

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Application of Rasier-PA LLC, a Limited Liability Company of the State of Delaware, for the Right to Begin to Transport by Motor Vehicle, Persons in the Experimental Service of Shared-Ride Network for Passenger Trips Between Points in Pennsylvania, Excluding Those Which Originate or Terminate in the Counties of Beaver, Clinton, Columbia, Crawford, Lawrence, Lycoming, Mercer, Northumberland and Union

Public Meeting November 13, 2014

**2424608-OSA
Docket No. A-2014-2424608**

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 Between Points in Allegheny County, Pennsylvania

**2416127-OSA
Docket No. A-2014-2416127**

**COMBINED JOINT MOTION OF CHAIRMAN ROBERT F. POWELSON
AND COMMISSIONER PAMELA A. WITMER**

The pervasive use of smart phones and the Internet in our society has revolutionized various sectors of our economy. One such example is the creation of Transportation Network Companies (TNCs). TNCs are altering the space traditionally occupied by taxicabs and the difference is much more than reinventing dispatch methods. The most fundamental change between TNCs and traditional taxicab service is the contractual use of private, personal vehicles and drivers to carry passengers, rather than ownership of vehicle fleets by the certificate holder. This innovative use of the public space should be encouraged in a way that is consistent with the Pennsylvania Public Utility Commission's (Commission) mission to both protect the public interest and foster new technologies. Thus, we consider the experimental application of this service and move to grant both Rasier-PA LLC's (Rasier-PA) Statewide and Allegheny County Applications for Experimental Service, subject to the conditions attached in Appendix A to this Motion.

Uber Technologies, Inc. (Uber) has created an Internet platform to connect passengers and drivers. While Uber asserts that it is a "travel website" like those offering online scheduling of hotel, car rental or airlines. We disagree. Uber does much more than simply provide reservations for rides. Uber dispatches software that matches the ride and the rider; establishes contractual arrangements with both drivers and passengers; engages drivers as independent contractors; sets the fare for each trip; collects fares from passengers; charges drivers for overhead costs; remits drivers' share of the proceeds; arranges insurance for the on duty private vehicles; sets minimum vehicle and driver standards; and addresses a whole host of other operational concerns that make the service work.

In addition, Uber licenses its technology to separately created affiliates to operate in particular jurisdictions. Here, Uber has requested that a wholly owned operating affiliate, Rasier-PA, be certificated to provide experimental service by this Commission. Rasier-PA will lease operating rights to the software from Uber and utilize Uber-provided services (insurance, driver check, etc.). Rasier-PA has no employees; rather, its parent, Uber, has assigned employees and some independent contractors to launch the service in Pittsburgh.

Subject to certain conditions, we believe that this new type of transportation service can be of great benefit to the traveling public and should be certificated by the Commission. Given the myriad of differences between TNCs and the traditional taxicab industry, we do so on the basis of experimental authority, which grants operating rights for two years.¹ This two-year time frame is appropriate given the dynamic and evolving nature of the TNC business model. In the meantime, the Commission intends to continue working with the General Assembly on legislation to create a new category of passenger service designed to recognize the TNC business model and refine the regulatory approach we take here.

Most of the conditions we adopt today not only largely mirror our Regulations, but also Rasier-PA's existing operating practices, such as vehicle inspection, driver background checks, zero tolerance for drug and alcohol use while operating a vehicle, and insurance, as well as other aspects of Rasier-PA's proposed business model.² Consistent with our ability to set appropriate parameters for experimental service, we also waive certain Regulations that are not applicable to the TNC business model.

Some of the conditions we adopt today include the insurance limits proposed by Rasier-PA for all three Stages of operation.³ Rasier-PA has committed to provide primary liability insurance coverage for all vehicles operating on the platform from the time the App is open and the operator has logged into the system (Stage 1) until transportation services have been completed (Stage 3). We agree that this coverage is adequate and in compliance with our Regulations.

