

**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 : Docket No. A-2014-2424608  
Ride-Sharing Network Service Between Points in :  
the Commonwealth of Pennsylvania, Excluding :  
Designated Counties :

**JOINT BRIEF OF PROTESTANTS' KEYSTONE CAB SERVICE, INC., GOOD CAB, LLC,  
UNITED CAB LLC, AND EZ TAXI, LLC**

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**AND NOW COMES**, Protestants, Keystone Cab Service, Inc. (Keystone), Good Cab LLC (Good), United Cab, LLC (United) and EZ Taxi, LLC (EZ), (collectively, Protestants) by and through their attorney, Justine L. Pate, Esq., and submit their Joint Brief in the above matter.

## **INTRODUCTION AND PROCEDURAL HISTORY**

This matter originates from an Application filed by Rasier- PA, LLC (Applicant, or Rasier-PA) on or about June 2, 2014 for the right to begin to transport, by motor vehicle, persons in the experimental services of shared-ride network for passenger trips between points in Pennsylvania, excluding those which originate or terminate in the Counties of Beaver, Clinton, Columbia, Crawford, Lawrence, Lycoming, Mercer, Northumberland and Union. Applicant also filed an application for service of shared ride network for passenger trips in Allegheny County. At the Prehearing Conference, on July 24 2014, it was decided that the docket for the June 2, 2014 application would be combined with the docket for the Allegheny Application. (*See*, Prehearing Order Setting Litigation Schedule, July 29, 2014). The Protestants sought a continuance of the hearing, as did multiple other Protestants, however those requests were denied. (*See*, Interim Order on Requests for Continuance, August 12, 2014). Evidentiary hearings took place in Pittsburgh on these matters on August 18, 2014 and August 19, 2014. An additional hearing took place in Pittsburgh on September 9, 2014.

The Commission should deny the Application because the Applicant does not provide experimental service, and therefore the Applicant has filed the incorrect application. Moreover, even if an experimental application is found to be appropriate, the Commission should deny the Application because Applicant did not meet its burden under 52 Pa Code §41.14, Further, the Commission should grant Protestants summary judgment in the instant matter. Protestants are entitled to summary judgment because there exists no genuine issue of material fact, and Protestants are entitled to summary judgment

as a matter of law. Further, should the Administrative Law Judges not grant Protestants summary judgment, the Application should be dismissed in its entirety because Applicant has failed to demonstrate that it is capable of operating legally.

## **STATEMENT OF THE FACTS**

Applicant has filed two Applications in the instant matter; one Application pertains to Allegheny County in particular, the other Application was filed for statewide authority excluding certain counties. N.T. (Direct Testimony of Matthew Gore) 8/18/14, p.28. Applicant is Rasier-PA, LLC whom is limited liability company registered in Delaware, and is a wholly-owned subsidiary of Uber Technologies, Incorporated. Id. At 53. The manager of Rasier-PA, LLC is Travis Kalanick; there are no other members of the LLC. Id.

Applicant presented the testimony of Matthew Gore who is the current general manager of Uber Florida. Id. at 49. Immediately prior to his current position, Mr. Gore was the associate general manager of Uber Pittsburgh. Id. at 50. Mr. Gore's main job duties at Uber Pittsburgh included developing and growing the business in Pittsburgh, including drivers and riders. Id. Mr. Gore evaluated business opportunities for expansion in the area. Id. Mr. Gore never conducted need studies in Dauphin county, Adams county, York County nor Lancaster county. N.T. 8/18/14 (Cross Examination of Matthew Gore) p. 260-261.

The service proposed by Applicant is one in which a customer would create an account, either through the internet, or by downloading an application to a smart phone or tablet and then the customer would be able to request a ride. Id. At 55. Following the request, the customer would be paired with the nearest operator available. Id. At 56. Should that driver be available, the driver will accept the request, and pick up the customer. Id. The customer will have already given credit card information through the internet or Application and it would be a cashless transaction; at the end of the ride, the customer will exit the vehicle. Id. The operator of the vehicle would not be employed by Rasier-PA, but would be independent contractors. Id. Rasier-PA purports not to own vehicles, employ drivers nor transport passengers. Id. At 57.

