



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

IN REPLY PLEASE
REFER TO OUR FILE

January 15, 2015

Via Electronic Filing

Rosemary Chiavetta, Secretary
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
Answer to Motion for Scheduling of Settlement Conference

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's Answer in Opposition to the Motion of Uber Technologies, Inc. for Scheduling of Settlement Conference and Assignment of Settlement Judge in the above-captioned matter.

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

Please do not hesitate to contact me if you have any questions.

Sincerely,

Stephanie M. Wimer
Prosecutor

Enclosure

cc: Chief ALJ Charles E. Rainey, Jr.
ALJ Mary D. Long and ALJ Jeffrey A. Watson
As per certificate of service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant,	:	
	:	
v.	:	C-2014-2422723
	:	
Uber Technologies, Inc., et al.,	:	
Respondents	:	

**ANSWER OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT
IN OPPOSITION TO THE MOTION OF UBER TECHNOLOGIES, INC.
FOR SCHEDULING OF A SETTLEMENT CONFERENCE AND
ASSIGNMENT OF SETTLEMENT JUDGE**

TO CHIEF ADMINISTRATIVE LAW JUDGE RAINEY, ADMINISTRATIVE LAW JUDGE LONG AND ADMINISTRATIVE LAW JUDGE WATSON:

Pursuant to 52 Pa. Code § 5.103(c), the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), Complainant in the above-docketed matter, by and through its prosecuting attorneys, hereby files this Answer in Opposition to the Motion of Uber Technologies, Inc. (Uber or Respondent) for Scheduling of a Settlement Conference and Assignment of Settlement Judge. For the reasons explained herein, I&E respectfully submits that Uber’s Motion should be summarily denied.

At the outset, I&E does not dispute that it is the Commission’s policy to encourage settlements, pursuant to 52 Pa. Code § 5.231(a). In most instances, I&E would not hesitate to engage in settlement discussions, as such discussions are commonly premised

on the notion of fairness and with the understanding that both parties would act in good faith in an effort to reach an amicable resolution to the issue or issues at hand. However, in this particular proceeding, Uber's never-ending misconduct is unprecedented and there has been, in the opinion of I&E, a total absence of good faith dealings on Uber's part.

First, Uber has repeatedly defied orders of the Commission and presiding Administrative Law Judges (ALJs) that directed Uber to provide trip data, among other information, in this proceeding. I&E believes that this trip data would expose the true magnitude of Uber's, or an affiliate's, unlawful operations in Pennsylvania and would be directly relevant to the instant proceeding. Now, through its most recent Motion, Uber allegedly agrees to produce the trip data that it has already been ordered to disclose, but only on its own terms. Uber's unilateral caveat is that it will only allow the data to be used for settlement purposes and within the context of a structured settlement conference. I&E cannot agree to Uber's demands. It would be irrational and unreasonable to expect I&E to agree to only use this data for settlement purposes when I&E does not know what the data reveals. Besides, Uber has already been assessed sanctions and ordered to provide this information without conditions. I&E is certainly not going to agree to anything less.

Secondly, Uber has refused to provide *any* of the outstanding responses to I&E's discovery in defiance of the presiding ALJs' discovery orders.¹ There can be no

¹ In addition, as set forth in I&E's Second Motion for Sanctions filed on January 9, 2015, Uber has also refused to comply with the presiding ALJs' November 26 Order directing Uber to pay a civil penalty of \$500 per day, which is due and payable for each day it fails to respond to I&E's discovery until the conclusion of the evidentiary hearing. In its Answer to I&E's Second Motion for Sanctions, Uber openly admits that it has not paid any civil penalty as a sanction for its misconduct in this proceeding.

meaningful settlement discussion when Uber has deprived I&E of information consisting of the very substance of the allegations in this case.

Lastly, in its Motion for Settlement Conference, Uber inappropriately references confidential settlement discussions held between the parties (for the second time in this proceeding) and then implicitly assigns blame to I&E for a lack of progress towards settlement. Uber's public mention of confidential settlement discussions without the other party's consent and for the specific use of an ALJ's consideration in a decision, order or other ruling that could be used against the non-consenting party is at the very least inappropriate, potentially unethical and likely violates 52 Pa. Code § 5.231(d) and Pa.R.E. 408(a). Simply stated, Uber has eroded any level of trust in which I&E could participate in a settlement conference as proposed by Uber.

Therefore, for the above-mentioned reasons, Uber does not deserve to be granted a Settlement Conference due to its continuing misconduct in this matter. Further, I&E would not consider participating in any settlement conference unless the following occurs: Uber unconditionally provides all outstanding responses to I&E discovery at least three business days prior to such conference. Uber's outstanding discovery responses include, but are not limited to, trip data, the name of the Uber affiliate that may have provided the unlawful passenger transportation, if not the Uber parent company, and the business relationships among the Uber affiliate companies.

WHEREFORE, for the reasons set forth above, the Bureau of Investigation and Enforcement respectfully requests that the Motion for Scheduling of Settlement Conference and Assignment of Settlement Judge of Uber Technologies, Inc. be denied.

Respectfully submitted,



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Dated: January 15, 2015

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:

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