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October 3, 2014

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Application of Rasier-PA LLC, a Wholly Owned Subsidiary of Uber Technologies, Inc., for Emergency Temporary Authority to Operate an Experimental Ride-Sharing Network Service Between Points in Allegheny County, PA
Docket No. A-2014-2429993

Dear Secretary Chiavetta:

On behalf of Rasier-PA LLC, I have enclosed for electronic filing the Petition for Modification in the above-captioned matter.

If you have any questions, please feel free to contact me.

Sincerely,



Karen O. Moury

KOM/tlg
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Rasier-PA LLC, a Wholly	:	
Owned Subsidiary of Uber Technologies, Inc.,	:	
For Emergency Temporary Authority to Operate	:	Docket No. A-2014-2429993
An Experimental Ride-Sharing Network Service	:	
Between Points in Allegheny County, PA	:	

PETITION FOR MODIFICATION

Rasier-PA LLC (“Rasier-PA”), by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, files this Petition for Modification pursuant to the Commission’s regulations at 52 Pa. Code § 5.41 proposing changes to the Commission’s Order adopted on July 24, 2014 granting Rasier-PA emergency temporary authority (*ETA Order*) to operate an experimental ride-sharing network service between points in Allegheny County, Pennsylvania, and in support hereof avers as follows:

I. Introduction

1. By this Petition for Modification, Rasier-PA requests that the Commission delete the directives on page 18 of the *ETA Order* requiring Rasier-PA to: a) direct operators to notify their insurer, in writing, of their intent to operate in Rasier-PA’s service; and b) maintain a copy of written notifications that operators provide to their insurers for three years after termination of an operator’s service. Rasier-PA submits this request on the basis that these directives are unduly burdensome and unnecessary.

2. Particularly since Rasier-PA is providing primary liability insurance coverage from the time the App is on until the completion of transportation services, there is no need for this notification to occur. Further, the personal insurance policy is a private contract between the

operator and their insurer, to which Rasier-PA is not a party. Moreover, such a notification requirement is not customary in other uses of personal automobiles in the course of business. For instance, several industries have existed for decades, including home health care and pizza delivery that involve use of a person vehicle in the course of business. Notifications to personal insurers are not required in those industries, even in situations where the personal automobile policy is considered primary.

3. Further, as Rasier-PA already advises operators on a number of insurance-related items, including notifying them that their personal insurance policy may not provide coverage and suggesting they pose any questions about coverage to their personal insurer, and assumes the burdens of verifying that personal insurance policies of operators are in place, it would be unnecessarily burdensome, and single out ridesharing services from other comparable industries, to take the additional steps of following up to collect copies of notifications from the operators and maintaining those records for several years.

II. Background

4. On April 14, 2014, Rasier-PA filed an application at Docket No. A-2014-2416127 for a certificate of public convenience evidencing approval to operate an experimental ride-sharing network service between points in Allegheny County (“Experimental Application”), pursuant to 52 Pa. Code § 29.352.

5. On July 2, 2014, Rasier-PA filed an application for ETA to operate an experimental ride-sharing network service between points in Allegheny County, Pennsylvania, pursuant to the Commission’s regulations at 52 Pa. Code §3.383(c).

6. By the *ETA Order* adopted on July 24, 2014, the Commission approved the application of Rasier-PA for emergency temporary authority to operate an experimental ride-

sharing network service between points in Allegheny County, Pennsylvania, pursuant to the Commission's regulations at 52 Pa. Code §3.383(c), subject to the filing of a Form E Certificate of Insurance and an acceptable tariff. Upon Rasier-PA's compliance with the conditions of the ETA Order, the Commission issued a certificate of public convenience on August 21, 2014.

III. Discussion

7. In granting ETA, the Commission referred to supporting statements from riders and found that an immediate need exists in Allegheny County for Rasier-PA's experimental service due to the inadequacy of existing transportation services in Allegheny County. *ETA Order* at 13. The Commission further concluded that a substantial benefit will be derived from the initiation of a competitive service, observing that "the introduction of this new App-based transportation service in Allegheny County will provide consumers with another competitive alternative to traditional call and demand service that can provide a wider ranging, faster and more user-friendly scheduling of transportation services." *Id.*

8. The Commission's *ETA Order* imposed a series of requirements on Rasier-PA including: (a) use of vehicles that are no more than 8 years old;¹ (b) use of vehicles with no more than 100,000 miles on the odometer; (c) use of placards or distinguishing markings on the vehicles;² (d) inclusion on the customer's receipt the Commission's telephone number and website for lodging a complaint;³ (e) operator notifications to their personal insurers; and (f) Rasier notifications to operators of insurance coverage that it is providing.

¹ This requirement is consistent with the Commission's regulations for vehicles operated by call and demand carriers. 52 Pa. Code § 29.314(d).

²² This requirement is consistent with the Commission's regulations for vehicles operated by common carriers. 52 Pa. Code § 29.71.

³ This requirement is consistent with the Commission's regulations for taxicab companies. 52 Pa. Code § 29.318.

9. Rasier-PA requests a modification of the *ETA Order's* directives relating to operator notifications to their personal insurers, as it is unduly burdensome and unnecessary.⁴

The *ETA Order* states as follows:

[W]e will require Rasier to direct all operators/drivers to notify their insurer, in writing, of their intent to operate in Rasier's service. Rasier is required to maintain a copy of this notification for each operator/driver during the driver's affiliation with Rasier and for a period of three (3) years following termination of an operator's/driver's service.