Uber Technologies, Inc. has many subsidiaries that are wholly owned. Id. At 81. Rasier-PA, LLC is the subsidiary that is the subject of the two pending applications, and currently Rasier, LLC another wholly owned subsidiary, is operating in Pennsylvania. Id. Rasier, LLC does not have authority from the Commission to operate. Id. at 82. Rasier, LLC did not stop operating when the Commission issued a cease and desist order on July 24, 2014. Id. at 83. Rasier – PA, LLC was formed for business and accounting purposes. Id. at 84. Applicant does not know when or why Rasier-PA, LLC was created. N.T. 8/18/14 (Cross Examination of Matthew Gore)p. 206. When asked about the parent company, Uber Technology, Inc.'s penchant for creating wholly owned subsidiaries, the witness testified as follows:

Q: Now, When was Rasier-,PA LLC formed?

A: I don't know

Q: Do you know, why didn't –was there an internal decision made within Uber regarding Rasier, LLC filing an application?

A: I'm not sure I understand the question

Q: Well, why didn't Rasier, LLC file an Application?

A: I don't know the answer to that question. N.T. 8/18/14 (Cross Examination of Matthew Gore)p. 206.

The evidentiary hearings in this matter were limited in terms of producing evidence, since the Applicant answered very few questions regarding its operations. For example, Applicant presented a tariff into evidence which was filed with the Public Utility Commission. Id. at 78. The tariff Applicant filed contains no information upon which anyone can make an evaluation as to whether or not the rates are just and reasonable. N.T. (Cross examination of Matthew Gore) p. 290. Applicant will use surge pricing, but for business reasons, did not include any surge pricing figures in its tariff. Id. at. 302. The tariff does not have a minimum base fare, which was not included for business reasons. Id. at. 149. The tariff also contains an estimated fare, which Applicant did not know the margin of error for. Id. at 297-298.

When asked about how fares would be displayed to customers, the Applicant testified as follows:

Q: How would a customer know if it's a flat fee or by time or distance.

A: That would be advertised on our website if there were specific flat fees in that area.

Q: When you say on your website, would that also be advertised on your mobile app?

A: I can't say because we don't have in my current area. N.T. 8/18/14 (Cross Examination of Matthew Gore)p. 238.

The Applicant later testified:

Q: What's the margin of error on your estimated fares?

A: I don't know the answer to that question

Q: Who would know the answer to that question

A: I don't know the answer to that question. N.T. 8/18/14 (Cross Examination of Matthew Gore)p. 297-298.

Applicant also presented a financial information sheet into evidence. N.T. (Direct testimony of Matthew Gore) 8/18/14 p. 59. When asked about the financial statement, the Applicant testified as follows:

Q: And do you have any understanding how operating revenues are projected?

A: I do not. I was not party to the preparation of this.

Q: Who was?

A: My understanding is the finance and accounting team for Uber Technologies, but I don't know specifically who was. N.T.

8/18/14 (Cross Examination of Matthew Gore)p. 142.

When asked about the financial balance sheet again, the Applicant testified as follows:

Q: what is included in your legal expense?

A: I don't know.

Q: OK. What is included in your general office expense?

A: I don't know.

Q: What is included in the advertising expense and marketing?

A: I don't know.

Q: What is included in the materials and supplies expense?

A: I don't know

Q: So I'm assuming the bottom line is the answer is going to stay the same for total operating expense?

A: That's correct N.T. 8/18/14 (Cross Examination of Matthew Gore) p. 236.

When asked about operations in Pittsburgh, in regard to temporary employees who travel to and

from an unmanned office, Applicant testified as follows:

A: ...The team travels to Pittsburgh at various times to conduct their business. There are additionally sometimes temporary workers who are contracted through third parties who may also be based in Pittsburgh.

Q: And would they be involved in screening operators?

A: I don't know if they are currently being utilized to screen operators

Q: How about inspecting vehicles?

A: I don't know if they're being used to inspect vehicles currently

The Applicant put forth four need witnesses in support of its Application. Applicant presented the need testimony of Sally Guzik, Rebecca Gonzalez-Bartoli, Brian Bashin, and Lori Sergent.

