirements. Additionally, it is clear that studies should be conducted as to what the actual demand is for WAV service in Philadelphia so that we may ensure there is a supply to meet such demand. Without formal complaints being filed by the riding public and the lack of the Authority's knowledge of complaints lodged with a TNC, this information is difficult to ascertain.

If you have any questions, please do not hesitate to contact me.

Very truly yours,
The Philadelphia Parking Authority

By: 
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Taxicab and Limousine Division

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Corinne O'Connor, Deputy Executive Director
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¹³ Specific information produced by an individual TNC to the Authority shall be exempt from disclosure to a third-party, including through a request submitted under the Right to Know Law. See 53 Pa.C.S. § 57A02(d) (relating to regulatory jurisdiction).