

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Mark J.	)	Motor Carrier Complaint
Breiner, Director of the Motor	)	3189
Transportation Department of the	)	
Nebraska Public Service	)	
Commission,	)	
	)	
Complainant,	)	COMPLAINT
v.	)	
	)	
Lyft, Inc.,	)	
	)	
Respondent.	)	
	)	Filed: July 21, 2015

BY THE COMMISSION:

COMES NOW Mark J. Breiner, Director of the Motor Transportation Department (Complainant) of the Nebraska Public Service Commission (Commission) for Complaint against Lyft, Inc., San Francisco, California (Defendant), alleges specifically as follows:

Claim #1:

1. Complainant is the Director of the Motor Transportation Department of the Nebraska Public Service Commission (Commission).
2. Prior to May 28, 2015, Defendant operated as a common carrier as defined by Neb. Rev. Stat. §75-302(6).
3. Jurisdiction is proper pursuant to Neb. Rev. Stat. § 75-101 et. seq. and §75-301 et. seq.
4. Pursuant to Neb. Rev. Stat. §75-309, "it shall be unlawful for any common or contract carrier by motor vehicle subject to the provisions of sections 75-101 to 75-155 and 75-301 to 75-322 to engage in any intrastate operations on any public highway in Nebraska unless there is in force with respect to such common carrier a

certificate of public convenience and necessity...or a permit to a transportation network company under section 75-324, issued by the commission which authorizes such operations."

5. In March of 2014, Defendant announced that it was planning to begin transporting passengers in the state of Nebraska through its on-line application.
6. On or about March 31, 2014, Complainant sent a cease and desist letter to Defendant.
7. In April of 2014, Defendant began to provide transportation to the general public of Nebraska through its on-line application and its contracted drivers.
8. On June 25, 2014, Mr. Daniel Andre was contacted through the Lyft portal by investigators of the Commission to provide transportation within the state of Nebraska as a participating driver for Defendant. Mr. Andre provided transportation to the investigator of the Commission on said date.
9. On July 1, 2014, Ms. Simone Parker was contacted through the Lyft portal by investigators of the Commission to provide transportation within the state of Nebraska as a participating driver for Defendant. Ms. Parker provided transportation to the investigator of the Commission on said date.
10. On July 2, 2014, Mr. Cristopher Sokol was contacted through the Lyft portal by investigators of the Commission to provide transportation within the state of Nebraska as a participating driver for Defendant. Mr. Sokol provided transportation to the investigator of the Commission on said date.

11. On July 8, 2014, Mr. Bruce Jones was contacted through the Lyft portal by investigators of the Commission to provide transportation within the state of Nebraska as a participating driver for Defendant. Mr. Jones provided transportation to the investigator of the Commission on said date.
12. On July 14, 2014, Mr. Timothy Bowes was contacted through the Lyft portal by investigators of the Commission to provide transportation within the state of Nebraska as a participating driver for Defendant. Mr. Bowes provided transportation to the investigator of the Commission on said date.
13. On July 17, 2014, Mr. Ganesh Pokharel was contacted through the Lyft portal by investigators of the Commission to provide transportation within the state of Nebraska as a participating driver for Defendant. Mr. Pokharel provided transportation to the investigator of the Commission on said date.
14. For the period of April 2014 through May 28, 2015, Defendant did not apply for nor was approved to receive a certificate of convenience and necessity from the Commission to operate as a common carrier in Nebraska.
15. Complainant alleges that Defendant has violated Neb. Rev. Stat. §75-309 by operating as a provider of transportation for the general public in Nebraska without authority granted by the Commission since April 2014.
16. Complainant alleges that Defendant violated Neb. Rev. Stat. §75-126 by charging a rate for service that was not approved by the Commission for the period of April 2014 to May 28, 2015.

17. Complainant alleges that Defendant violated Neb. Rev. Stat. §75-307 by not having a commercial liability insurance policy on file with the Commission for the period of April 2014 to May 28, 2015.

Claim #2:

18. Complainant incorporates paragraphs 1 through 17 as stated herein.

19. Subsequent to May 28, 2015, Defendant has operated as a transportation network company as defined by Neb. Rev. Stat. §75-323(10).

20. On May 27, 2015, Nebraska Governor Pete Ricketts signed LB 629 into law, which set forth that transportation services provided by on-line applications such as that provided by Defendant were regulated by the Commission. LB 629 became effective May 28, 2015.

21. On July 6, 2015, Complainant sent a cease and desist letter to Defendant.

22. Since implementation of LB 629, Defendant has continued to operate as a transportation network company as defined by Neb. Rev. Stat. §75-323(10).

23. Defendant has not, as of the date of this filing, applied for or has been approved to receive a permit from the Commission to operate as a transportation network company in Nebraska.

24. Complainant alleges that Defendant violated Neb. Rev. Stat. §§75-301 to 75-343 by operating as a transportation network company without complying with the requirements set forth under LB 629 since May 28, 2015.

WHEREFORE, Complainant prays that this Commission find all allegations complained of true and correct and, after hearing,

levy an administrative penalty pursuant to Neb. Rev. Stat. §75-156, enter an order requiring Defendant to cease and desist in all operations, and any other relief available within the Commission's jurisdiction.

Respectfully Submitted,

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Mark J. Breiner #18286  
Staff Attorney/Director  
Nebraska Public Service Commission  
300 The Atrium Building  
1200 N Street  
P.O. Box 94927  
Lincoln, Nebraska 68509

State of Nebraska     )  
                                  )     ss  
County of Lancaster )

VERIFICATION

Mark J. Breiner, being first duly sworn on oath, deposes and says that I am the duly-appointed Director of the Motor Transportation Department of the Nebraska Public Service Commission; that I am the Complainant in the foregoing pleading; that I have read the allegations contained therein; and understand them to be true to the best of my knowledge and belief.

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Mark J. Breiner

SUBSCRIBED AND SWORN to before me on this \_\_\_\_ day of July, 2015

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Notary Public

SEAL

NOTICE

1. Pursuant to Neb. Admin. R. & Regs., Title 291, Chapter 1, Section 005.09, the Defendant(s) is hereby notified that an answer to this complaint shall be filed and shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses which the Defendant may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint. Failure to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to assess a civil penalty as provided by law.
2. Pursuant to Neb. Rev. Stat. Section 75-156, the Commission may impose an administrative penalty not to exceed ten thousand dollars (\$10,000) for each violation per day up to two million dollars (\$2,000,000) per violation per year.

Application No. MCC-3189

Page 5

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*Mark J Breiner*

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County of Lancaster )

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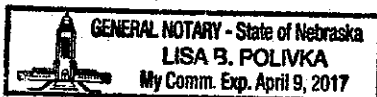
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*Mark J Breiner*

Mark J. Breiner

SUBSCRIBED AND SWORN to before me on this 21 day of July, 2015



SEAL

*Lisa B. Polivka*  
Notary Public