

**Karen O. Moury**

717 237 4820  
karen.moury@bipc.com

409 North Second Street  
Suite 500  
Harrisburg, PA 17101-1357  
T 717 237 4800  
F 717 233 0852  
www.buchananingersoll.com

October 14, 2014

**VIA E-FILING**

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

Re: Danielle Friedman v. Uber Technologies, Inc.  
Docket No. C-2014-2444131

Dear Secretary Chiavetta:

On behalf of Uber Technologies, Inc., I have enclosed for electronic filing the Preliminary Objections of Uber Technologies, Inc. to the Formal Complaint of Danielle Friedman in the above-captioned matter.

Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,



Karen O. Moury

KOM/tlg  
Enclosure

cc: Chief Administrative Law Judge Charles E. Rainey, Jr. (*via First-Class Mail*)  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>DANIELLE FRIEDMAN</b>	:	
	:	
v.	:	<b>Docket No. C-2014-2444131</b>
	:	
<b>UBER TECHNOLOGIES, INC.</b>	:	

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**NOTICE TO PLEAD**

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TO: Danielle Friedman  
2301 Church St.  
Philadelphia, PA 19124

Pursuant to 52 Pa. Code § 5.101(b), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objections of Uber Technologies, Inc. to the Formal Complaint of Danielle Friedman within **ten (10) days** from service of this Notice, the facts set forth by Uber Technologies, Inc. in the Preliminary Objections may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Uber Technologies, Inc., and where applicable, the Administrative Law Judge presiding over the case.

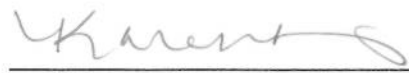
**File with:**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**

Karen O. Moury  
Buchanan Ingersoll & Rooney, PC  
409 North Second Street  
Suite 500  
Harrisburg, PA 17101

Dated: October 14, 2014

  
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Karen O. Moury, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>DANIELLE FRIEDMAN</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. C-2014-2444131</b>
	:	
<b>UBER TECHNOLOGIES, INC.</b>	:	

**PRELIMINARY OBJECTIONS OF UBER TECHNOLOGIES, INC.  
TO THE COMPLAINT OF DANIELLE FRIEDMAN**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Uber Technologies, Inc. (“UTI”), by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, files these Preliminary Objections pursuant to Section 5.101(a) of the Pennsylvania Public Utility Commission (“Commission”) regulations, 52 Pa. Code § 5.101(a), seeking to dismiss the Formal Complaint (“Complaint”) filed by Danielle Friedman (“Complainant”), and in support thereof, avers as follows:

**I. Introduction and Background**

1. On September 23, 2014, the Complainant filed a Complaint against UTI, alleging that it launched a new service in Philadelphia in which it partnered with paratransit drivers to provide call or demand service to passengers requesting wheelchair accessible vehicles. The Complaint was served on UTI on September 24, 2014. On October 14, 2014, UTI filed a timely Answer to the Complaint, denying the allegations.

2. UTI moves for dismissal of the Complaint on the basis that the Complainant lacks standing. The Complainant does not allege that she is a customer of UTI. Nor does the Complainant allege that she has been aggrieved by any actions of UTI or that she otherwise has any cause of action against UTI.

3. Well-established Pennsylvania case law requires a person or entity to have a direct, immediate and substantial interest in the subject matter of the proceeding in order to have standing. Requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of the proceeding helps avoid frivolous, harassing lawsuits.

4. Because the Complainant has not made any allegations that even suggest a direct, immediate and substantial interest in the subject matter of the proceeding, the Complaint should be dismissed for lack of standing pursuant to the Commission's regulations at 52 Pa. Code § 5.101(a)(7).

## **II. Legal Standards Applicable to Preliminary Objections**

5. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101(a)(1)-(7). *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994).

6. The grounds for preliminary objections are limited to those set forth in 52 Pa Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.

(7) Standing of a party to participate in the proceeding.

7. The Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Interveners*, supra.

8. The moving party may not rely on its own factual assertions, but must accept for the purposes of disposition of the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts. *County of Allegheny v. Commw. of Pa.*, 490 A.2d 402 (Pa. 1985). However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa.Cmwlth. 2007).

