

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Rasier-PA LLC, a Wholly Owned :  
Subsidiary of Uber Technologies, Inc. for a :  
Certificate of Public Convenience Evidencing :  
Approval to Operate an Experimental : A-2014-2424608  
Ride-Sharing Network Service Between Points :  
In the Commonwealth of Pennsylvania, :  
Excluding Designated Counties :

PROTESTANT CAPITAL CITY CAB SERVICE'S RESPONDS TO APPLICANT'S  
PRELIMINARY OBJECTIONS

Respondent Capital City Cab Service, through its attorney Joseph T. Sucec, Esq., hereby  
Responds to Applicant's Preliminary Objections as follows:

I Summary of Argument

1 Applicant has managed, through its Application and its earlier filings, to  
create the illusion that the service it seeks to offer is new and innovative. A similar, but  
not identical Application also currently exists on the Commission's dockets at In Re:  
Application of Cranberry Taxi, Inc. t/a Veteran's Taxi, A-2014-2418206. Respondent  
offered there the same comparisons with Call and Demand Service that it offers here. To  
wit:

The service sought to be offered by Applicant will apparently entail the following

procedure:

- A Prospective customers will contact the Applicant through the “App” using their cellular telephones or connected tablet computers.
  
- B The prospective driver (who will be using their private vehicle) is contacted by the Applicant, either by two way radio or cellular telephone.
  
- C The driver transports the passenger to the intended location.
  
- D Payment is made either via a credit/debit card or through a cash exchange with the driver.

The process is nearly identical to Call and Demand Service in all but two respects. First is the use of the “App” to schedule the trip. Ultimately, a human being (a dispatcher) will have to take part in the process, and both connect the prospective driver to the trip, and assure that the trip will be pursued. Using only software to make the connection may mean that a trip is either assigned after a waiting period of hours or not at all. Essentially then, the only difference is in the way the dispatcher is contacted. The dispatching process is identical.

The second difference between existing Call and Demand Service and the Application is in the proposal to use drivers who use their own vehicles. Given the stringent standards that the Commission imposes and enforces on Call and Demand carriers; it is surprising that this aspect of the Application would be entertained at all. However, if Applicant prevails in the present (and all related) Motions, there will be no one but the Commission to enforce any standards. The use of software to arrange the trip, with no identifying logos or PUC numbers on the vehicles will make the potential Complaint process for poor service or poorly maintained vehicles that much more difficult. This is also notwithstanding the vulnerability that any software may be “hacked,” also exposing the public. Applicant would necessarily like the Standing of any of its potential competitors to be removed; thereby allowing it to act with impunity regarding these issues.

If Applicant is seeking authority to offer a de facto Call and Demand Service in Protestant's coverage area, then the issue of Standing is moot. Protestant Capital City Cab Service certainly has standing to challenge a potential competitor offering the same service in its coverage area. Further, any such Commission Protest challenging the Applicant's ability to meet all the requirements of 52 Pa.Code 41.14 is and has been routinely valid; the Applicant always has the burden of meeting the Commission's standards.

Applicant is, in short, hiding behind its self-designation as an “experimental service” in order to skirt any and all Commission regulations regarding the service it actually plans to offer.

2 Denied. While the corresponding paragraph reads more like an advertisement than a legal averment, the question returns to the de facto function of the planned service: to offer Call and Demand taxicab service. Applicant's reference to the “sufficiently distinguishable” character of its planned service most likely derives from **Application of Yellow Cab of Pittsburgh, Inc., t/a Yellow X Order. A-2014-2410269 (Order entered May 22, 2014)**, which was based on an unopposed Application; the Commission was not being asked to rule on any question, much less that which is at bar based on this and all its accompanying Motions.

## II INTRODUCTION AND BACKGROUND

3 Admitted to the extent that an Application was filed.

4 Applicant makes both conclusions of law, not requiring answers, and factual averments that have no bearing on this matter, as Applicant is seeking authority for a de facto Call and Demand Service.

5 Admitted

6 Admitted

7 Admitted as to Applicant's Preliminary Objections, Denied as to the validity of the stated grounds, for the reasons stated in paragraphs 1 and 2 of this Answer.

### III Legal Standards Applicable to Preliminary Objections

8-11 Applicant uses these paragraphs to cite what it believes are the standards for Preliminary Objections before the Commission. All are necessarily conclusions of law, not requiring an Answer.

### IV Argument

#### A Preliminary Objection No. 1: Lack of Standing

12 Admitted.

13 Applicant states a conclusion of law, not requiring an Answer. That said, Applicant would like the Commission to consider all the Protestants “frivolous.” when the reality is that Applicant is offering a functionally identical service that threatens the existence of all the Protestants.

14 Applicant states a conclusion of law, not requiring an Answer. That said, Applicant would like the Commission to consider all the Protestants “frivolous.” when

the reality is that Applicant is offering a functionally identical service that threatens the existence of all the Protestants. Applicant offers a string of cases involving medical transport and limousine services as a further “red herring;” the differences between, for example, a limousine service and that offering Call and Demand taxicab service is obvious and clear; while the service sought to be offered by Applicant and Call and Demand service is identical.

15 Applicant states a conclusion of law, not requiring an Answer. That said, Applicant would like the Commission to consider all the Protestants “frivolous.” when the reality is that Applicant is offering a functionally identical service that threatens the existence of all the Protestants. Applicant's citation of **Danach** is deliberately misleading, as the Protestant there was a Call and Demand service protesting a limousine Application.

16-17 Applicant states a conclusion of law, not requiring an Answer. Also Denied. The citation of **Yellow Cab** rings false on two regards. First is the unopposed nature of the Application involved (see paragraph 2 of this Response). Second, at page 10 of **Yellow Cab**, the Commission writes that it did not intend for the **Yellow Cab** decision to apply anywhere else. **Yellow Cab** was expressly not an adversarial proceeding;

Applicant would use the Commission's enthusiasm for the use of new technology, expressly limited later in its same Decision, as binding precedent denying the Protestants the Due Process provided for by Commission regulations.

18-19 Denied. While much of paragraph 18 of Applicant's Preliminary Objections reads like promotional material, Protestant Capital City Cab Service submits that the service sought to be offered by Applicant is identical to Call and Demand service in function and nearly identical in all respects. Protestant further submits that the only differences between Call and Demand service and what Applicant proposes, the use of untested software, as well as that of private vehicles, may have a deleterious effect on the public interest.

WHEREFORE, Protestant Capital City Cab Service prays that Applicant's Preliminary Objection number 1 be Denied.

B. Preliminary Objections No. 2: Legal Insufficiency of Pleading

20-25 Applicant states conclusions of law, which do not require answers.

However, also Denied for the following reasons. First, Applicant tries to establish a binding precedent with Yellow Cab, when the Commission itself made clear (in the same Opinion and Order) that no precedent was to be created. Second, the Standing of all the

Protestants is conferred by the Applicant's attempt to commence an identically functioning service to the Call and Demand service most, if not all of the Protestants currently offer. The animal has feathers, webbed feet, and quacks, but both the Commission and the Protestants are to accept Applicant's word that it is not a duck that is being seen. For the forgoing reasons, The Commission must maintain Protestants' standing and hold an Evidentiary Hearing on this matter.

WHEREFORE, Protestant Capital City Cab Service prays that Applicant's Preliminary Objection number 2 be Denied.

Date: 8/1/14

Respectfully submitted,

/s/Joseph T. Sucec

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the parties listed below via e-mail and/or first class mail, postage prepaid.

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