Ms. Guzik testified she has been using Uber services since February 2014 in Allegheny County. (N.T. Direct Testimony of Sally Guzik) 8/18/14, p. 36. Ms. Gonzalez-Bartoli testified she had used Uber once in California, and had used Uber for transportation to the hearing. Id. Direct Testimony of Rebecca Gonzalez-Bartoli, pp. 42-43. Uber is not available in her native Wilkes-Barre. Id. Mr. Bashin testified that he uses Uber in California, but has neither used taxi service in Pennsylvania nor used Uber in Pennsylvania. N.T. 8.18.14 (Cross Examination of Brian Bashin), p. 176-177. Ms. Sergent testified that she does not use taxi service, she once used chauffeur service, and has never used Uber Service. N.T. 8.18.14 (Direct and Cross Examination of Lori Sergent), p. 178-183.

Protestants offered the testimony of multiple common carriers who utilize App-based technology in their day to day operations. The Protestant's offered the testimony of Mr. Joshua Freedman. N.T. (Direct Testimony of Joshua Freedman) 8/18/14 p. 185. Mr. Freedman is the CEO of CabbyGo. Id. At 186. CabbyGo provides free technology tools for existing licensed carriers. Id. The technology CabbyGo offers is an online mobile application where carriers can log in, create accounts for their drivers, and then drivers can use their mobile platform to receive ride requests. Id. Any rider that has a mobile platform can download the app and request a ride. Id. At 186. The revenue model used by CabbyGo is not based on fares. Id. At 189.

Additional testimony from both Khalid Alvi and Alex Friedman also included testimony about

the use of App based technology in existing call or demand service. Mr. Alvi is a cab driver and also the executive director of the Philadelphia Taxicab Association. N.T. 8/18/14 (Direct Examination of Khalid Alvi), p. 343. Mr. Alvi testified that there are two ways to get taxi with his company, one is by telephone, and the other is by a mobile application. Id. At 366-367. The Application is called 215 Get a Cab. Id. At 367. The 215 Get a Cab application allows for reserved service and instant services, meaning a person can prearrange a ride, or can use the app for a more immediate need. Id.

Alex Friedman, a medallion owner in Philadelphia, and the manager of All City Taxi in Philadelphia, also testified as to the use of 215 Get a Cab. N.T. 8/1/8/14 (Direct Examination of Alex Friedman) pp. 419-433. Mr. Friedman testified that through 215 Get a Cab, customers are free to pay by cash, credit cards in the car, credit cards in advance through the application, and only that the App only connects to certificated carriers. Id. 431-433.

Applicant also refused to comply with a Court Order during the hearings. The Commission issued an interim order on July 31, 2014. N.T. (Cross Examination of Matthew Gore) 8/18/14, p. 253. Applicant refused to provide answers citing that the information would be harmful to business if disclosed. Id. There was no protective order sought by the Applicant. Id. The questions raised by the Order requested information regarding the number of trips made by Uber from June 5, 2014, until July 1, 2014. Id. at 256-259.

## **STATEMENT OF ISSUES**

1. Whether the Application of Rasier-PA, LLC should be dismissed because Applicant filed the incorrect Application when it filed for Experimental authority because Applicant is, in fact, call or demand service.

**SUGGESTED ANSWER:** In the affirmative

2. Whether Protestants are entitled to summary judgment because there exists no genuine issue of material fact.

**SUGGESTED ANSWER:** In the affirmative

3. Whether the Application should be denied because Applicant failed to meet it's burden under 52 Pa. Code 41.14

**SUGGESTED ANSWER:** In the affirmative.

4. Whether the Application should be dismissed because Applicant lacks propensity to operate legally.

**SUGGESTED ANSWER:** In the affirmative

## **SUMMARY OF ARGUMENT**

The Public Utility Commission (the Commission) should deny the Application of Rasier-PA, LLC (Applicant) because the application was incorrectly filed. The Application filed by the Applicant is for experimental service, when in reality, the Applicant is nothing more than a common carrier in disguise. The Commission will find that the reason an experimental application was filed was merely a technique used by the Applicant to circumvent the authority of the Commission.

