

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17120**

**Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Uber Technologies, Inc., Gegen, LLC,  
Rasier LLC, and Rasier-PA, LLC**

**Public Meeting September 1, 2016  
2422723-OSA  
Docket No. C-2014-2422723**

**STATEMENT OF COMMISSIONER ROBERT F. POWELSON**

Before the Public Utility Commission (PUC or Commission) today is a Petition for Rehearing and Reconsideration filed by Uber Technologies, Inc., *et al.* (Uber)<sup>1</sup> to the Commission's May 10, 2016, Order (May 10th Order) in the above-captioned proceeding. In that Order, the Commission determined that Uber must pay a civil penalty of \$11,292,236 for operating as a Transportation Network Company (TNC) without proper Commission authority.<sup>2</sup> I issued a dissenting statement in that proceeding arguing that the fine was excessive.

Today, I would like to reiterate my dissenting position that the penalty imposed in this proceeding is inappropriate and inconsistent with Commission precedent. As I have previously pointed out, the fine in this case is much higher than in other Commission proceedings where there have been fatalities, serious bodily injury, significant property damage, or patterns of unsafe business practices that jeopardized public safety.<sup>3</sup> Assessing an \$11 million fine in a situation where no one was injured and there was very little evidence of actual harm, is an abuse of Commission discretion. As Uber asserted in its Petition, the "harshness of the penalty vastly exceeds the gravity of the offense"<sup>4</sup> in this case.

Along these lines, I would like to reference a letter sent by Governor Tom Wolf, Mayor William Peduto, and Allegheny County Executive, Rich Fitzgerald, generally recognizing a concern that the excessive fine in this matter sends the wrong message about the business climate for innovation in this Commonwealth.<sup>5</sup>

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<sup>1</sup> Gegen, LLC, Raiser LLC, and Raiser-PA, LLC are subsidiaries of Uber Technologies, Inc. In this Motion, we will collectively refer to these three parties as "Uber."

<sup>2</sup> In the May 10, 2016 Order, the Commission also imposed an additional \$72,500 civil penalty for certain discovery violations.

<sup>3</sup> Statement of Commissioner Powelson, Docket No. C-2014-2422723 (April 21, 2016) at p.5.

<sup>4</sup> Uber Petition for Rehearing and Reconsideration at 32.

<sup>5</sup> Letter to the Pennsylvania Public Utility Commission from Governor Tom Wolf, Pittsburgh Mayor William Peduto, and Allegheny County Executive Rich Fitzgerald (May 3, 2016).

The letter emphasizes, and I too, agree that Uber should be penalized. I am in no way minimizing the illegal behavior engaged in by Uber. Any motor carrier that operates in Pennsylvania without proper authority from the Commission is committing a serious offense. However, it is important that the penalties we assess are not only commensurate with Commission precedent but also commensurate with the offense. The Governor's letter recognizes this in stating that Uber should be treated like any other company, and the regulation of its business should be in line with that applied to all other businesses.<sup>6</sup>

Additionally, I would like to point out that no one was physically harmed and the customers who used this service did so voluntarily. Moreover, it cannot be overlooked that by providing an alternative to traditional call and demand service, Uber was supplying a much needed benefit to customers. And yet, the Commission has chosen to assess the highest fine in the history of the Commission in this proceeding<sup>7</sup> – a fine that breaks down to be almost **\$60,000** per day. Compare this amount to Lyft's fine for the same behavior over similar time period, which translates to approximately \$1,000 per day.

It is clear that the fine imposed in this matter is excessive and is also grossly disproportionate to the profits received by Uber during the period of uncertificated service. In its Petition for Reconsideration, Uber asserts that the penalty is more than 110 times greater than its net revenues in Pennsylvania during the period when the cease and desist order was in effect.<sup>8</sup> It is unfortunate that the evidence of Uber's profits and revenues during the time it was uncertificated is not on the record because had it been, I would have supported a significantly lower fine than I asserted in my April 21, 2016, dissenting statement.

For these reasons, I respectfully dissent.

**DATE: September 1, 2016**

  
**ROBERT F. POWELSON**  
**COMMISSIONER**

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<sup>6</sup> *Id.*

<sup>7</sup> Prior to this proceeding, the highest fine issued by the Commission was \$1.8 million. See *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. HIKO Energy, LLC*, Docket No. C-2014-2431410 (Opinion and Order entered December 3, 2015).

<sup>8</sup> Uber Petition for Reconsideration and Rehearing - Feldman Affidavit ¶ 11.