ETA Order at 18.

10. On August 29, 2014, Rasier-PA received a request for information from Commission staff seeking, *inter alia*, a copy of all notifications from operators/drivers to their insurers of their intent to operate in Rasier-PA's service. As of the receipt of that request, Rasier-PA more fully understood the directive in the *ETA Order*, and on September 5, 2014, Rasier-PA initiated a dialogue with staff about this request. This Petition is the result of those discussions.

11. During the onboarding process, Rasier-PA currently advises operators as to various insurance-related items.⁵ Specifically, Rasier-PA notifies operators that their personal insurance policy may not afford coverage under liability, comprehensive, collision, uninsured motorist, first party medical benefits or any other coverage in connection with their use of the platform.⁶ Rasier-PA further requires the operators to acknowledge this notification that their personal automobile policy may not provide coverage.⁷ In addition, Rasier-PA recommends that if operators have any questions about coverage, they should pursue those with their personal

⁴ In the pending application, Rasier-PA does not propose to require this notification, as more fully explained during the hearing and in Rasier-PA's Main Brief at 34-37. References to the Notes of Testimony ("N.T.") and Applicant Exhibit 4 are included in this Petition.

⁵ N.T. 545-546.

⁶ N.T. 535-536, 545.

⁷ N.T. 536.539, 545.

insurance carriers.⁸ Rasier-PA also informs operators of the insurance that it provides.⁹ Further, Rasier-PA advises operators how to obtain evidence of insurance through the driver smartphone application and download evidence of insurance from the Internet and instructs them to furnish such certificates or other evidence of Rasier-PA's insurance in the event of an accident.¹⁰

12. The requirement for Rasier-PA to direct operators to provide written notifications to their insurers of their intent to operate in Rasier-PA's service is unnecessary. Specifically, since Rasier-PA is providing primary liability insurance coverage from the time the App is on until completion of transportation services and is not relying on the operator's personal insurance policy for any reason, there is no purpose in such a notification.¹¹ Further, such a requirement would be inappropriate since a personal automobile insurance policy is a private contract between the operator and their insurance company, to which Rasier-PA is not a party.¹² It is up to the insurers to gather necessary information from the insured so that they can properly price their policies.

13. Moreover, such a requirement is not customary in other uses of personal automobiles in the course of business.¹³ A broad class of insurance known as "hired-and-non-owned auto coverage" is sold to businesses covering vehicles used in the course of that business but not owned by that business.¹⁴ While ridesharing as one component of that class, several other such industries have existed for decades including home health care, real estate, pizza

⁸ N.T. 538, 545.

⁹ N.T. 537-538.

¹⁰ N.T. 549-550, 553, 586-587, 637, 663.

¹¹ N.T. 516-517.

¹² N.T. 517.

¹³ N.T. 517, 523, 664.

¹⁴ N.T. 520.

delivery, newspaper delivery and various volunteer services, which involve the use of a personal vehicle in the course of some other business.¹⁵

14. During the hearing for the Experimental Application, Rasier-PA's expert witness on insurance issues described such a policy filing made by the Great American Insurance Company with the Pennsylvania Department of Insurance.¹⁶ This filing describes a product of Great American Insurance Company called Allied Health that is approved by the Pennsylvania Department of Insurance, which covers a variety of non-owned automobile exposures related to health care related businesses, such as home health care and services for various classes of disabilities, rehabilitation, and dietary and nutrition services.¹⁷ Although this insurance product specifically contemplates the use of personal automobiles to transport passengers in the course of the business of health care service, there is no requirement for a notification to be sent to personal insurance carriers in connection with this use or other uses of personal automobiles in the course of a business in the state of Pennsylvania.¹⁸ This is despite the fact that the product from Great American actually relies on the personal automobile policy to provide required Pennsylvania financial responsibility benefits.¹⁹

15. The requirement for operators to provide written notifications to their personal insurers and for Rasier-PA to collect those notifications from operators and maintain these documents for several years is unnecessary for the reasons described above and is also unduly burdensome. While Rasier-PA currently assumes the responsibilities described above and also verifies and updates personal insurance coverage of operators on an ongoing basis, the additional

¹⁵ N.T. 520.

¹⁶ Applicant Exhibit 4; N.T. 520-521.

¹⁷ N.T. 521.

¹⁸ N.T. 521-523.

¹⁹ Applicant Exhibit 4, N.T. 626.

steps of following up to collect copies of written notifications from operators and maintaining those documents for several years are particularly burdensome.²⁰

16. As Rasier-PA is providing primary coverage from the time the App is on until the completion of the trip, and already assumes extensive responsibilities concerning operators' insurance, the additional notification, documentation and retention steps contemplated by the *ETA Order* are simply unnecessary and would be unduly burdensome.

IV. Conclusion

WHEREFORE, on the basis of the foregoing, Rasier-PA LLC requests that the Commission modify the Order dated July 24, 2014 to delete the requirements relating to operator notifications to their personal insurers as described on page 18 of the Order.

Respectfully submitted,

Dated October 3, 2014


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²⁰ N.T. 517 and 540-541, 663, 664.