Secondly, the Commission should grant the Protestant's motion for summary judgment, as the Commission will find that there is no genuine issue of material fact. At the conclusion of Applicant's case, Applicant presented no need witnesses regard to the state wide application.

Moreover, the Commission will find Applicant has not met a single element with regard to its state-wide application under 52 Pa. Code §41.14, and as a result, the Commission should deny the Application.

Thirdly, the Commission will find it is appropriate to dismiss the Application because the Applicant has a demonstrative background of illegal operations and a complete disregard for the authority of the Commission.

## **ARGUMENT**

### **APPLICANT FILED THE INCORRECT APPLICATION BECAUSE APPLICANT DOES NOT PROVIDE EXPERIMENTAL SERVICE, APPLICANT PROVIDES CALL OR DEMAND SERVICE**

The Public Utility Code delineates six groups of service under 52 Pa. Code §29.13: Scheduled route service, call or demand service, group and party service, limousine service, airport transfer service and other services: paratransit, experimental. 52 Pa. Code §29.352 states, in pertinent part, “In order to advance and promote the public necessity safety and convenience, the Commission may, upon application, grant a new certificate or an amendment to an existing certificate in order to allow to be provided a new, innovative or experimental type or class of common carrier service”. Call or demand service is defined under 52. Pa. Code §29.13 as “Local common carrier service for passengers, rendered on either an exclusive or non exclusive basis by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both.”

Experimental service is therefore defined as service that is neither route service, call or demand service, group or party service, airport transfer service, nor paratransit service. Applicant however, presented no testimony to demonstrate any meaningful distinguishable features from call or demand service.

Applicant maintained that a customer calls for a taxi via a web based Application and after the ride, the customer pays for the service. Applicants description of its service is call or demand service. Applicant would have the Commission believe that simply because Applicant utilizes an App it is Experimental Service, however, the use of an App in call or demand service is something call or demand carriers regularly engage in. Aside from filing the Application as a new wholly owned subsidiary, Applicant offered no testimony as to what *actually* makes the service experimental. The use of smartphone applications as a means to gather a ride does not make a carrier experimental, as

smart phone applications have been and continued to be used by common carriers across the Commonwealth as a means of gathering rides. Applicant's use of its smartphone application does not distinguish it from any other regular call or demand service.

Protestants presented testimony demonstrating the use of new technology in a methodology fitting to the regulatory scheme already in place by the Commission. The testimony of Joshua Freeman, Khaid Alvi and Alex Friedman demonstrate the wide use of mobile applications within call or demand service, in a legal way, in that those applications work only with certificated carriers whom are within the jurisdiction of the Public Utility Commission. The Applicant, however, is seeking permission to provide call or demand service, illegally and without the jurisdiction of the Commission. The part of Applicant's service that may be considered experimental is the use of uncertificated carriers. The use of uncertificated carriers, or more simply said, gypsy cabs, is not new, novel, nor experimental, they are simply illegal.

Therefore, the Application of Rasier-PA, LLC should be dismissed, and the Applicant should be directed to file the correct Application.

**THE PROTESTANTS ARE ENTITLED TO SUMMARY JUDGMENT BECAUSE THERE EXISTS NO GENUINE ISSUE OF MATERIAL FACT AND PROTESTANTS ARE ENTITLED TO JUDGMENT AS A MATTER OF LAW.**

The Protestants are entitled to summary judgment because no genuine issue as to a material fact exists, and Protestants are entitled to judgment as a matter of law. 51 Pa. Code §5.102(d) states, “The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.”

The criteria for evaluating whether to grant an Application for public convenience is contained in 52 Pa. Code §41.14. 52 Pa. Code §41.14 provides:

(a) An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.

(b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service. In addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. In evaluating whether a motor carrier applicant can satisfy these fitness standards, the Commission will ordinarily examine the following factors, when applicable:

(1) Whether an applicant has sufficient capital, equipment, facilities and other resources necessary to serve the territory requested.

(2) Whether an applicant and its employees have sufficient technical expertise and experience to serve the territory requested.

(3) Whether an applicant has or is able to secure sufficient and continuous insurance coverage for all vehicles to be used or useful in the provision of service to the public.

