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January 13, 2015

VIA E-FILING

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

Re: Applications of Rasier-PA LLC,
Docket Nos. A-2014-2424608 and A-2014-2416127

Dear Secretary Chiavetta:

On behalf of Rasier-PA, LLC (“Rasier-PA”), I am electronically filing a Response to the Comments of the Eastern Pennsylvania Protestants regarding Rasier-PA’s Compliance Plans, which were filed in the above-captioned matters on December 24, 2014, and supplemented on January 5, 2015 and January 9, 2015. Please contact me with any questions regarding this filing.

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

Sincerely,



Karen O. Moury

KOM/bb
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 : Docket No. A-2014-2424608
Approval to Operate an Experimental :
Ride-Sharing Network Service Between Points in :
the Commonwealth of Pennsylvania, Excluding :
Designated Counties :

Application of Rasier-PA LLC, a limited :
liability company of the State of Delaware, :
for the right to begin to transport, by motor vehicle : Docket No. A-2014-2416127
persons in the experimental service of shared-ride :
network for passenger trips between points in :
Allegheny County :

RASIER-PA LLC'S RESPONSE
TO COMMENTS OF EASTERN PENNSYLVANIA PROTESTANTS
REGARDING COMPLIANCE PLANS

Rasier-PA LLC ("Rasier-PA"), by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, files this Response to the Comments filed by the Eastern Pennsylvania ("PA") Protestants on January 2, 2015 regarding the Compliance Plans filed by Rasier-PA pursuant to the Commission's Orders entered on December 5, 2014 ("*December 5 Orders*"). In support of this Response, Rasier-PA avers as follows:

I. INTRODUCTION

1. The correspondence sent to the Commission by Mr. Michael S. Henry on behalf of the Eastern PA Protestants January 2, 2015 was not an authorized pleading under the Commission's regulations or solicited by the *December 5 Orders*. As such, it should be stricken from the record and wholly disregarded by the Commission.

2. Additionally, the correspondence is replete with inflammatory and baseless allegations that have no support in the evidentiary record. Moreover, while the comments purport to be in response to the Compliance Plans, they represent nothing more than an attempt to re-litigate issues that the Eastern PA Protestants have raised previously, which have already been considered and properly rejected by the Commission. These statements are aimed at disapproval of the applications and have nothing to do with the Compliance Plans. In this regard, the Protestants' comments are merely a last-ditch effort to avoid competition by preventing the introduction of a new and innovative service that will fill voids in the existing transportation infrastructure. The Commission properly rejected these attempts in the *December 5 Orders*, paving the way for millions of Pennsylvanians to have access to safe, reliable and affordable transportation options.

3. Importantly, Rasier-PA's Compliance Plans filed on December 24, 2014, as supplemented on January 5, 2015 and January 9, 2015, fully comply with the *December 5 Orders* and warrant approval by the Commission. In the Compliance Plans, Rasier-PA has addressed every condition imposed by the Commission's *December 5 Orders* and provided a detailed explanation as to how it has complied or will timely comply with each of those conditions. As noted in the Compliance Plans, its insurer, James River Insurance Company, has already filed a Form E Certificate of Insurance demonstrating primary liability insurance coverage for the periods and in the amounts as required by the *December 5 Orders*. Moreover, the Compliance Plans thoroughly describe compliance with the Commission's driver integrity and vehicle safety requirements.

II. ARGUMENT

4. Chapter 5 of the Commission's regulations sets forth the pleadings that may be filed in formal proceedings. 52 Pa. Code, Chapter 5. Nothing in Chapter 5 permits a party to file comments or objections to a compliance plan, unless the compliance filing prescribes rates. *See* 52 Pa. Code § 5.592. Additionally, the *December 5 Orders* provided no opportunity for parties to file comments or objections to Rasier-PA's Compliance Plans. *See, e.g., Petition of Duquesne Light Company for Approval of its Final Smart Meter Procurement and Installation Plan*, Docket No. M-2009-2123948 (Order entered May 6, 2013) (Commission solicited comments from parties within 30 days after filing of compliance plan).

5. The Commission is certainly capable of determining whether the Compliance Plans fulfill the conditions that it imposed on Rasier-PA by the *December 5 Orders*, without any assistance from the parties. However, if the Commission elects to consider the unsolicited comments that were filed by the Eastern PA Protestants, Rasier-PA offers these responses, as set forth below.¹

6. At the outset, the Eastern PA Protestants refer to unsubstantiated media reports and make inflammatory and baseless allegations, none of which are supported by evidence in the record in these proceedings and therefore may not be considered by the Commission. Moreover, these statements are aimed at disapproval of the applications and have nothing to do with the Compliance Plans. In this regard, the Eastern PA Protestants' comments are merely a last-ditch effort to avoid competition by preventing the introduction of a new and innovative service that will fill voids in the existing transportation infrastructure. The Commission properly rejected

¹ For references contained herein, Rasier-PA uses the Commission's December 5, 2014 Order at Docket No. A-2014-2424608 ("*December 5 Statewide Order*") and Rasier-PA's Brief filed at that docket.

these attempts in the *December 5 Orders*, paving the way for millions of Pennsylvanians to have access to safe, reliable and affordable transportation options.

