**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement :

:

v. :C-2014-2422723

:

Uber Technologies, Inc. :

**INTERIM ORDER**

**ON MOTION FOR SCHEDULING OF A SETTLEMENT**

**CONFERENCE AND ASSIGNMENT OF SETTLEMENT JUDGE**

On June 6, 2014, the Commission’s Bureau of Investigation and Enforcement (BIE) filed a complaint against Uber Technologies, Inc. (Uber). The complaint alleged, among other things, that Uber was acting as a broker of transportation without a certificate of public convenience and that its actions constituted a violation of the Public Utility Code. The complaint sought civil penalties in the amount of $95,000 and an additional $1,000 per day for each day that Uber continued to operate after the date of filing. Uber filed an answer on June 23, 2014.

BIE also filed a petition for emergency relief at Docket No. P-2014-2426846. Following an evidentiary hearing, the petition was granted by order dated July 1, 2014 and Uber was ordered to cease and desist its operations in Pennsylvania utilizing its digital platform to facilitate transportation for compensation to passengers utilizing non-certificated drivers in their personal vehicles. By order entered July 24, 2014, the Commission approved that order. Further, the Commission determined that additional information would aid in the formulation of a final order in this complaint proceeding. Accordingly, by Secretarial Letter dated July 28, 2014 (July 28 Secretarial Letter), Uber was directed to address certain specific questions related to the number of trips it provided during certain periods of time (Trip Data).[[1]](#footnote-1)

Since that time, BIE has endeavored to acquire the information requested by the July 28 Secretarial Letter, as well as additional information related to Uber’s operation, through discovery. Uber has not provided answers to that discovery in spite of two orders granting BIE motions to compel,[[2]](#footnote-2) and an order granting a BIE motion for sanctions,[[3]](#footnote-3) which required Uber to do so.

On December 2, 2014, we issued an interim order which set forth a litigation schedule for the complaint. That order required the completion of discovery by December 19, 2014, the filing of motions on or before January 16, 2015, and scheduled an evidentiary hearing on February 18, 2015 at 9:00 a.m.

As a result of Uber’s continued failure to answer discovery, on January 9, 2015, BIE filed a second motion for sanctions. BIE also filed an application for a subpoena to compel the attendance of Travis Kalanick to testify at the evidentiary hearing on the complaint, and an amended complaint which, among other things, recalculates the requested civil penalty to $19 million.

On January 14, 2015, Uber filed a motion seeking the assignment of a settlement judge. That motion also requests that answers to the application for a subpoena and to the amended complaint be held in abeyance. Uber requests the settlement conference occur no later than February 6, 2015 in order to avoid rescheduling of the February 18, 2015 evidentiary hearing.

BIE filed an answer opposing the motion on January 15, 2015. In BIE’s view, a settlement conference is unlikely to be productive in view of Uber’s continued failure to answer discovery or comply with the numerous orders that have been issued by the presiding administrative law judges.

Section 5.231 of the Commission’s regulations provides that “[i]t is the policy of the Commission to encourage settlements.”[[4]](#footnote-4) The regulation also provides “[p]arties may request that the presiding officer participate in the settlement conferences or that an additional presiding officer or mediator be designated to participate in the settlement conferences.”[[5]](#footnote-5)

Here, BIE strenuously opposes the designation of a settlement judge for the reasons articulated in its answer to the motion. The regulation is not meant to enable one party to force another party to engage in the formalized settlement process permitted by the rule. That is, both parties must be willing to submit to the settlement or mediation process. Therefore, we will deny Uber’s request for the assignment of a settlement judge. Additionally, we deny Uber’s request to stay its responses to the application for subpoena and the amended complaint.

THEREFORE,

IT IS ORDERED:

That the motion of Uber Technologies, Inc. to assign a settlement judge and schedule a settlement conference is DENIED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Mary D. Long Administrative Law Judge

Date: January 23, 2015 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Jeffrey A. Watson Administrative Law Judge

**C-2014-2422723 – PENNSYLVANIA PUBLIC UTILITY COMMISSION, BUREAU OF INVESTIGATION AND ENFORCEMENT v. UBER TECHNOLOGIES, INC.***Revised 7/30/14*

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1. Uber has claimed that the Trip Data is privileged. Although it has objected to producing discovery on this basis, to date, it has not filed any motion for a protective order in this proceeding or otherwise supported that claim. See, e.g. Interim Order on Motion to Compel Set II Interrogatories dated November 25, 2014, at p. 3. [↑](#footnote-ref-1)
2. Interim Orders dated October 3, 2014 and November 25, 2014. [↑](#footnote-ref-2)
3. This order required Uber to file answers to discovery no later than December 12, 2014, in order to avoid sanctions. [↑](#footnote-ref-3)
4. 52 Pa.Code § 5.231(a). [↑](#footnote-ref-4)
5. 52 Pa.Code § 5.231(c). [↑](#footnote-ref-5)