(4) Whether the applicant has an appropriate plan to

comply with the Commission's driver and vehicle safety regulations and service standards contained in Chapter 29 (relating to motor carriers of passengers).

(5) An applicant's record, if any, of compliance with 66 Pa.C.S. (relating to the Public Utility Code), this title and the Commission's orders.

(6) Whether an applicant or its drivers have been convicted of a felony or crime of moral turpitude 23 and remains subject to supervision by a court or correctional institution.

(c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest.

(d) Subsections (a) and (c) do not apply to an applicant seeking authority to provide motor carrier of passenger service under § § 29.331—29.335 (relating to limousine service).

Section 1103(a) of the Public Utility Code, 66 Pa. C.S. §1103(a) provides that an application for a certificate of public convenience should be granted only if the Commission finds that the "granting of such certificate is necessary or proper for the service, accommodation, convenience or safety of the public." The burden of proof is on the Applicant to prove by a preponderance of the evidence that the

requirements of Section 1103(a) and Section 41.14 are met. *Samuel J. Lansberry, Inc. v Pennsylvania Public Utility Commission*, 578 A.2d 600 (Pa. Cmwlth. 1990).

The first element that an Applicant must prove is that approval of the application will respond to a public demand or need. Public need “may be proven through witnesses comprising a representative sampling of the public that will use the applicant's proposed service within the territory encompassed by the application.” *Ace Moving & Storage v. Pennsylvania Public Utility Commission*, 935 A.2d 75 (Pa Cmwlth. 2007).

The Commission uses the guidelines contained in 52 Pa. Code §3.382 to ascertain evidence for public need. Those guidelines provide:

- (a) Service request evidence. Evidence of requests received by an applicant for passenger or household goods in use service may be offered by the applicant in a transportation application proceeding relevant to the existence of public necessity for the proposed service. The credibility and demeanor of a witness offering evidence will be considered in evaluating the evidence. The weight which will be attributed to the evidence will depend upon the extent to which the alleged requests are substantiated by evidence such as the following:
  - (1) The date of each request.
  - (2) The name, address and phone number of the person or company requesting service.
  - (3) The nature of the service requested on each occasion, including the commodities or persons to be 25

transported, and the origin and destination of the requested transportation.

(4) The disposition of the request, that is, whether the applicant provided the service or, if not, whether the requesting shipper was referred to another carrier and, if there was a referral, to which carrier was the shipper referred.

Essentially Applicant presented three witnesses with regard to need for Applicants state-wide Application: Sally Guzik, whom uses Uber in Allegheny County, Ms. Gonzalez-Bartolli whom has used Uber while in California, and Ms. Lori Sergent whom has never used Uber nor a taxi service. A fourth witness did testify, however, that witness was based out of California and has never utilized either call or demand service in Pennsylvania, nor the Applicants service in Pennsylvania.

Applicant has filed a statewide Application. Applicant presented need testimony of three people whom reside in the Commonwealth. There has been no demonstrative need in the counties Dauphin, Lebanon, Adams, York, Lancaster, Cumberland, or Perry. Certainly, given the Applicant's willingness to move forward so quickly to the severe disadvantage of the Protestants in this case, if a need existed, Applicant was given ample opportunity to find it and present it's testimony.

Moreover, when Applicant was asked about research done in counties outside of Allegheny county, and the witness testified as follows:

Q: So have you yourself conducted any studies about need in Dauphin county?

A: I have not personally conducted any studies, no.

Q: Ok. What about Lancaster County?

A: No.

Q: Okay. What about Adams county?

A: No.

....

Q: What about York county?

A: No. N.T. 8/18/14 (Cross Examination of Matthew Gore)p. 260-261.

Three witnesses, plus a witness who lives in California but who has also never taken any kind of taxi nor Uber service in Pennsylvania, is simply not demonstrative of a statewide need. Additionally, Applicant testified that Applicant had not preformed any studies for need outside of Allegheny County.

Based on the foregoing, Protestants are entitled to summary judgment as a matter of law as there are no genuine issues of material fact. Applicant did not produce any need witnesses in the areas to which Protestants have operating authority, namely: Dauphin county, Cumberland county, York county, Adams county, Perry county, nor Lancaster county. Applicant cannot demonstrate any kind of need with regard to the state-wide application, as applicant produced three witnesses, and testified that it had conducted no studies with regard to need in other counties.