However, in other vital areas, particularly driver insurance disclosure, we require Rasier-PA, and hence Uber, to achieve more than they propose. We are concerned that Uber drivers may not understand that this commercial use of their personal vehicles could void their existing personal vehicle insurance, which would otherwise apply when their vehicle is not being used for TNC purposes. To protect these drivers from unintentionally operating without insurance we will require Rasier-PA to have drivers agree, in writing, during sign up to report the commercial operation of personal vehicles to their insurance companies within a specified period of time. While the assimilation of TNC operations into the vehicle insurance market is ultimately a question to be resolved by the insurance industry, we would be remiss to allow Rasier-PA to side step this issue by not sharing such information with the drivers. We encourage and support efforts by Uber, Rasier-PA and the auto insurance industry to create products that prevent any gap in coverage.

¹ Another Uber subsidiary, Rasier LLC, has also operated in Pennsylvania.

² These are Uber designed practices and services being provided to Rasier-PA.

³ The service stage terminology was developed in our *July 24, 2014 ETA Order at Docket No. A-2014-2429993*:

Stage 1: Driver opens the App and is logged on to the system. (coverage \$35,000)

Stage 2: Driver receives and accepts a ride request and travels to pick up the passenger. (coverage \$1,000,000)

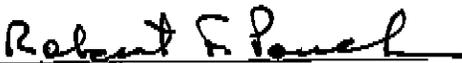
Stage 3: Driver picks up the passenger, drives the passenger to the destination and drops off the passenger. (coverage (\$1,000,000))

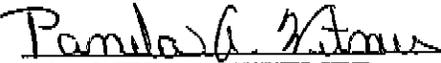
While we are proposing to conditionally grant Rasier-PA's Applications, we acknowledge that Rasier-PA's compliance with our prior orders and Regulations has been uneven to say the least. In connection with its Emergency Temporary Authority (ETA) in Allegheny County, Rasier-PA has filed the requisite Form E Certificate of Insurance and an acceptable tariff. However, Rasier-PA has not yet demonstrated compliance with several important conditions to the ETA that were set forth in our July 24, 2014 Order. Rasier-PA also did not comply with the ALJs' Interim Order, dated July 31, 2014, requiring the production of certain trip data. Therefore, in order to obtain a Certificate of Public Convenience from the Commission, we are also requiring that Rasier-PA, as part of its compliance filing, submit the requested trip information. Any other issues related to noncompliance with the ALJs' July 31, 2014 Order is therefore referred to the Commission's Bureau of Investigation and Enforcement (I&E), for such further action as deemed appropriate.

The Commission has fully reviewed Rasier-PA's ETA history as well as the record in this case, and on this basis has shaped conditions that allow for this exciting new business model to thrive in the Commonwealth, while at the same time ensuring that the necessary public protections are in place. Therefore, the authority we move to grant today shall not take effect until Rasier-PA has demonstrated full and complete compliance with the conditions set forth in Appendix A. If Rasier-PA rejects these conditions, it, along with any affiliates shall no longer be authorized to provide service in the Commonwealth.

THEREFORE, WE MOVE THAT:

1. The Application of Rasier-PA, LLC for motor common carrier of persons in experimental service in the counties requested in the above-referenced dockets be approved. The transportation authority will be for a period of two years from the issuance of a Certificate of Public Convenience and is subject to the terms and conditions set forth in Appendix A.
2. Rasier-PA, LLC shall not engage in any transportation in the Commonwealth until its Compliance Plan is approved and a Certificate of Public Convenience is issued by the Commission with the exception of the Emergency Temporary Authority granted to Rasier-PA by Order entered July 24, 2014 at Docket No. A-2014-2429993.
3. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion


