

Buchanan Ingersoll & Rooney PC

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February 4, 2015

VIA E-FILING

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

Re: Bureau of Investigation and Enforcement v. Uber Technologies, Inc.
Docket No. C-2014-2422723

Dear Secretary Chiavetta:

On behalf of Uber Technologies, Inc., I have enclosed for electronic filing the Motion for Reconsideration of Interim Order Regarding Scheduling Settlement Conference and Assignment of Settlement Judge, 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**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
INVESTIGATION AND ENFORCEMENT	:	
	:	Docket No. C-2014-2422723
v.	:	
	:	
UBER TECHNOLOGIES, INC.	:	

**MOTION FOR RECONSIDERATION OF INTERIM ORDER REGARDING
SCHEDULING OF SETTLEMENT CONFERENCE
AND ASSIGNMENT OF SETTLEMENT JUDGE**

TO ADMINISTRATIVE LAW JUDGES LONG AND WATSON:

Pursuant to 52 Pa. Code §§ 5.103 and 5.231, by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, Uber Technologies, Inc. (“UTI”) hereby files this Motion for Reconsideration of Interim Order Regarding Scheduling of Settlement Conference and Assignment of Settlement Judge (“Settlement Motion”), and in support hereof avers as follows:

1. Section 5.231(a) of the Commission’s regulations provides that “[i]t is the policy of the Commission to encourage settlements.” 52 Pa. Code § 5.231(a). To facilitate that process, the Commission’s regulations permit parties to request the scheduling of settlement conferences and to request a presiding officer be designated to participate in settlement conferences. 52 Pa. Code § 5.231(b) and (c).

2. On January 14, 2015, UTI filed a Motion for Settlement Conference and Assignment of Settlement Judge (“Settlement Motion”) requesting the scheduling of a settlement conference on a mutually convenient date before February 6, 2015 and the assignment of an administrative law judge (“ALJ”) to participate in the settlement conference.

3. By Interim Order dated January 23, 2015, the Administrative Law Judges (“ALJs”) denied the Settlement Motion. In large part, the Interim Order was based on the

unwillingness of the Bureau of Investigation and Enforcement (“I&E”) to engage in settlement discussions with UTI because of its failure to provide responses to discovery, including trip data. In I&E’s response opposing the Settlement Motion, it indicated that it would agree to a settlement conference only if UTI provided the trip data three days in advance thereof.

4. By Interim Order dated January 29, 2015, the ALJs held I&E’s Second Motion for Sanctions in abeyance, cancelled the evidentiary hearing scheduled for February 18, 2015 and directed counsel to appear on February 18, 2015 to provide oral argument on the relief requested by the Second Motion for Sanctions and to discuss the procedural schedule and stipulations.

5. After reviewing the Interim Order on the Settlement Motion and the Interim Order on the Second Motion for Sanctions, UTI proposes to address the Court’s holdings by providing trip data in advance of a settlement conference to facilitate productive settlement discussions. Therefore, UTI proposes that a structured settlement conference be scheduled on February 18, 2015 prior to or after the oral arguments and other discussion directed by the ALJs. UTI further proposes that the settlement conference be facilitated by an ALJ, which could be one of the presiding ALJs or a different ALJ. In connection with such a settlement conference, UTI commits to providing trip data, and other information requested about the entities involved in Pennsylvania operations prior to August 21, 2014, to I&E by February 13, 2015, on a confidential basis,¹ with the express understanding and agreement that the information is to be used only to aid in settlement discussions. UTI hereby requests or is willing to separately seek a protective order containing these terms.

¹ Rasier-PA LLC, a wholly owned subsidiary of UTI, has provided the confidential trip data required by the Secretarial Letter dated July 28, 2014, under seal, to the Commission for review by Commissioners and advisory staff at the Commission who have duties to monitor compliance with the Commission’s Orders entered on December 5, 2014 at Applications of Rasier-PA LLC, Docket Nos. A-2014-2416127 and A-2014-2424608.

6. While UTI recognizes I&E's desire to receive the trip data without limitations on its use, UTI suggests that there is no downside to I&E accepting the information on the basis set forth in this Motion. If a settlement is not achieved and UTI continues to not provide the information for litigation or other purposes, I&E still has its procedural rights to pursue sanctions. However, if a settlement is achieved, this matter can be concluded without the need for further motions, pleadings, hearings, rulings and decisions, saving the parties and the Commission valuable resources.

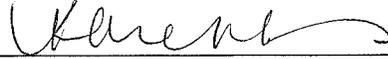
7. From UTI's perspective, providing the data in the context of settlement discussions and arriving at a settlement that is not based on the number of trips is highly preferable to furnishing this information through discovery and having it utilized as a basis for an amended complaint and a Commission decision, which would expose it to public disclosure. *See* 66 Pa.C.S. § 335(d); *Pennsylvania Public Utility Commission v. Seder*, No. 2254 C.D. 2013 (Opinion filed December 3, 2014) (documents relied upon by the Commission in reaching a determination should be made part of the public record).

8. The most compelling reason for having an ALJ facilitate a settlement conference is the wide disparity in the amount of civil penalty sought by the Complaint and the Amended Complaint filed by I&E. UTI submits that this disparity alone demonstrates the need for a neutral party to preside over settlement discussions and offer objective advice for resolving this matter. In addition, the parties have been unable to make any meaningful progress toward settlement on their own. Simply stated, UTI believes that the designation of an ALJ to participate in a settlement conference would substantially aid negotiations and offer a greater likelihood of success.

WHEREFORE, Uber Technologies, Inc. respectfully requests that the Commission grant this Motion for Reconsideration and schedule a settlement conference on February 18, 2015 and assign a settlement judge to participate in that conference.

Respectfully submitted,

February 4, 2015



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Attorneys for Uber Technologies, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION, BUREAU OF	:	
INVESTIGATION AND ENFORCEMENT	:	
	:	Docket No. C-2014-2422723
v.	:	
	:	
UBER TECHNOLOGIES, INC.	:	

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 4th day of February, 2015.



Karen O. Moury, Esq.