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VIA OVERNIGHT DELIVERY

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

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~~SEP 26 2016~~

~~PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU~~

Re: Joint Comments of Gegen LLC and Rasier-PA LLC, Docket No.  
L-2016-2556432

Dear Secretary Chiavetta:

On behalf of Gegen LLC and Rasier-PA LLC, enclosed please find Joint Comments in response to the Advance Notice of Temporary Rulemaking Order adopted by the Commission on August 11, 2016 and published in the Pennsylvania Bulletin on August 27, 2016.

Please contact me if you have any questions regarding this filing.

Sincerely,



Kathryn Ciano

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OCT 12 2016

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Temporary Rulemaking for the : Docket No. L-2016-2556432  
Taxi and Limousine Industries :

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**JOINT COMMENTS OF GEGEN LLC AND RASIER-PA LLC**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Gegen LLC ("Gegen") and Rasier-PA LLC ("Rasier-PA") file these Joint Comments in response to the Advance Notice of Temporary Rulemaking Order ("Temporary Rulemaking Order") adopted by the Pennsylvania Public Utility Commission ("Commission") on August 11, 2016 and published in the *Pennsylvania Bulletin* on August 27, 2016. As a certificated limousine provider and transportation network company ("TNC") operating in Pennsylvania, respectively, Gegen and Rasier-PA agree that in light of changes in technology, customer demand and expectations, and competitive challenges, it is time for the Commission to update its regulatory requirements for the taxi and limousine industries.

**I. INTRODUCTION AND BACKGROUND**

The Commission adopted the Temporary Rulemaking Order pursuant to Act 85 of 2016 (effective July 13, 2016), which required the Commission to promulgate temporary regulations governing the taxi and limousine industries. Under Section 1602-M of Act 85, the temporary regulations must address a variety of topics including the use of log sheets, metering, vehicles' age and mileage, vehicle markings, tariff, driver requirements and vehicle requirements.

Gegen is a certificated limousine provider authorized to furnish limousine services between points in the Counties of Bucks, Chester, Delaware and Montgomery in Pennsylvania.<sup>1</sup>

Rasier-PA is a certificated TNC holding experimental services authority throughout the

<sup>1</sup> *Application of Gegen LLC for Limousine Authority*, Docket No. A-2012-2339043 (Order adopted August 15, 2013).

Commonwealth.<sup>2</sup> As a TNC, Rasier-PA is subject to many of the Commission's regulations applicable to taxicabs, as set forth in the Commission's *Rasier-PA Orders*.

Gegen and Rasier-PA share the Commission's attention to requirements designed to ensure vehicle safety, driver integrity, and adequate liability insurance to protect the public. Without compromising those compelling objectives, Gegen and Rasier-PA believe that important advancements can be made to modernize the Commission's regulatory requirements and improve the delivery of affordable, reliable and safe transportation services to the riding public in Pennsylvania. By updating the regulations to fulfill the expectations of twenty first century customers and to enhance the quality of transportation services that are provided, the Commission can modernize the regulatory landscape while continuing to emphasize fundamental consumer protections.

A critical area for change relates to the need for flexibility in establishing rates. Currently, the Commission's regulations governing limousine tariffs are antiquated in that they preclude limousine carriers from setting rates that reflect market forces and from adjusting rates continuously so as to effectively balance supply and demand. Also, it is important for the Commission to permit transportation providers to maintain records electronically and to ensure that reasonable procedures are in place for the review of business records that do not interfere with the operation of the transportation business or compromise the confidentiality of driver or company information.

Gegen and Rasier-PA appreciate this opportunity to offer comments to the Commission. The specific comments are set forth below.

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<sup>2</sup> *Applications of Rasier-PA LLC for Experimental Authority*, Docket Nos. A-2014-2416127 and A-2014-2424608 (Orders entered December 5, 2014 and January 29, 2015) ("*Rasier-PA Orders*").

## II. COMMENTS

### A. Section 29.334 Should Be Revised to Permit Flexible Ratemaking.

The Commission's current regulations provide as follows: "Limousine rates shall be based solely on time, and shall be contained in a tariff filed, posted and published under statute and this title. The use of meters is prohibited. The initial time period and each subsequent increment must be at least 30 minutes." 52 Pa. Code § 29.334. By limiting limousine carriers to rates that are based solely on time, restricting them to 30 minute intervals and requiring rates to be set forth in a published tariff, the existing regulations unduly and unnecessarily stifle innovation and competition. The result is that consumers are deprived of access to reliable and affordable limousine services and a choice in the way in which they arrange those services.

Provided that consumers are able to obtain real-time applicable rates and request an estimated fare when arranging limousine services through a mobile application ("App"), no purpose is served by limiting the flexibility of limousine carriers to establish rates on a continuous basis. By allowing limousine carriers to have flexibility to establish rates based on market conditions, including time, mileage and flat rates, the Commission can facilitate the delivery of products to consumers that reflect optimum use of current technology and afford consumers choices in the way they arrange limousine services.