ROBERT F. POWELSON
CHAIRMAN


PAMELA A. WITMER
COMMISSIONER

Date: November 13, 2014

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2416127-OSA

Docket No. A-2014-2416127

**APPENDIX A TO THE COMBINED JOINT MOTION OF
CHAIRMAN ROBERT F. POWELSON
AND COMMISSIONER PAMELA A. WITMER**

Rasier-PA -- Experimental Authority Certificate Conditions

A. Insurance

1. Pursuant to 52 Pa. Code § 32.11(a), a Form E Certificate of Insurance shall be filed by Rasier-PA LLC (Rasier-PA) affirming primary coverage for Stage 1 at coverage liability levels consistent with Commission regulations for motor carriers, plus \$1,000,000 coverage for Stages 2 and 3 as described by Rasier-PA in testimony (See NT 515, lines 11-23). In no event shall the levels of coverage in any stage fall below the standards set forth in 52 Pa. Code § 32.11(b).
2. Rasier-PA shall clearly and adequately inform drivers, in writing, of the levels of insurance coverage provided during Stages 1, 2 and 3 and instruct drivers regarding the appropriate protocol to be followed in case of an accident. Rasier-PA shall maintain verifiable records thereof for three years in writing or electronic format.
3. Rasier-PA shall direct drivers, conspicuously in written or electronic form, to contact their personal automobile insurer regarding any policy impacts that may be caused by operating the vehicle for TNC use. As part of this notification, drivers shall verify that they agree to make such contact with their personal insurer within a specified period of time. Such verification may be in written or electronic form, and must

include the driver's signature (either electronic or written). Rasier-PA shall maintain verifiable records thereof for three years.

B. Driver Integrity

1. Rasier-PA shall continue to undertake driver background checks of the scope and breadth described in the testimony (NT 60-63) and consistent with 52 Pa. Code §§ 29.503 and 29.505 both at the time of driver sign-up and annually thereafter. Rasier-PA shall maintain verifiable records thereof for two years.
2. Rasier-PA shall undertake drivers' history checks consistent with 52 Pa. Code § 29.504 both at the time of driver sign-up and annually thereafter. Rasier-PA shall continue its "zero tolerance" policy for driver drug/alcohol use while driving, consistent with 52 Pa. Code §§ 29.506 and 29.507. Rasier-PA shall maintain verifiable records thereof for three years.

C. Vehicle Safety

1. Rasier-PA shall ensure that drivers' vehicles successfully pass PennDOT inspection pursuant to 52 Pa. Code § 29.405 annually. Rasier-PA shall maintain verifiable records thereof for three years.
2. Rasier-PA shall ensure that drivers' vehicles remain in continuous compliance with the Commission's vehicle standards at 52 Pa. Code §§ 29.402 (1) and (2) and 29.403. Consistent with Commission Regulations, vehicles shall be subject to periodic inspection as set forth at 52 Pa. Code §§ 29.406 and 29.407. Rasier-PA shall maintain verifiable records thereof for three years.
3. Rasier-PA shall not permit the use of vehicles older than eight model years, consistent with Commission regulations at 52 Pa. Code § 29.314 (d). Rasier-PA shall maintain verifiable records thereof for three years.
4. Rasier-PA shall require that all vehicles be marked as specified at 52 Pa. Code §§ 29.71 and 29.72 while operating in Stages 1, 2 or 3.

D. Recordkeeping, Reports and Audits

1. Rasier-PA shall maintain verifiable records for service for a period of two years after the service was provided. These records include: trip information (date, time, origination, destination, and fare); vehicle information under 52 Pa. Code § 29.314(c); and the identity and driver's license numbers of all drivers.
2. Rasier-PA shall comply with the accident reporting requirements of 52 Pa. Code § 29.44. Consistent with this regulation, Rasier-PA shall maintain verifiable records thereof for a period of one year from the date of the accident.