**Alternatively, if the Commission does not grant Applicant's motion for summary judgment, the Application should be denied because the Applicant failed to meet its burden under 52 Pa. Code §41.14**

The Application should be denied on the merits, because the Applicant was not able to demonstrate it possesses the technical and financial ability to provide the proposed the service, nor that it has any propensity to operate legally.

Having already addressed the reasons why Applicant has failed to demonstrate need in any of the Protestants areas of operating authority, the Applicant also could not prove the other existing elements of 52 Pa. Code §41.14.

The record in the instant Application is muddled with "I don't knows" throughout. There is no evidence of record to demonstrate that Applicant has any meaningful knowledge of its company's operations. Applicant could not answer questions regarding its financial information sheet, its tariff, nor the day to day operations of its company in Pennsylvania.

Moreover, despite the Applicant's failure to provide any information relative to its business operations, the Commission finds that applicant has the technical and financial ability to provide the proposed service, Applicant has clearly demonstrated that the Applicant lacks a propensity to operate

safely and legally.

The Applicant is one of many subsidiaries of Uber Technologies, Inc. Uber Technologies, Inc. is the parent company of Rasier, LLC, and the manager of Rasier, LLC is the same manager of Rasier-PA, LLC. Rasier, LLC continued to operate despite a cease and desist order issued by the Commission on July 24, 2014. The same manager authorizing the illegal continued operations of Rasier, LLC, is also the manager of Rasier-PA, LLC, the Applicant in the instant Application. Applicant could not testify as to why or when the Applicant in this matter, Rasier-PA, LLC was formed. The logical conclusion as to why Rasier-PA, LLC was formed as the Applicant, and Rasier, LLC is not the Applicant is because Rasier, LLC has been operating illegally in the Commonwealth since its inception.

Furthermore, at the hearing on the instant Application, the Applicant again defied an order by the Commission. When asked to provide answers to questions raised by the Commission, counsel for Applicant objected and refused to provide answers. Administrative Judge Long stated, "Let the record reflect that Applicant does not intend to comply with the July 31<sup>st</sup> order." N.T. (Cross Examination of Matthew Gore) 8/18/14, p. 252.

Protestants made a motion to dismiss the Application when the answers were not provided, and have been directed to brief the issue in Reply Briefs. N.T. 8/19/14, pp. 333-337.

Although Protestants do believe the Application should be dismissed based on the Applicant's failure to respond to the Commission's questions, Protestants also argue that the behavior of the Applicant, namely, that Applicant did not intend to respond to such questions, demonstrates a clear behavior similar to the behavior of Applicant's sister company, Rasier, LLC; that behavior being a systematic thumbing of its nose at any orders issued by the Commission.

Should the Commission find summary judgment is not appropriate for the statewide Application, the Applicant has failed to meet its burden of proof with regard to the state-wide application. Aside from not being able to demonstrate need, Applicant was also unable to testify to much of its operations

in the Commonwealth which shows that Applicant does not possess the technical fitness to operate. Moreover, the Applicant has certainly shown, by operating despite a cease and desist order and by failing to comply with Commission orders at the hearing, that it lacks any propensity to operate legally.

### **THE APPLICATION SHOULD NOT BE GRANTED BECAUSE APPLICANT LACKS THE PROPENSITY TO OPERATE LEGALLY**

The Commission issued an Order directing Applicant to provide testimony regarding its operations in Pennsylvania. Protestant's made a motion to dismiss the Application based on Applicant's refusal to answer the questions from the Commission Order, citing the fact that the Commission's Order stated that the answers to certain questions were deemed to be relevant to the Application. N.T. 8/19/14, pp. 333-337. As a direct result of this refusal, Protestants and the Commission are at a severe disadvantage, because the record is incomplete. The record is incomplete because information that was previously determined, by the very Administrative Law Judges who are presiding over this Application, to be relevant has been withheld by the Applicant.

Protestants reserve the right to address the motion to dismiss and further explore the Applicant's propensity to operate legally in their reply briefs.

