



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

January 9, 2015

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Uber Technologies, Inc., *et al.*
Docket No. C-2014-2422723

Dear Secretary Chiavetta:

Enclosed for filing is the original of the Bureau of Investigation and
Enforcement's Application for Subpoena of Travis Kalanick in the above-referenced
proceeding.

Copies have been served on the parties of record in accordance with the Certificate
of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Michael L. Swindler
Prosecutor

Stephanie M. Wimer
Prosecutor

Enclosure

cc: Honorable Mary D. Long
Honorable Jeffrey A. Watson
As per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

v.

Uber Technologies, Inc., et al.
Respondent

Docket No. C-2014-2422723

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §5.421, the Bureau of Investigation & Enforcement of the Pennsylvania Public Utility Commission (Commission) has filed an Application for Subpoena in the above-referenced matter. You are hereby notified that you may file a written response or objection within ten (10) days of service of the Application, pursuant to 52 Pa. Code §5.421(b)(3). An original copy of your response must be sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

A copy must also be served on the presiding officer and undersigned counsel.



Michael L. Swindler, Prosecutor
PA Attorney ID No. 43319

Stephanie M. Wimer, Prosecutor
PA Attorney ID No. 207522

Wayne T. Scott, First Deputy Chief Prosecutor
PA Attorney ID No. 29133

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Dated: January 9, 2015

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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SECRETARY'S OFFICE

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement, :
Complainant :
:
v. :
:
Uber Technologies, Inc., et al. :
Respondent :

Docket No. C-2014-2422723

APPLICATION FOR SUBPOENA

AND NOW comes the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement (I&E) and files this Application to Subpoena Travis Kalanick to testify at the hearing scheduled in the above captioned case, pursuant to 52 Pa. Code § 5.421(a)(2). In support thereof, I&E avers as follows:

I. INTRODUCTION

1. I&E filed a Formal Complaint against Uber Technologies, Inc. (Uber) on June 5, 2014.
2. I&E promptly commenced formal discovery, sending its First Set of Interrogatories and Requests for Production of Documents on August 8, 2014. The entirety of I&E's discovery requests in this proceeding were objected to by Uber and, consequently, I&E filed two Motions to Compel on August 28 and November 13, 2014, respectively. Both Motions to Compel were granted and Uber was directed to serve I&E with responses to I&E's discovery. See Interim Order on Motion to Compel and Motion

for Continuance dated October 3, 2014, and Interim Order on Motion to Compel Set II Interrogatories dated November 25, 2014.

3. In addition to the above-referenced Interim Orders directing Uber to respond to I&E discovery, the presiding Administrative Law Judges (ALJs) provided Uber with one final opportunity to serve any and all outstanding discovery responses to I&E. *See* Interim Order regarding Motion for Sanctions dated November 26, 2014.

4. Despite the ALJs' Interim Orders and the imposition of a sanction of a civil penalty in the amount of \$500 per day for each day Uber fails to answer I&E's discovery, Uber continues to refuse to provide any responses.

5. Moreover, part of I&E's discovery included requests for information pertaining to "trip data," or the number of transactions or rides provided to passengers in Pennsylvania via the connections made with drivers through the Uber app when Uber lacked authority to facilitate or provide such transportation. In addition to the above-mentioned Interim Orders, the Commission directed Uber to provide this information by Secretarial Letter dated July 28, 2014 docketed at this proceeding.

6. Despite the Secretarial Letter's clear direction, Uber continues to refuse to provide trip data to I&E in this proceeding.

7. On January 9, 2015, I&E filed an Amended Complaint against Uber and all known Uber affiliates conducting business in Pennsylvania.

8. Due to Uber's refusal to answer I&E's discovery, I&E was required in its Amended Complaint to identify as the proper Respondents to this proceeding several related corporate entities allegedly responsible for or directly or indirectly involved in

facilitating and/or providing unauthorized passenger motor carrier service within the Commonwealth of Pennsylvania.

9. Due to Uber's refusal to answer I&E's discovery, I&E was required in the Amended Complaint to update and quantify the violations alleged by including a "per ride" violation component based on proxy data representing the number of unauthorized trips.