In 1997, the Commission adopted an Order recognizing that "given the current state of competition" in the limousine industry, "market forces are better suited than this Commission to set appropriate rates." *Investigation of Flexible Ratemaking for the Bus and Limousine Industries*, Docket No. 1-00960063, 27 Pa.B. 5846 (Order adopted October 2, 1997) ("*Flexible Ratemaking Order*"). At that time, the Commission implemented new procedures allowing limousine carriers to establish rates with one day's notice without any supporting financial data.

However, in 2006, the Commission took a step backwards from the *Flexible Ratemaking Order* in adopting the existing regulations noted above. Gegen and Rasier-PA urge the Commission to return to its reliance on market forces to establish limousine rates, particularly given the availability of technology that allows rates to be continuously adjusted to balance demand and supply in a transparent manner to consumers. Flexibility in limousine ratemaking that allows rates to be changed in real-time based on relevant market factors would be consistent with the Commission's approach for TNCs.

In order to promote innovation and competition in the limousine industry, Gegen and Rasier-PA propose that the Commission permit the filing of tariffs that are similar to the schedule of rates that is on file for Rasier-PA. Specifically, such tariffs would provide as follows:

1. Rates are calculated on the basis of distance and/or time between the point of origination and the destination and include a minimum fare base and other costs, which may include "safe ride" fees, tolls, airport pickup fees, applicable taxes, and/or regulatory and compliance costs.
2. Flat fees may be charged for trips.
3. Rates may increase or decrease in real time for the purposes of balancing supply and demand. At times of insufficient supply and/or higher demand, which may include special events or holidays, dynamic pricing (known as "surge pricing") goes into effect.
4. When a natural disaster or emergency results in a state of emergency being declared by the Governor of Pennsylvania, the dynamic pricing will be computed to comply with the Pennsylvania Price Gouging Act, 73 P.S. §§232.1 *et seq.*
5. In all situations, the prospective customer will be advised of the applicable rates being charged and will have the option of receiving an estimated fare before booking the ride.
6. Cancellation fees and cleaning fees may be applied as necessary, with advance notice to the customer.

The Commission should also clarify that limousine companies are not restricted to charging rates by certain time intervals or from providing transportation that is arranged a certain period of time in advance. Permitting this flexibility for limousine ratemaking would be consistent with the Commission's overall efforts to rely more heavily on market forces to govern the practices of transportation providers. *See Proposed Rulemaking Order Amended 52 Pa. Code Chapters 1, 3, 5, 23 and 29 to Reduce Barriers to Entry for Passenger Carriers*, Docket No. L-2015-2507592 (Order entered November 5, 2015) (Commission took several measures designed to "further foster competition in this market" at 6).

B. A Provision Should Be Added Regarding Electronic Record-Keeping And Audits.

Gegen and Rasier-PA are aware that under Section 331(a), 501 and 506 of the Public Utility Code, 66 Pa. C.S. §§ 331(a), 501 and 506, the Commission is authorized to inspect, audit and investigate books, records and facilities of regulated entities. In addition, the Commission's regulations require regulated entities to maintain certain records for specified periods of time. *See, e.g., 52 Pa. Code § 29.314(c)*. Further, the Commission has acknowledged that documents may be marked as confidential and will be treated according to existing Commission confidentiality practices and regulations. *See Rasier-PA Orders* (December 5, 2014) at Appendix A, D.6.

To ensure that record-keeping requirements promote efficiencies, do not unnecessarily interfere with the business operations of transportation providers and safeguard the confidentiality of information, Gegen and Rasier-PA propose the addition of provisions to the existing regulations applicable to the taxicab and limousine industry, as follows:

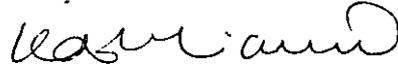
1. Individual trip records should be maintained for at least one year from the date each trip was provided.

2. Individual records for drivers should be maintained at least until the one year anniversary of the date on which a driver's relationship with the regulated has ended.
3. The Commission, for the sole purpose of verifying that a regulated entity is in compliance with regulatory requirements and no more than annually, shall have the right to visually inspect a sample of records that the regulated entity is required to maintain. The sample shall be chosen randomly by the Commission in a manner agreeable to both parties. The audit shall take place at a mutually agreed location in Pennsylvania. Any record furnished to the Commission may exclude information that would tend to identify specific drivers or riders.
4. In response to a specific complaint against any driver or regulated entity, the Commission is authorized to inspect records held by the regulated entity that are necessary to investigate and resolve the complaint. The regulated entity and the Commission shall endeavor to have the inspection take place at a mutually agreed location in Pennsylvania. Any record furnished to the Commission may exclude information that would tend to identify specific drivers or riders, unless the identity of a driver or rider is relevant to the complaint.
5. Any records inspected by the Commission that are designated confidential are not subject to disclosure to a third party by the Commission without prior written consent of the regulated entity.
6. All record-keeping obligations of regulated entities may be fulfilled by maintaining such records electronically.

### **III. CONCLUSION**

Gegen and Rasier-PA appreciate this opportunity to offer comments to the Commission related to the modernization of the taxi and limousine industry and respectfully encourage the Commission to adopt temporary regulations establishing flexible ratemaking for the limousine industry and ensuring that record-keeping is governed in a way that promotes efficiencies, avoids unnecessary interference with the operations of transportation providers and ensures that confidential information is protected.

Respectfully submitted.



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September 26, 2016

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