### **CONCLUSION**

The Application of Rasier-PA, LLC should be dismissed by the Commission. The Application was incorrectly filed, and Applicant should be redirected to file as a call or demand carrier. Applicant failed to distinguish itself in any way from a call or demand carrier, and therefore should have to file an application as the same.

Protestants are entitled to summary judgment as a matter of law because Applicant put forth no need witnesses with respect to the statewide application.

Moreover, Protestants are entitled to summary judgment with regard to those counties in which it maintains operating authority, namely the counties of: Dauphin, Cumberland, Adams, York and Lancaster.

The Application should be denied because the Applicant could not meet its burden under 52 Pa. Code §41.14.

The Application should be dismissed as Applicant failed to provide answers to an order of the Commission. As a direct result of such failure, the record in the instant matter is incomplete, and all relevant information has not been disclosed. Should the Commission decide to grant the Application, it will be doing so without full knowledge of the Applicants operations.

## **PROPOSED FINDINGS OF FACTS**

1. Applicant is Rasier-PA, LLC whom is limited liability company registered in Delaware, and is a wholly-owned subsidiary of Uber Technologies, Incorporated. N.T. (Direct Examination of Matthew Gore), 8/18/19 p. 53.
2. Applicant did not conduct studies to determine need in Dauphin county, Adams county, York County nor Lancaster county. N.T. 8/18/14 (Cross Examination of Matthew Gore) p. 260-261.
3. Rasier, LLC does not have authority from the Commission to operate. Id. at 82. Rasier, LLC did not stop operating when the Commission issued a cease and desist order on July 24, 2014. Id. at 83.
4. The Applicant put forth four need witnesses in support of its Application. Applicant presented the need testimony of Sally Guzik, Rebecca Gonzalez-Bartoli, Brian Bashin, and Lori Sergent.
5. The use of a mobile application is already utilized by multiple carriers throughout the Commonwealth. . N.T. 8/18/14 (Direct Testimony of Joshua Freedman)p. 185, N.T. 8/18/14 (Direct Examination of Khalid Alvi), p. 343, N.T. 8/1/8/14 (Direct Examination of Alex Friedman) pp. 419-433. .
6. Applicant refused to comply with a Court Order during the hearings. The Commission issued

an interim order on July 31, 2014. N.T. (Cross Examination of Matthew Gore) 8/18/14, p. 253. Applicant refused to provide answers citing that the information would be harmful to business if disclosed. Id. There was no protective order sought by the Applicant. Id. The questions raised by the Order requested information regarding the number of trips made by Uber from June 5, 2014, until July 1, 2014. Id. at 256-259.

## **PROPOSED CONCLUSIONS OF LAW**

1. Applicant is a call or demand carrier.
2. Applicant did not present need testimony adequate to demonstrate need throughout the Commonwealth.
3. Applicant lacks technical fitness to operate and demonstrated that it has very little understanding of its business operations.
4. Applicant presented no testimony with regard to its financial fitness to operate.
5. Applicant lacks the propensity to operate legally.
6. Applicant defied a Court Order during the hearing.

**RELIEF REQUESTED**

Based on the foregoing, Protestants respectfully request that the Public Utility Commission

1. Dismiss the application of Rasier-PA, LLC and order Rasier-PA, LLC to file an application as a call or demand carrier because Applicant has failed to demonstrate that it conducts experimental service.
1. Grant summary judgment with regard to the entire application because there exists no genuine issue of material fact.
3. Grant the Protestant’s summary judgment with regard to the Statewide Application because there exists no genuine issue of material fact, particularly in those service areas which Protestant maintains operating authority.
4. Deny the Application because Applicant failed to meets its burden of proof.
5. Grant the Protestants motion to dismiss because Applicant defied a Court Order at the hearing, clearly demonstrating Applicant lacks the propensity to operate legally.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

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Dated: 9/15/14



**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 : Docket No. A-2014-2424608  
Ride-Sharing Network Service Between Points in :  
the Commonwealth of Pennsylvania, Excluding :  
Designated Counties :

**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.

Via E-Mail and/or First-Class Mail

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9/15/14

/s/ Justine L. Pate

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