

PLEASE REPLY TO
412.331.8998

June 12, 2014

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg PA 17105-3265

Docket No. A-2014-2416127. Application of Rasier-PA, LLC, a wholly owned subsidiary of Uber Technologies, Inc., for a Certificate of Public Convenience to Operate an Experimental Ride-sharing Network Service.

Dear Secretary Chiavetta:

Transmitted herewith is the Answer of JB Taxi LLC t/a County Taxi Cab filed in response to Applicant's Preliminary Objections.

Very truly yours,

/s/ electronically filed

David W. Donley
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET A-2014-2416127
APPLICATION OF RASIER-PA, LLC, A WHOLLY OWNED SUBSIDIARY OF UBER
TECHNOLOGIES, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE TO
OPERATE AN EXPERIMENTAL RIDE-SHARING NETWORK SERVICE.

ANSWER TO PRELIMINARY OBJECTIONS OF RASIER-PA LLC
TO THE PETITION FOR LEAVE TO INTERVENE AND
PROTEST OF JB TAXI LLC T/A COUNTY TAXI CAB

Comes now JB Taxi LLC t/a County Tax Cab (Protestant) and files this Answer to the Preliminary Objections of Rasier-PA LLC in the above-captioned matter. This Answer is filed pursuant to 52 Pa.Code §5.101(f.) Protestant challenges each of the Preliminary Objections and argues that no valid basis has been stated for the relief requested by Applicant. In support, protestant further pleads as follows:

I.1 - Admitted

I.2 - Admitted

I.3 - Denied as stated. Protestant's filing also includes a Petition for Leave to Intervene which is in all respects consistent with the requirements of 52 Pa.Code §§5.71 through 5.74.

I.4 - The Commission should not grant the relief requested because Protestant has an interest that is substantial, direct and immediate with respect to the matters to be considered and has complied with all of the Commission's requirements to participate in this proceeding.

II.5 - Admitted

II.6 – Applicant's argument does not address Protestant's request for leave to intervene

II.7 – The Commission has broad discretion in determining the issue of standing and that the Commission's rules are to enjoy a liberal construction.

II.8 - The Commission should reject the suggestion that Protestant has not established by its Petition for Leave to Intervene and Protest a compelling interest in the subject matter of this proceeding, the outcome of which will have a substantial, direct and immediate impact upon Protestant as well as other existing providers of transportation service.

II.A9. Applicant misstates the case brought by Protestant as one that should be framed as a technical comparison of the services available from one class of providers, call-and-demand, with those available from another class of providers and bearing a self-serving label of experimental. Protestant's case is not limited to one arising from a conflict in service, although would undoubtedly arise if the operation is permitted as proposed. Rather, Protestant sets forth its interests as all of the reasons enumerated at Paragraph 4 of its petition and protest. And, beyond the conventional bases for filing a protest, Protestant additionally seeks leave to intervene for all of the reasons stated at Paragraph 7(d) through 7(g) of its petition and protest.

II.A.10. The Commission should not limit its evaluation of standing to past findings in proceedings arising prior to the arrival motor carrier applications bearing a self-styled label of "experimental" or "innovative." The reason it should not is that the Public Utility Code limits the award of certificates to those in which the Commission determines that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. 66 Pa.C.S. 1103. See also, *Elite Industries, Inc. v. Pa. PUC*, 793 A. 2d 160 (Pa. Cmwlth. 2002). The Commission's determination traditionally includes, among other

considerations, an evaluation of whether the new entrant's operations would endanger or impair the operations of existing service providers to an extent that would be contrary to the public's interest. 52 Pa.Code §41.14(c).

