

### **Lessons from Pittsburgh's Cab-Rideshare Battle**

Will ridesharing—the transportation model in which prospective riders arrange for trips via smartphone on prepaid accounts with drivers who operate their own vehicles—revolutionize what many view as a moribund taxicab market? It is a question that many in Pittsburgh are asking; so too are many other people around the country.

There are many complex layers to the issue in Pittsburgh. The Mayor is in favor of ridesharing, but City government plays no role in regulating, licensing, or permitting taxicabs. That responsibility falls to the state Public Utility Commission (PUC) which was given the power by the General Assembly through state statutes to grant certificates of public convenience for common carriers like taxis, and the PUC “...may impose such conditions as it may deem to be just and reasonable”.

The incumbent cab companies are not happy, stating they want the ridesharing companies to play by the existing rules. They asked the Mayor to authorize Pittsburgh police to cite non-PUC authorized vehicles and one noted that it would have a smartphone application to make its operations more customer friendly.

The PUC stated that if drivers are taking compensation then there needs to be a commercial license, and at least one ridesharing company said they did not need one because they really do not fit the criteria of a taxicab company. The Chairman noted they are in a “regulatory quandary” but noted existing cab companies “...can’t expect to have exclusive territorial rights anymore”. Clearly a lot needs to be sorted out, starting with how the PUC treats the ridesharing concept.

While they are deliberating on that matter, it would be worthwhile for a close look at the criteria the Commission utilizes for approving common carriers like taxicabs, and possibly ridesharing. These are expressed as a “statement of policy” at section 41.14 under Title 52 of the Pennsylvania Code. *The policy statement is not law nor is it a formal regulation and can be altered by PUC action.*

The criteria for those seeking taxi cab licensing are as follows:

- (a) An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a demand or need.
- (b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service. In addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. In evaluating whether a motor carrier applicant can satisfy these fitness standards, the Commission will ordinarily examine the following factors, when applicable:
  - 1) Whether the applicant has sufficient capital, equipment, facilities, and other resources necessary to serve the territory requested.
  - 2) Whether the applicant and its employees have sufficient technical expertise and experience to serve the territory requested.
  - 3) Whether an applicant has or is able to secure sufficient and continuous insurance coverage for all vehicles to be used or useful in the provision of service to the public.
  - 4) Whether the applicant has an appropriate plan to comply with the Commission's driver and vehicle safety regulations and service standards contained in Chapter 29 (relating to motor carriers of passengers).
  - 5) An applicant's record, if any, of compliance with 66 Pa CS (relating to the Public Utility Code), this title, and the Commission's orders.
  - 6) Whether an applicant or its drivers have been convicted of a felony or crime of moral turpitude and remains subject to supervision by a court or correctional institution.
- (c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest.

Now the ridesharing companies would argue that since they are not really taxicabs or common carriers per se they should not have to live by these criteria. The incumbent cab companies would differ. Short of a new set of regulations that would apply to ridesharing operations, it is reasonable to say that criteria under (b) are acceptable and should be continued. However, the criteria of (a) and (c) do not serve any purpose other than to shield existing carriers from competition and restrict the supply of taxicabs. Having to prove that the business is needed and that it would be to the detriment of businesses already in place are inconsistent with the free market or good public policy.

In 2001, limousines were exempted from having to follow those criteria by a decision of the PUC (and affirmed by the state Supreme Court in 2003). In deciding to lift the application of those criteria, the PUC noted "in this era of increasing utility competition, it is difficult to justify the continuation of onerous entry restrictions which potential limousine service providers must overcome". If limousine companies don't have to prove

that their business is needed or that they would harm existing business, why should taxicabs?

Extending that point out further, if the PUC were to create a new set of ridesharing regulations and kept the “proof of need” criteria in place for that class of carriers, we could one day see the current “cutting edge” companies trying to use the power of regulations to keep out new players, arguing that there is “no more room” for competition. That would be a wholly undesirable effect, and one that can be eliminated.

The PUC has wide authority to revise and amend its policy statement. Time is long past when changes that favor freer entry and more competition should have been adopted. But now is a particularly good time for the PUC to begin the process of opening up the licensing requirements. Forcing an applicant for a cab license to prove there is a need for the service is the very first of the current requirements that needs to go.

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