**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Rasier-PA LLC, a limited liability company : A-2014-2416127

of the State of Delaware, for the right to begin to transport, :

by motor vehicle, persons in the experimental service :

of shared-ride network for passenger trips between points in :

Allegheny County :

# **PREHEARING ORDER SETTING LITIGATION SCHEDULE**

On April 14, 2014, Rasier-PA LLC (Rasier or Applicant) filed with the Pennsylvania Public Utility Commission (Commission), its Application for the right to begin to transport, by motor vehicle, persons in the experimental service of shared-ride network for passenger trips between points in Allegheny County. Applicant proposes to operate a ride-sharing network service for passenger trips between points within Allegheny County, Pennsylvania.

Applicant proposes to use a digital platform to connect passengers to independent ride-sharing operators (“Operators”) with whom Applicant intends to contract. Operators will use their personal, non-commercially licensed vehicles for the purpose of providing transportation services. The Applicant plans to license the Uber technology to generate leads from riders who need transportation services. Applicant does not own vehicles, employ drivers or transport passengers.[[1]](#footnote-1)

Commission regulations permit certification of transportation providers for “experimental” service in order to “allow . . . a new, innovative or experimental type or class of common carrier service.”[[2]](#footnote-2)

Notice of the application was published in the Pennsylvania Bulletin on April 26, 2014. The notice provided that the deadline for the filing of protests was May 12, 2014.[[3]](#footnote-3)

On May 7, 2014, JB Taxi LLC (JB Taxi) filed a protest and a petition to intervene. The Applicant filed preliminary objections on June 2, 2014, which sought dismissal of the protest, averring that the Protestant lacked standing to protest the application. The Protestant filed an answer to the preliminary objections on June 13, 2014. On July 1, 2014, the undersigned presiding officers issued an Initial Decision dismissing the Protest and denying the petition to intervene filed by JB Taxi.

On May 12, 2014, Concord Limousine, Inc. (Concord), and Executive Transportation, Inc., t/a Luxury Sedan (Executive) filed protests to the Application. On June 2, 2014, the Applicant filed preliminary objections which sought dismissal of the protests. Protestants filed Answers to Preliminary Objections on June 12, 2014. On July 1, 2014, the undersigned presiding officers issued Interim Orders denying the preliminary objections to the protests of Concord Limousine, Inc., and Executive Transportation, Inc., t/a Luxury Sedan.

On May 12, 2014, the Pennsylvania Association For Justice (PAJ) and the Insurance Federation of Pennsylvania, Inc. (Insurance Federation), filed protests to the Application. On June 2, 2014, the Applicant filed preliminary objections which sought dismissal of the protests. Applicant sought the dismissal of the protests averring that neither the Insurance Federation nor PAJ established the requisite standing to protest the application. On July 1, 2014, the undersigned presiding officers issued an Initial Decision dismissing the Protests of the Insurance Federation and PAJ.

On July 3, 2014, a Call In Telephone Notice was issued scheduling a Prehearing Conference in this matter for July 24, 2014 at the Pittsburgh Hearing Office.

On July 7, 2014 a Prehearing Conference Order was issued, directing the parties to file Prehearing Memoranda on or before July 23, 2014 at 2 p.m. Prehearing Memoranda were filed by the parties.

The Prehearing Conference proceeded as scheduled on July 24, 2014. Counsel for the Applicant, Karen O. Moury and counsel for Protestants Concord and Executive, Michael S. Henry, Esquire, participated in the Prehearing Conference, which resulted in the establishment of a litigation schedule. This Order memorializes the matters decided and agreed upon by the parties attending the conference.

**Litigation Schedule**

|  |  |
| --- | --- |
| Evidentiary Hearings in Pittsburgh | August 18-19, 2014 |
| Briefs | August 29, 2014 |

The above-stated dates are **in-hand** dates for service on the parties and the Presiding Administrative Law Judges (ALJs). The parties and the Presiding ALJs agree to accept email transmission of such material, so long as the subject email is received by 4:30 p.m. on the date due and provided the email is followed the next business day by sending a hard copy of the same material via first-class mail postage prepaid to the parties. The email addresses of the Presiding ALJs are [malong@pa.gov](mailto:malong@pa.gov) and [jeffwatson@pa.gov](mailto:jeffwatson@pa.gov). The Presiding ALJs will not accept facsimile transmissions greater than ten pages in length without prior authorization. If in doubt, please call (412) 565-3550.

Hearings will begin promptly at **9:00 a.m.** each day. The parties must confer before commencement of the hearings to schedule their witnesses so as to avoid “holes” or “dead time” during the hearings. In the event that a partial settlement is achieved the parties should be prepared to proceed on the first scheduled day of hearing to present evidence on the non-resolved issues.

**Parties**

As of the date of this Order, the entities named above are the only parties involved in this case. A Service List of these parties is appended to this Order.

**Consolidation**

Although the hearings on both applications filed by Rasier at Docket Numbers A‑2014-2416127 and A-2014-2424608 are scheduled concurrently, separate briefs for each application shall be filed and a separate Decision will be prepared for each application.

## Issues

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues as well as the requirements for approval of the applications pursuant to the Public Utility Code and the regulations of the Commission. Additional issues may arise as the discovery process unfolds.

**Discovery**

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et* *seq*. The parties must not send the Presiding ALJs discovery material or cover letters, unless attached to a motion to compel. All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the Presiding ALJs will contact the parties and direct them to pursue informal discovery.

**Settlement and Stipulations**

The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa.Code § 5.231(a). If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

**Cross-Examination**

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa.Code §§ 5.76 & 5.243.

**Briefs**

The parties must comply with 52 Pa.Code §§ 5.501, *et* *seq*., regarding the preparation and filing of briefs. Page limitations on briefs will be discussed on or before the last day of hearing. Where possible, the parties shall submit to the Presiding ALJs **one** hard copy of their briefs and one copy by email. **The electronic version of a brief must be prepared on an IBM compatible system in *Microsoft Office Word 2010* format or in an earlier version of this software application.** If in doubt, please call the office of the Presiding ALJs for clarification.

All Briefs **MUST** include:

1. Proposed findings of fact and conclusions of law with citations to the transcript and exhibits admitted into the record. **Any proposed finding of fact that does not include record citations to transcript pages or exhibits where the supporting evidence appears, will not be considered**.

2. A thorough legal analysis of the issues raised in the case.

3. Proposed ordering paragraphs specifically identifying the relief sought.

Any reply brief should be succinct and should not repeat arguments already made in the party’s main brief.

**Modification**

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: July 28, 2014

Mary D. Long

Administrative Law Judge

Jeffrey A. Watson

Administrative Law Judge

**A-2014-2416127 – APPLICATION OF RASIER-PA LLC, a wholly owned subsidiary of uber technologies, inc., FOR A CERTIFICATE OF PUBLIC CONVENIENCE TO OPERATE AN EXPERIMENTAL RIDE-SHARING NETWORK SERVICE**

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*Representing:*

*Concord Limousine, Inc.*

*Executive Transportation, Inc. t/a Luxury Sedan*

***Accepts E-service***

1. Application at ¶ 10-11. [↑](#footnote-ref-1)
2. 52 Pa.Code § 29.352. [↑](#footnote-ref-2)
3. 44 Pa.B. 2604 (April 26, 2014). [↑](#footnote-ref-3)