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412.331.8998

July 23, 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 are Protestant's Exceptions to the Initial Decision Dismissing the Protest of JB Taxi LLC.

Very truly yours,

/s/ electronically filed

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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.

EXCEPTIONS OF PROTESTANT, JB TAXI LLC t/a COUNTY TAXI CAB,
TO THE INITIAL DECISION DISMISSING THE PROTEST OF JB TAXI LLC

Comes now JB Taxi LLC t/a County Tax Cab (Protestant) and files these Exceptions to the Initial Decision Dismissing the Protest of JB Taxi LLC, entered July 1, 2014 in this proceeding. Protestant sets forth its Exceptions as follows:

Exception No. 1 – The Administrative Law Judges erred in concluding that Protestant does not have an interest that is direct, immediate and substantial.
(Decision at Page 6, Conclusions of Law No.2 and 3)

Because the Commission has broad discretion in determining the issue of standing in this proceeding, standing to challenge proposed "experimental services" should include all current providers having an interest in determining what rights, privileges and obligations are to be included under the umbrella of "experimental." Applicant's business model and current operations cannot reasonably lead to a different conclusion. For example, in the directly-related application for statewide operating authority, Applicant already advances the contention that what is good for Allegheny County should also govern the Commission's findings for service in the rest of the Commonwealth. (See the Preliminary Objections to the Protest of JB Taxi LLC t/a County Taxi Cab filed in docket A-2014-2424608, Application of Rasier-PA LLC, on July 21, 2014, at paragraphs 16, 17, 21, 22, and 25.) A decision to deny Protestant an opportunity to participate in the proceeding which is to define experimental service with respect to a "ride-sharing network" directed by Applicant will result in excluding the views of existing providers with respect to determination of the public's interest.

The Commission has described a substantial interest as

...an interest in the outcome of the litigation that surpasses the common interest of all citizens in procuring obedience to the law. A direct interest requires a showing that the matter complained of caused harm to the party's interest. An immediate interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it. *Application of Classy Cab Company, Inc.* Docket A-2012-2294269, order entered August 31, 2013, slip opinion at pages 5,6.

The Commission should find that the Protest, together with the developments known to the Commission since the date Protestant was required to file its Protest, demonstrate all of the elements required to establish a substantial interest in challenging services proposed under the jargon of "experimental" or "ride-sharing networks." Applicant intends them to apply anywhere it's technology can be accessed. Among the questions to be raised is the question of whether Applicant is providing passenger service. The application suggests Applicant will not provide transportation. (Paragraph 11 of the Application.) If no transportation is to be provided, existing providers should have the opportunity to challenge that premise, the extent to which meaningful restrictions may be imposed, and to introduce evidence as to the impact upon those existing providers who may disagree with the premise that transportation will not be provided.

More specifically, Protestant has alleged a specific concern over applicant's obtaining a foothold in Allegheny County as the initial step preceding expansion into adjacent counties. (Protest of JB Taxi LLC at paragraph 4(b).) The Administrative Law Judges did not appear to take into account this concern or the related interests asserted in the Paragraph 4 of the Protest. With similar result, the Administrative Law Judges also do not appear to have taken into account Protestant's claims the so-called "experimental" services will drain revenues from Protestant's business without corresponding public benefit, increase the deadhead mileage in Protestant's operation, require an increase in fuel consumption and other operating expenses, and result in unfair, destructive competition from experimental service. (Protest of JB Taxi LLC at paragraph 4)

An election to exclude Protestant also appears to discount significantly and unjustifiably all of the understanding acquired more recently by the Commission as to the nature of

applicant's operations, its business partners ("Operators") and the Public Utility Code in related proceedings¹. Existing providers within the western Pennsylvania marketplace should be afforded an opportunity to demonstrate the adverse impact that the proposed service might have upon certificated carriers who are held to higher service standards, required to absorb higher fixed costs and adhere to much more restrictive, tariff-based fare level than the pricing methods proposed and currently used by Applicant.

Exception No. 2 – The Administrative Law Judge erred in concluding that the impact upon existing providers in adjacent counties, and accordingly the public's interest, can be determined without a hearing to receive evidence from existing providers.

(Decision at Page 6, Conclusions of Law No.4 and 5)

Applicant proposes a ride-sharing network service. (Application at Paragraph 10.) It remains to be seen what a ride-sharing network service entails. The marketplace is by all accounts defined principally by access to technology and the proximity of prospective patrons to applicant's "Operators" and not by any other consideration. Were the findings and conclusions of the Administrative Law Judges sustained in this case, the procedures will remain in sharp contrast to the approach in establishing new policies in the recently concluded rulemaking affecting the household-goods carriers, Docket No. L-2013-2376902, *Final Rulemaking Amending 52 Pa. Code Chapters 3, 5, 23, 31, 32, and 41; Household Goods in Use Carriers and Property Carriers*, Order adopted June 19, 2014. There, those persons subject to

¹ Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Uber Technologies, Inc., Docket No. P-2014-2426846; Application for Emergency Temporary Authority, Rasier-PA LLC, a wholly-owned subsidiary of Uber Technologies, Inc., Docket No. A-2014-2429993; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Scott Howard Luff, Docket C-2014-2418285; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Abdurrahim Altunal, Docket C-2014-2418593; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Bernard David Keisler, Docket C-2014-2418594; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Izzatulla Sadulla Oglu Sadullaev, Docket C-2014-2418595; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Tamer Gokee, Docket C-2014-2418597; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Douglas Philip Smith, Docket C-2014-2418598; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Eric W Smith, Docket C-2014-2418599; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Waqass S Saadon, Docket C-2014-2418600; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Theodore J Michalski, Docket C-2014-2418701; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Robert Gerard Siravo Jr, Docket C-2014-2418702; Pennsylvania P.U.C., Bureau of Investigation and Enforcement v. Ihtiyorjon Nazarov, Docket C-2014-2418703.

regulation and fearing an adverse effect were afforded the opportunity to challenge the premises underlying a new direction in the course of its adoption. Here, if excluded from the Commission's adjudicatory proceeding, existing carriers will have little realistic opportunity to challenge unfounded and potentially dangerous conditions accompanying "ride-sharing networks." Policy changes cannot be avoided should the proposed service be approved. The adverse impact will be direct, immediate and substantial impact upon operations previously understood to be provided in the public's interest.

The task of defining the attributes of a "ride-sharing network" for the purposes of the Public Utility Code might better be accomplished were those certificated carriers potentially subject to an adverse impact permitted to participate in an adversarial capacity. With respect to so-called "ride-sharing" and applicant's suggestion that it will not provide transportation under the service proposed (Paragraph 11 of the Application,) the suggested territorial limit of Allegheny County is artificial and will have no relevance given the capability and design of the digital platform as administered and operated by Applicant. Accordingly, that artificial element should not serve as the benchmark in defining the impact upon existing providers serving adjacent counties.

CONCLUSION

For the reasons set forth above, Protestant has standing to challenge the application.

In the alternative and for the reasons set forth above, Protestant's request to intervene sets forth an interest sufficient to meet the requirements of 52 Pa.Code §5.72, and leave to intervene for the purpose of opposing the application is granted.

Respectfully submitted,

electronically filed

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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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Via email
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Dated this 23rd day of July, 2014

electronically filed
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