

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement

Public Meeting April 21, 2016
2422723-OSA
Docket No. C-2014-2422723

v.

Uber Technologies, Inc., Gegen, LLC,
Rasier, LLC, and Rasier-PA, LLC

**JOINT MOTION OF
COMMISSIONER JOHN F. COLEMAN, JR.
AND CHAIRMAN GLADYS M. BROWN**

Before the Commission are the exceptions of Uber Technologies, Inc. and its subsidiaries Gegen, LLC, Rasier LLC, and Rasier-PA, LLC (collectively "Uber") to the Initial Decision of Administrative Law Judges Mary D. Long and Jeffrey A. Watson, issued on November 17, 2015 in the above captioned proceeding. Also before us is the Motion to Strike Exceptions of Uber filed by the Bureau of Inspection and Enforcement ("I&E") on December 17, 2015.

With this Joint Motion, we move that the Motion of I&E be denied, and that the exceptions of Uber be granted in part, and denied in part. As to the Exceptions of Uber, we find that the Initial Decision should be affirmed to the extent it held that Uber violated the Public Utility Code by providing regulated passenger transportation service without a certificate of public convenience, that a civil penalty should be assessed on a per trip basis, and that Uber should be sanctioned for certain discovery violations. However, we find that mitigating factors be applied to significantly reduce the size of the civil penalty proposed by the presiding ALJs, as detailed by the Office of Special Assistants in its Proposed Opinion and Order. Adoption of this Joint Motion would result in Uber being directed to pay \$11,364,736 in civil penalties.

Given the size of the recommended civil penalty in this matter, and the substantial reduction from what was recommended by the ALJs, it is appropriate to offer some additional context. Let us first address the reduction in the civil penalty. We find that the recommended fine should be reduced to \$11,364,736 for two reasons. One, Uber has modified its internal practices to comply with the Commission imposed conditions on its current authority. Two, Uber and its affiliates have not demonstrated any significant compliance problems since the grant of emergency temporary and later experimental authority.

We agree that Uber has earned some relief from the fine recommended by the presiding ALJs given its performance over the last year, and the relatively few complaints that have been filed with the Commission. The civil penalty that is being adopted today is a very substantial reduction from what was recommended by the presiding ALJs, and is significantly less than the

\$1000 per violation maximum that is often levied against smaller carriers for violations of the Public Utility Code. This reduced penalty demonstrates that the Commission is more than willing to compromise in order to achieve outcomes that serve the public interest.

Some would argue that while Uber has violated the Public Utility Code, the size of the civil penalty should be reduced to a much lower number than what is proposed in this Joint Motion. So why is such a large, record setting, civil penalty appropriate? It must be recognized that Uber has deliberately engaged in the most unprecedented series of willful violations of Commission orders and regulations in the history of this agency. While we cannot disclose the number of proven violations, as this data is proprietary, this figure, in the many thousands, far exceeds any prior case involving the Commission. A record number of proven violations should be expected to result in a record setting fine.

We believe that any additional, material reduction of the civil penalty in this case would jeopardize the future regulation of transportation network companies in Pennsylvania. In recent decades, we have witnessed first movers in areas of new technology obtain market dominant positions in relatively short order. While some would likely disagree, it is not unforeseeable that Uber and its affiliates will obtain a market dominant position in passenger transportation services in this Commonwealth in the near future. Given this possibility, it is necessary that Uber be required to pay a civil penalty commensurate with the quantity of proven violations to discourage future, unlawful behavior. This resolve demonstrates to Uber and to others in this industry that future, unlawful operations will not be tolerated and thereby incentivizes them to fully comply with the laws of this Commonwealth. If the Commission is unable to impose a penalty that reasonably corresponds to the very large number of proven violations, when would it be able to do so? Would the message we send, albeit unintended, that Uber is “too big to fine?”

On a related issue, the parties in this case were directed to address whether refunds or credits would be an appropriate remedy for service provided in violation of the Code. While we agree that the Commission has the authority to order this remedy, we conclude that we should not apply it in this case. We find that the civil penalty we have adopted is sufficient for the proven violations.

In conclusion, we recognize that the service provided by transportation network companies is very popular with consumers and is meeting a need that incumbent passenger carriers were not providing. Accordingly, we are pleased that new transportation options are available to customers throughout this Commonwealth. We look forward to working with our colleagues and the Pennsylvania General Assembly in crafting a regulatory scheme that serves the public interest in safe, modern and affordable passenger transportation services in this Commonwealth.

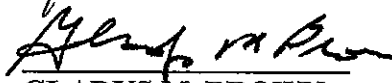
THEREFORE, WE MOVE THAT:

1. The Initial Decision of Administrative Law Judges Mary D. Long and Jeffrey A. Watson, issued on November 17, 2015, is adopted as modified by this Joint Motion.

2. The Office of Special Assistants prepare an Opinion and Order consistent with this Joint Motion.



JOHN F. COLEMAN, JR.
COMMISSIONER



GLADYS M. BROWN
CHAIRMAN

DATE: April 21, 2016

