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January 2, 2015

**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 a Certificate of Public Convenience Evidencing Approval to Operate an Experimental Ride-Sharing Network Service Between Points in Allegheny County, Pennsylvania  
Docket No. A-2014-2416127

Dear Secretary Chiavetta:

On behalf of Rasier-Pa LLC, I have attached for electronic filing the Answer of Rasier-PA LLC To Petition For Reconsideration Of The Order Entered On December 5, 2014 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/bb  
Enclosure  
cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Rasier-PA LLC, a Wholly Owned :  
Subsidiary of Uber Technologies, Inc. for a :  
Certificate of Public Convenience Evidencing :  
Approval to Operate an Experimental : Docket No. A-2014-2416127  
Ride-Sharing Network Service Between Points in :  
Allegheny County :

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**ANSWER OF RASIER-PA LLC TO PETITION FOR RECONSIDERATION  
OF THE ORDER ENTERED ON DECEMBER 5, 2014**

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Pursuant to the Commission’s regulations at 52 Pa. Code § 5.572(e), Rasier-PA LLC (“Rasier-PA”), by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, files this Answer to the Petition for Reconsideration filed by Joint Protestants seeking reconsideration of the Commission’s Order entered on December 5, 2014 (“*December 5 Order*”).

In support of this Answer, Rasier-PA avers as follows:

**I. INTRODUCTION**

1. By simply reiterating the arguments made in their Main Brief and Exceptions, which have been fully considered and expressly rejected by the Commission, and by failing to raise any new or novel arguments not previously considered by the Commission, the Joint Protestants have failed to fulfill the Commission’s well-established standards governing petitions for reconsideration. Moreover, reconsideration of the *December 5 Order* is not warranted as to either of the issues set forth by the Joint Protestants.

2. The Commission expressly rejected the Joint Protestants’ claim that the service falls under the definition of “broker,” which would require the use of certificated operators under Section 2501 of the Public Utility Code (“Code”), 66 Pa.C.S. § 2501. The Commission further

explained that the proposed services fall within the Code Section 102 definition of “common carrier” since transportation is provided to the public. Contrary to the argument of the Joint Protestants, the statutory definition of “common carrier” does not require vehicle ownership and in fact expressly provides that the common carrier need not be the owner or operator of the vehicle. *December 5 Order* at 30.

3. The Commission properly concluded that the transportation network services proposed by Rasier-PA’s application qualify as experimental service by a motor carrier under Section 29.352 of the Commission’s regulations, 52 Pa. Code § 29.352, due to its new and innovative features of using a mobile application to connect passengers with drivers operating their personal vehicles. In so finding, the Commission appropriately observed that its regulations give “the Commission the flexibility to consider a new type of motor carrier service on a trial basis to determine if the proposed service is beneficial to the public.” *December 5 Order* at 31.

4. As to the Joint Protestants’ bald allegations regarding unauthorized service, they point to nothing in the evidentiary record of this proceeding to support those claims. Further, in offering this issue as a basis for reconsideration, they ignore the Commission’s thorough analysis of Rasier-PA’s legal fitness to operate as a motor carrier, in which the Commission viewed the record as a whole and found sufficient evidence of its fitness to operate safely and legally. *December 5 Order* at 60-63.

5. Particularly given the compelling evidence introduced by Rasier-PA and recognized by the Commission of the critical and immediate public need for transportation network services, nothing raised by the Joint Protestants in the Petition for Reconsideration warrants a further review of the *December 5 Order*. The Commission’s approval of the application has paved the way for the riding public in Allegheny County to continue accessing

safe, affordable and reliable transportation alternatives and for drivers to start and expand their own small businesses, contributing to Allegheny County's economic growth.

6. In view of the Joint Protestants' reliance on arguments that have already been expressly rejected by the Commission and their failure to offer any valid basis for reconsidering the *December 5 Order*, their Petition for Reconsideration must be denied.

## II. APPLICABLE LEGAL STANDARDS

7. In *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa.P.U.C. 553, 559 (1982) ("*Duick*"), the Commission articulated the standards for reconsideration as follows:

[A] Petition for Reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard, we agree with the court in the *Pennsylvania Railroad Company* case, wherein it was said that:

Parties...cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them...what we expect to see raised in petitions for reconsideration are new and novel arguments not previously heard or considerations which appear to have been overlooked by the Commission.