A. Insurance

7. The Commission’s insurance requirements for the Compliance Plan are set forth in Appendix A, Section A and more fully described on pages 54-59 of the *December 5 Statewide Order*.

8. The Eastern PA Protestants object because the Form E Certificate of Insurance filed by James River Insurance Company (“James River”) does not list the drivers and vehicles. In directing the filing of a Form E Certificate of Insurance, however, the Commission did not require that individual drivers and their vehicles be listed. When this issue was raised during the hearings, Rasier-PA’s insurance witness, Mr. Fuldner, explained that Rasier-PA does not provide a list of drivers or vehicles to James River. Rather, James River approves a class of drivers and a class of vehicles, establishes minimum standards for those drivers and vehicles, and relies on Rasier-PA’s processes to fully vet the drivers and vehicles for compliance with its standards.² Therefore, no concerns exist about the coverage of drivers using the platform.

9. The Protestants’ next comment is that requiring drivers to provide proof of liability insurance once per year is insufficient. At the hearing, Mr. Fuldner testified that drivers are required to provide proof of insurance before operating on the platform and that proof of insurance is checked annually.³ He further explained that if the insurance would lapse, it would have no impact on the primary insurance coverage provided by Rasier-PA.⁴ The Commission

² Rasier-PA M.B. at 32-33; N.T. 616-618, 645.

³ Rasier-PA M.B. at 30; N.T. 545 and 548.

⁴ Rasier-PA M.B. at 30; N.T. 519 and 579.

approved this proposal and the Compliance Plans are consistent with the Commission's *December 5 Orders*.⁵

10. The Eastern PA Protestants also object to the Compliance Plans on the basis that they do not outline how Rasier-PA will educate drivers on what to do in the event of an accident or explain how drivers will obtain proof of the commercial insurance policy. As a compliance filing is not intended to be a full recitation of the application and the evidence produced in support of the application, but rather a vehicle for addressing some issues in greater detail than has already occurred, the *December 5 Orders* did not require the Compliance Plan to include those details. Mr. Fuldner testified that drivers are advised how to download evidence of insurance and instructed to furnish such information in the event of an accident.⁶ Therefore, no additional explanation was required. To the extent any changes are required to existing forms, Rasier-PA will comply during the period afforded by the Commission following approval of the Compliance Plan.

11. Also regarding the insurance provisions of the Compliance Plans, the Eastern PA Protestants argue that the Compliance Plans are deficient because they do not provide Rasier-PA to obtain independent verification from insurers that the drivers communicated with them regarding their operation on the platform. Since the *December 5 Orders* do not require such independent verification, the Compliance Plans fulfill the necessary requirements.

B. Driver Integrity

12. In challenging the criminal background check process relied upon by Rasier-PA, the Eastern PA Protestants do not claim that the Compliance Plan is deficient relative to the *December 5 Orders*. Rather, the Eastern PA Protestants set forth unsubstantiated allegations

⁵ *December 5 Statewide Order* at 56.

⁶ Rasier-PA M.B. at 33; N.T. 550-552.

from media reports and pending lawsuits to argue that the Rasier-PA's criminal background check process is insufficient.

13. As noted by the Commission's *December 5 Orders*, Raiser-PA's criminal background check requirements, which include a seven-year look-back period on the Multi-State/Juris Criminal Records Locator, are more stringent than the twelve-month criminal background history than is required by the Commission's regulations at 52 Pa. Code § 29.505(a). Further, as recognized by the Commission, Rasier-PA automatically disqualifies an individual if there is a match on the National Sex Offender Registry database or if the check reveals a crime of violence, sexual abuse, felony robbery or felony fraud. By contrast, the Commission's regulations contain no automatic disqualification for violent crimes or sexual offenses, but rather only preclude individuals with a prior conviction that adversely affects their suitability to provide service. 52 Pa. Code § 29.505(c).⁷ Moreover, Rasier-PA provided supplemental information about this process as part of its filing on January 9, 2015.

