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October 6, 2014

VIA E-FILING

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

Re: Bureau of Investigation and Enforcement v. Uber Technologies, Inc.
Docket No. C-2014-2422723

Dear Secretary Chiavetta:

On behalf of Uber Technologies, Inc., I have enclosed for electronic filing the Petition for Certification in the above-captioned matter.

Copies have been served on all parties as indicated in the attached certificate of service.

Sincerely,



Karen O. Moury

KOM/tlg
Enclosure
cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
INVESTIGATION AND ENFORCEMENT	:	
	:	Docket No. C-2014-2422723
v.	:	
	:	
UBER TECHNOLOGIES, INC.	:	

PETITION FOR CERTIFICATION

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES LONG AND WATSON:

Pursuant to 52 Pa. Code § 5.304(c), through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, Uber Technologies, Inc. (“UTI”) hereby files this Petition for Certification to seek interlocutory review of the Interim Order on Motion to Compel (“Interim Order”) issued by Administrative Law Judges (“ALJs”) Mary D. Long and Jeffrey A. Watson on October 3, 2014, and in support thereof avers as follows:

I. INTRODUCTION

1. By this Petition, UTI seeks certification to the Commission and interlocutory review of the following important question of law: Is UTI required to produce to the Bureau of Investigation and Enforcement (“I&E”) customer and trip information that is protected from disclosure by the Commission’s discovery rules and well-established case law?

2. The suggested answer: No.

3. UTI’s customer information contains confidential data about trips taken and fares paid by UTI’s customers. As UTI’s customers do not want such information disclosed, UTI is obligated to protect its customers’ legitimate expectations of privacy.

4. Moreover, the proprietary trip information collected and compiled by UTI constitutes a trade secret that would lose any existing protection if produced to I&E.

5. Of particular concern is the broad scope of Pennsylvania's Right-to-Know Law ("*RTK Law*"), 65 P.S. §§ 67.101-67.3104. Written disclosure of the information requested by the Interrogatories, even subject to a protective order, may eventually lead to public disclosure of this highly proprietary information in a way that is harmful to both UTI and its customers.

6. Commission review of the Interim Order is essential to prevent substantial prejudice to UTI.

II. ARGUMENT

7. The interrogatories that are the subject of the Interim Order seek the number of rides provided to persons via connections made with drivers through UTI's website, mobile application or digital software ("*App*") during distinct time periods; identification of the entity that "provided rides to persons" via connections through the *App* if the entity was not UTI; and invoices, receipts, e-mails, records and documents sent to individuals in relation to rides they received via connections through the *App*.

8. The privileged material sought by the Interrogatories includes private confidential customer information, including their email addresses and payment information, the disclosure of which would be harmful to riders and violate their rights to privacy without any advance notice or opportunity to prevent such disclosure.

9. The privileged material sought by the Interrogatories also includes highly sensitive commercial data, which qualifies as a trade secret, especially due to its narrow focus with respect to time periods and the fact that results would cover a limited geographic region. As disclosure of this information would diminish the value of this UTI asset and be competitively

harmful to UTI's business by allowing competitors to mine historical data to give them a future competitive advantage, it is not discoverable under the Commission's rules.

10. The Commission's regulations do not permit parties to ask interrogatories that seek privileged information, and in this situation, a protective order would not be helpful since the information is so confidential and commercially-sensitive so as to justify outright prohibition of its disclosure. 52 Pa. Code § 5.361(a)(2). *See also* 52 Pa. Code § 5.321 (relating to permissible scope of discovery).

11. Given the broad scope of Pennsylvania's *RTK Law*, written disclosure of the information requested by the Interrogatories, even subject to a protective order, may eventually lead to public disclosure of this highly proprietary information in a way that is harmful to both UTI and its customers.

12. Consistent with the Commission's Secretarial Letter dated July 28, 2014 issued at this docket, UTI is prepared to share information about the number of rides arranged between points in Allegheny County through the UTI App during specific time periods with the Commissioners. Due to the pending complaint proceeding, UTI is working to identify a time and means through which disclosure of this information would be appropriate in a manner that does not violate the rules regarding *ex parte* communications and that would allow UTI to avoid leaving documents behind that that could later be requested and possibly retrieved through a request submitted to the *RTK Law*.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, Uber Technologies, Inc. respectfully requests that Administrative Law Judges Long and Watson certify this important question of law to the Commission for interlocutory review to avoid substantial prejudice to UTI.

Respectfully submitted,

October 6, 2014

A handwritten signature in cursive script, reading "Karen O. Moury", positioned above a horizontal line.

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Attorneys for Uber Technologies, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
INVESTIGATION AND ENFORCEMENT	:	
	:	Docket No. C-2014-2422723
v.	:	
	:	
UBER TECHNOLOGIES, INC.	:	

CERTIFICATE OF SERVICE

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

Via Email and First Class Mail

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Dated this 6th day of October, 2014.



Karen O. Moury, Esq.