*Duick* at 559.

8. The Commission and appellate courts have made clear in a long line of cases following *Duick* that petitions for reconsideration are not intended to provide a petitioner with a second bite at the apple. Rather, they are intended to address new and novel arguments that have not been previously considered by the Commission. *See, e.g., Pennsylvania Game Commission v. Pennsylvania Public Utility Commission*, 651 A.2d 596 (Pa. Cmwlth. 1994); *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order adopted May 28, 2009).

### **III. ARGUMENT**

9. The Joint Protestants have simply reiterated the arguments that were already raised with the presiding officers and the Commission through their Main Brief and Exceptions. As both of the grounds on which the Joint Protestants seek reconsideration have already been fully considered and expressly rejected by the Commission in adopting the *December 5 Order*, the standards for reconsideration have not been fulfilled. Moreover, neither ground presents a valid basis for reconsidering the Commission's *December 5 Order* which paves the way for filling a significant void in Allegheny County's transportation infrastructure.

10. As to the proper classification of the proposed transportation network services, the Commission engaged in a detailed analysis of this issue raised by the Joint Protestants, before properly concluding that it was appropriate to view it as experimental service by a common carrier under Section 29.352 of the Commission's regulations, 52 Pa. Code § 29.352. The Commission correctly rejected the notion that the proposed service falls within the Code Section 2501 definition of "broker" since certificated carriers would not be used.

11. In so finding, the Commission explained that the proposed services fall within the statutory definition of "common carrier" because transportation is provided. The Commission further noted that the regulations give "the Commission the flexibility to consider a new type of motor carrier service on a trial basis to determine if the proposed service is beneficial to the public." *December 5 Order* at 32. Contrary to the argument of the Joint Protestants, the statutory definition of "common carrier" does not require vehicle ownership and in fact expressly provides that the common carrier need not be the owner or operator of the vehicle. Code Section 102; *December 5 Order* at 31.

12. In seeking reconsideration on the basis of bald allegations regarding unauthorized service, the Joint Protestants point to no evidence in the record to support their claims and fail to acknowledge, as the Commission did, that existing allegations have not yet been adjudicated. Moreover, as the Commission recognized, even if Raiser-PA had been found to have operated unlawfully, that finding alone would not preclude it from obtaining Commission authority in a subsequent proceeding. *See Brinks, Inc. v. Pa. Public Utility Commission*, 500 Pa. 387, 456 A.2d 1342 (1983).

13. Rather, as the Commission noted, the standard for withholding authority is “a persistent disregard for, flouting or defiance of the Public Utility Code or Commission Orders,” which was clearly not demonstrated in this proceeding. *December 5 Order* at 63. To the contrary, the record is replete with examples of Raiser-PA’s propensity to operate legally and safely. Raiser-PA Exceptions at 27 (at Docket No. A-2014-2424608).

14. The Commission thoroughly evaluated Raiser-PA’s fitness to operate legally and safely. Reviewing the record as a whole, the Commission appropriately concluded that the record contained sufficient evidence demonstrating its legal fitness. *December 5 Order* at 60-63.

15. Particularly given the compelling evidence introduced by Raiser-PA and recognized by the Commission of the critical and immediate public need for transportation network services, reconsideration of the *December 5 Order* is unwarranted, as approval of the application will allow the riding public in Pennsylvania to access safe, affordable and reliable transportation alternatives. Further, the Commission’s approval will enable drivers to start and expand their small businesses, contributing to Pennsylvania’s economic growth.

16. In view of the Joint Protestants' reliance on arguments that have already been expressly rejected by the Commission and their failure to offer any valid basis for reconsidering the *December 5 Order*, their Petition for Reconsideration must be denied.

**IV. CONCLUSION**

WHEREFORE, on the basis of the foregoing, Rasier-PA LLC requests that the Commission deny the Petition for Reconsideration filed by the Joint Protestants concerning the Commission's Order entered on December 5, 2014.

Respectfully submitted,

Dated January 2, 2014

  
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*Attorneys for Rasier-PA LLC*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 : A-2014-2416127  
of shared-ride network for passenger trips between points in :  
Allegheny County :

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 E-Mail and First-Class Mail**

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Dated this 2<sup>nd</sup> day of January, 2015.



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Karen O. Moury, Esq.