10. I&E's ability to file a straightforward Amended Complaint that fully encompasses the extent of the unlawful activity committed by Uber, or an affiliate, was not only been hampered - but was been made utterly impossible – because of Uber's continued, ongoing, intentional defiance of Commission orders and the orders of the presiding ALJs directing Uber to provide information to I&E as properly sought in discovery by I&E for the past six months.¹

11. In order to offset, to the best of I&E's ability, the lack of information to which I&E is entitled under the discovery rules of this Commission's regulations, but to which I&E has been summarily denied by the blatant, unlawful acts of Respondents, I&E was forced to: (1) resort to the use of "proxy data" as set forth in the Amended Complaint; and (2) name all known Uber affiliates in Pennsylvania as Respondents to this proceeding.

¹ Uber's blatant, ongoing defiance is further described in I&E's Second Motion for Sanctions against Uber, filed at this docket concurrently with the instant pleading.

II. GROUNDS FOR THE SUBPOENA

12. Section 5.421(a)(2) of the Commission's regulations permits a party to submit a written application for a subpoena to the presiding officer. 52 Pa. Code § 5.421(a)(2). The application for a subpoena must specify the general relevance, materiality and scope of the testimony or documentary evidence sought, including specification of the documents desired. 52 Pa. Code § 5.421(b)(1).

13. Travis Kalanick is the founder and Chief Executive Officer of Uber Technologies, Inc. Rasier LLC, Gegen LLC and Rasier-PA LLC are wholly owned subsidiaries of Uber Technologies, Inc.

14. Upon information and belief, Travis Kalanick knows and/or has the ability to discover the number of trips furnished through the Uber app from the initiation of service in the Commonwealth of Pennsylvania until the time that Rasier-PA LLC received emergency temporary operating authority from the Commission.

15. Upon information and belief, Travis Kalanick knows and/or has the ability to discover and identify the corporate entity responsible for facilitating and providing the aforementioned unauthorized passenger transportation.

16. Upon information and belief, Travis Kalanick has information discerning the business relationships of and between the various affiliates under the Uber Technologies, Inc. corporate umbrella and their respective roles in operating passenger transportation service in the Commonwealth.

17. Upon information and belief, Travis Kalanick knows and/or has the ability to

discover the date Uber, or an affiliate, initiated passenger transportation service in the Commonwealth of Pennsylvania.

18. Because of Uber's failure to comply with the rules of discovery, the orders of the presiding ALJs and the Commission's Secretarial Letter, its actions have deprived I&E of its right to due process and have prevented fair litigation. Therefore, the testimony of Travis Kalanick is essential to the topics referenced above. Further, his testimony is material to the resolution of this case, which pertains to Uber's, or an affiliate's, unauthorized passenger transportation in the Commonwealth of Pennsylvania.

19. A proposed subpoena of Mr. Kalanick has been included with this Application.

III. CONCLUSION

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the presiding Administrative Law Judges issue a Subpoena requiring Travis Kalanick to attend the hearing in this matter scheduled for February 18, 2015.

Respectfully submitted,



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Wayne T. Scott
First Deputy Chief Prosecutor
PA Attorney ID No. 29133

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Date: January 9, 2015

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COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:
Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement
v.
Uber Technologies, Inc., *et al.*

Docket No. C-2014-2422723

SUBPOENA

To: Travis Kalanick, 182 Howard Street #8 San Francisco, CA 94105

Pursuant to the authority of this Commission under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to a Hearing Room on the
Second Floor of Piatt Place, Suite 220, 301 Fifth Avenue, at Pittsburgh
(place)
Pennsylvania, on February 18, 2015, at 09:00 o'clock, in the above case,
(date)
to testify on behalf of the Bureau of Investigation and Enforcement and to remain until excused;

2. And bring with you and produce the following: Full and complete responses to all
information requested in the Bureau of Investigation and Enforcement's Interrogatories and
Requests for Production of Documents, Sets I and II.

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date _____

Mary D. Long
Administrative Law Judge

Jeffrey A. Watson
Administrative Law Judge

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Commonwealth of Pennsylvania)
) SS:
Count of)

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared _____
who, being duly sworn according to law, deposes and says that he/she served a true and correct
copy of the within SUBPOENA upon _____
by handing the same to him/her at _____ on the
_____ day of _____, 2015 at _____ a.m./p.m.

(Signature)

Sworn to and subscribed before me
this _____ day of _____, 2015

Notary Public

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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 52 Pa. Code § 1.54 (relating to service by a party).

Service by First Class Mail and Email:

Karen O. Moury, Esq.
Buchanan, Ingersoll and Rooney, P.C.
409 North Second Street
Suite 500
Harrisburg, PA 17101-1357
karen.moury@bipc.com



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 783-6369

Date: January 9, 2015

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