3. Rasier-PA, its affiliates and third-party contractors shall comply with the assessment reporting requirements of 52 Pa. Code § 29.43, including reporting the gross intrastate operating revenues derived from the experimental service authority regardless of the entity that collects the revenues.
4. As part of the Compliance Plan filing, Rasier-PA shall submit for Commission review an affiliated interest agreement between it and Uber Technologies, Inc. (Uber). The Agreement shall include information related to the identities and job descriptions of the Uber employees and/or third-party contractors, including the office location of those persons, who are expected to provide services to Rasier-PA during the two-year certification period.
5. As part of its Compliance Plan filing, Rasier-PA shall submit the trip information required under the Interim Order dated July 31, 2014 issued at Docket No. A-2014-2416127. Rasier-PA may mark such information as confidential pursuant to the Commission's regulations. If marked confidential, this information will be treated according to existing Commission confidentiality practices and regulations. Any other issues related to non-compliance with the July 31, 2014 Order shall be referred to the Commission's Bureau of Investigation and Enforcement (BI&E) for further action as deemed appropriate.
6. Rasier-PA acknowledges that the Commission is authorized, pursuant to 66 Pa.C.S. §§ 331(a), 501 and 506, to inspect, audit and investigate any books, records and facilities of theirs and any affiliated entities as they relate to certificated services provided by Rasier-PA. Any reports or other documents marked as confidential will be treated according to existing Commission confidentiality practices and regulations.
7. Rasier-PA shall maintain a tariff with the Commission setting forth the terms and conditions of service, in a form consistent with the Commission's Emergency Temporary Authority Order, issued on July 24, 2014 at Docket No. A-2014-2429993. As part of its Compliance Plan, Rasier-PA shall fully explain its proposed surge pricing policy during emergencies and natural disasters, including the applicability of Pennsylvania's Price Gouging Act (Act of Oct. 31, 2006, P.L. 1210, No. 133).

E. Waiver of Regulations

1. The following Commission Regulations for call and demand service are hereby waived unless expressly retained by this Order: 52 Pa. Code §§ 21.2, 23.32, 23.64, 23.67, 29.62, 29.101, 29.103, 29.313(c) and (f), 29.314(b) and (c), 29.315, 29.316, 29.317, 29.318, 29.356 and 29.402(3). All other Commission Regulations applicable to call and demand service shall apply unless waived or modified by this Order.
2. Any Commission Regulations either pertaining to or referencing common carrier services other than call and demand are hereby found to be not applicable to the experimental service provided by Rasier-PA.

F. Compliance Plan and Periodic Audits

1. Rasier-PA shall file a Compliance Plan within thirty (30) days of entry date of this Order. The Compliance Plan shall demonstrate how Rasier-PA will achieve compliance with the conditions set forth herein. In no event will achievement of the conditions be accomplished later than thirty (30) days from the date of Commission approval of the Compliance Plan. The Compliance Plan shall identify the Rasier-PA employees, Uber employees and/or third-party contractors that will be responsible for implementing each condition. Concurrent with the Compliance Plan filing, Rasier-PA must also submit to the Commission or ensure delivery of an applicable Form E, an updated tariff and the trip information required in the Interim Order at Docket No. A-2014-2416127 dated July 31, 2014, as specified at condition D.5.
2. The Commission thereafter will rule upon the completeness and adequacy of Rasier-PA's Compliance Plan within thirty (30) days. If found to be in compliance with each stated condition, the Commission will approve the Compliance Plan and issue a Certificate of Public Convenience to Rasier-PA to provide experimental service for a period of two years consistent with 52 Pa. Code § 29.352.
3. After Commission approval of the Compliance Plan, Rasier-PA thereafter shall submit quarterly reports demonstrating its continuing compliance with each certificate condition.
4. In the event that Rasier-PA declines to accept the certificate conditions specified in this Order or the Commission rejects the Compliance Plan, no Certificate of Public Convenience shall be issued and the Emergency Temporary Authority granted to Rasier-PA by Order entered July 24, 2014 at Docket No. A-2014-2429993 shall be immediately revoked.