None of the precedent nor citations suggested by Applicant involve a proceeding similar to the instant one. Specifically, Applicant fails to submit its proposal on the form provided by the Commission for that purpose, Application for Motor Common Carrier Service in Experimental Service as revised on 12/1/2013 and suggested as mandatory for all applications to the class of service to be provided. Applicant also suggests that its operations will not be to transport passengers, yet the Commission has in a preliminary fashion determined otherwise. (See Docket C-2014-2422723, *Bureau of Investigation and Enforcement v. Uber Technologies, Inc.*, served June 6, 2014.) And, although its affiliate, Gegen, LLC, is authorized to arrange for the transportation of passengers, the certificate conferred to Gegen apparently is not sufficient to support the proposed operation styled as a "ride-sharing network service provider." The result suggests a proposed operation that, according to Applicant, is to be insulated from challenge by call-and-demand operators even though Applicant enters the western Pennsylvania marketplace for passenger transportation with the intent to compete directly with the existing providers and to expand operations beyond those here proposed. (See A-2014-2424608, *Application of Rasier-PA, LLC*, filed June 2, 2014.) The Commission enjoys broad discretion in determining the issue of standing and should find that the public's interest would be served if Protestant and other existing providers are permitted to intervene in the application proceeding for the purpose of opposing the operation as proposed by Applicant.

II.A.11. The proposed operations evaluated at Docket A-2014-2410269, *Application of Yellow Cab Company of Pittsburgh, Inc.*, Order entered May 22, 2014, (hereinafter *YellowX*) do not suggest a valid basis upon which to evaluate Applicant's proposal. Accordingly, they should not be adopted as controlling with respect to the issue of standing in the instant case. In *YellowX, supra.*, the applicant proposed to transport passengers. Here, the Applicant, Rasier-PA, proposes that it "...not own vehicles, employ drivers or transport passengers." (Application at Paragraph 11, page 3.)

Additional distinctions between Applicant's proposal and that considered in *YellowX, supra.* are that (1) the *YellowX* application was unopposed and (2) for all intents and purposes, the applicant in the *YellowX* case would control both the experimental operations as well as those of the dominant, existing provider, minimizing any need or purpose to evaluate the impact of experimental service upon existing providers. Protestant also believes further inquiry and an evidentiary record may be in the public's interest with respect to Applicant's proposal before adopting the premise suggested in *YellowX* that an App-based technology is "...a wider ranging, faster and more user friendly scheduling of transportation services." (*YellowX supra*, slip opinion at Page 6.)

With its approach to entering the western Pennsylvania marketplace earlier this year, Applicant and its affiliated "independent ride-sharing operators" may in fact be serving patrons outside of boundaries of Allegheny County as well as within the county's boundaries. The proposed network does not suggest itself as one to be defined by geographic boundaries, nor that patrons and the "independent ride-sharing operators" referenced at Paragraph 11 of the Application at page 5 are inclined or otherwise have any incentive to observe county

boundaries. Neither does the Commission's decision in *YellowX, supra.* suggest that the "network" limit itself in any respect to the territory in which service is to be available.

II.B.12 The Commission should deny the argument because the public's interest will be served if the Commission's standards for reviewing passenger applications are observed. The standards at 52 Pa.Code § 5.41.14(c) include a determination by the Commission of whether the operations of a new entrant would endanger or impair Protestant's operations to an extent that would be contrary to the public interest.

II.B.13 Applicant's contention is not true. The Petition for Leave to Intervene and Protest, at Paragraphs 4 and 7 set forth the factual basis upon which the Commission may conclude that the public's interest would not be served and that the requirements of the Public Utility Code would not be met if experimental service, as proposed by Applicant, is approved.

II.B.14 The Commission should reject Applicant's argument because the Commission's determination in *YellowX, supra.* was expressly limited to the circumstances under review in that proceeding. Additionally, the Commission should not find valid the suggestion by Applicant that the petition and protest are advanced for the purpose of challenging fitness or generalized questions as to public need. Protestant does not seek to intervene with the limited purpose to challenge the Applicant's past operations as outside of the law. That analysis and question is already underway in separate Commission proceedings. Rather, Protestant seeks leave to intervene because the opportunity to participate is necessary and appropriate to the administration of the Public Utility Code for the reasons stated in the petition and protest. See 52 Pa. Code §5.72(a)(3)

WHEREFORE, for the reasons stated above, Protestant requests that the Preliminary Objections to Protestant's Petition for Leave to Intervene and Protest be denied in all respects and that Protestant be permitted to intervene in this proceeding for the purpose of opposing the Application.

Respectfully submitted,

electronically filed

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PA Id. 19727

Certificate of Service

I hereby certify that I have this day served a copy of the foregoing Protest upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party)

By first-class mail, postage prepaid

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Dated this 12th day of June, 2014

electronically filed
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