14. The Eastern PA Protestants' proposal for Rasier-PA to conduct in-person background checks has no basis in the record or the Commission's regulations and was not previously advanced. Similarly, their suggestion that personal contact is superior to conducting criminal background checks, in terms of identifying potential problem drivers, is nothing short of absurd.

C. Vehicle Safety

15. The Eastern PA Protestants claim that Rasier-PA's Compliance Plan fails to meet the vehicle safety requirements outlined in the *December 5 Orders* because it does not contemplate Rasier-PA personally conducting vehicle safety checks. However, nothing in the *December 5 Orders* requires Rasier-PA to personally conduct vehicle safety checks.

⁷ *December 5 Statewide Order* at 31.

16. Rather, the Commission acknowledged that Rasier-PA had set forth a base-level framework for vehicle safety that includes annual Pennsylvania Department of Transportation (“PennDOT”) inspections and customer feedback.⁸ Moreover, the Commission imposed additional conditions on Rasier-PA to: a) ensure that vehicles used in its operation successfully pass PennDOT inspections on an annual basis; b) ensure that vehicles remain in continuance compliance with the Commission’s vehicle standards, noting that these vehicles will be subject to periodic inspection by Commission enforcement officers; c) not permit the use of vehicles older than eight model years (or ten model years after the recently adopted regulations become effective); and d) mark the vehicles so that enforcement officers can visually identify them.⁹

17. In its Compliance Plans filed on December 24, 2014, Rasier-PA accepted these conditions and described the process for implementing them, including the need for drivers to annually submit proof of passing PennDOT inspections and promptly resolve any deficiencies identified by enforcement officers or through customer feedback. Further, on January 9, 2015, Rasier-PA submitted additional information in response to Commission staff’s requests and offered a more detailed description of how it will ensure that the vehicles pass PennDOT inspections on an annual basis.

18. As to the “U” placard that Rasier-PA described in the Compliance Plans, the Eastern PA Protestants claim that it does not comply with the Commission’s regulations. However, it is consistent with the requirements of the *December 5 Orders* and will permit enforcement officers to identify vehicles operating on its platform. Additional information about the “U” placard was provided by Rasier-PA on January 9, 2015 to explain the specific details

⁸ *December 5 Statewide Order* at 36.

⁹ *December 5 Statewide Order* at 37.

about the placard and how it is furnished to drivers, along with the instruction that drivers are given for how and when to use it.

D. Affiliated Interest Agreement

19. The Eastern PA Protestants argue that it is inappropriate for Uber Technologies, Inc. (“UTI”) to provide management and supervisory services to Rasier-PA since UTI is not licensed or certificated by the Commission. However, in the *December 5 Orders*, the Commission expressly approved this structure of UTI assigning employees to Rasier-PA to provide these services, and only directed Rasier-PA to submit an appropriate affiliated interest agreement pursuant to Section 2101 of the Public Utility Code, 66 Pa.C.S. § 2101.¹⁰

20. Rasier-PA filed the required affiliated interest agreement with the Compliance Plans on December 24, 2014 and supplemented them with the names of additional UTI employees on January 5, 2015. This filing fully complied with the *December 5 Orders*.

E. Waiver of Regulations

21. The Eastern PA Protestants contend that Rasier-PA should be required to ensure that passengers cannot request rides from counties that are excluded from its operating authority and further that drivers who reside in and are licensed in other states should not be permitted to operate on the platform. Again, these arguments have nothing to do with the adequacy of Rasier-PA’s Compliance Plans relative to the *December 5 Orders*. Moreover, they have no basis in the Commission’s regulations, and in fact, the assertion regarding trips originating or terminating outside Rasier-PA’s approved counties is contrary to the Commission’s regulations at 52 Pa. Code § 29.312(4).

22. As to drivers who reside in and are licensed in other states, Rasier-PA has made provisions for their driving history records to be reviewed, which is described in the

¹⁰ *December 5 Statewide Order* at 40-41.

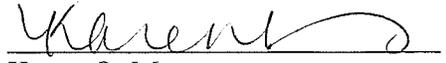
supplemental information submitted on January 9, 2015, and has indicated that vehicles of all drivers will need to pass PennDOT annual inspections.¹¹

III. CONCLUSION

23. WHEREFORE, Rasier-PA LLC's Compliance Plans filed on December 24, 2014, and as supplemented on January 5, 2015 and January 9, 2015, fully comply with the conditions imposed by the Orders entered on December 5, 2014 and should be approved.

Respectfully submitted,

Dated January 13, 2015



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¹¹ See 67 Pa. Code §175.9 (inspection of vehicles registered in another state).

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persons in the experimental service 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 Email and First-Class Mail

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Dated this 13th day of January, 2015.



Karen O. Moury, Esq.