**III. Argument**

9. Under well-established Pennsylvania law, a party does not have standing to participate in a legal proceeding absent a showing that he or she is aggrieved. A party that is not adversely affected by the matter he or she seeks to challenge has no standing to obtain a judicial resolution. It is not sufficient for the person claiming to be aggrieved to assert the common interest of all citizens in procuring obedience to the law. *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975).

10. Standing to participate in proceedings before an administrative agency is primarily with the discretion of the agency. *Pennsylvania National Gas Association v. T.W. Phillips Gas and Oil Co.*, 75 Pa. PUC 598, 603 (1991). Generally, the Commission has held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding. *Joint Application of Pennsylvania-American*

*Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co.*, A-212285F0046/47 and A-210870F01 (July 9, 1998). Requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. *Pa. Pub. Util. Comm'n v. National Fuel Gas Distribution Corp.*, 73 Pa. PUC 552 (1990).

11. The Commission's regulation at 52 Pa. Code § 5.21(a) states that a person may file a formal complaint claiming a violation of a statute that the Commission has jurisdiction to administer. The regulation at 52 Pa. Code § 5.21(d) authorizes the Commission to dismiss a complaint if a hearing is not necessary and authorizes preliminary objections to be filed in response to a complaint.

12. By permitting the filing of a preliminary objection to dismiss a pleading for lack of standing, the regulation at 52 Pa. Code § 5.101(a)(7) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. 66 Pa.C.S. § 703(a); *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n*, 563 A.2d 557 (Pa. Cmwlth. 1989).

13. In order to bring a complaint before the Commission, the Complainant must first demonstrate that she has standing to maintain the action. *Nye v. Erie Exchange*, 470 A.2d 98 (Pa. 1983). For her interest to be direct, immediate and substantial, the Complainant must show (a) that she is adversely affected by the actions challenged in the complaint; (b) that there is a close causal nexus between her asserted injury and the actions challenged in the Complaint; and (c) that she has a discernible interest other than the general interest of all citizens in seeking

compliance with the law. *Ken R. ex rel. C.R. v. Arthur Z.*, 682 A.2d 1267 (Pa. 1996); *In re El Rancho Grande, Inc.*, 437 A.2d 1150 (Pa. 1981); *Empire Coal Mining & Development, Inc. v. Department of Environmental Resources*, 623 A.2d 897 (Pa. Cmwlth. 1993). Mere conjecture about possible future harm does not confer a direct interest in the subject matter of a proceeding. *Official Court Reporters of the Court of Common Pleas of Philadelphia County v. Pennsylvania Labor Relations Board*, 467 A.2d 311 (Pa. 1983).


14. Since the Complainant has not alleged that she is a customer of UTI, she is not adversely affected by the actions challenged in the Complaint and her interest is not direct. Further, her interest is not immediate because she has not alleged any injury as a result of the actions challenged in the complaint. In addition, her interest is not substantial because she has alleged no discernible interest other than the general interest of all citizens in seeking compliance with the law. Therefore, the Complainant lacks standing to maintain the action as a customer. *See Luke v. Major Energy Services, LLC*, Docket No. C-2014-2425948 (Initial Decision dated July 18, 2014; Final Order entered August 27, 2014).

15. The Complaint should be dismissed on the basis of the lack of standing of the Complainant, pursuant to the Commission's regulations at 52 Pa. Code § 5.101(a)(7).

WHEREFORE, Uber Technologies, Inc. hereby requests that these Preliminary Complaints be granted, that the Complaint filed by Danielle Friedman be dismissed with prejudice, and that the Commission grant UTI such other relief as is just and reasonable under the circumstances.

Respectfully submitted,

Dated: October 14, 2014

  
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Karen O. Moury  
Buchanan Ingersoll & Rooney PC  
409 North Second Street  
Suite 500  
Harrisburg, PA 17101  
(717) 237-4820

*Attorneys for Uber Technologies, Inc.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DANIELLE FRIEDMAN**

**v.**

**UBER TECHNOLOGIES, INC.**

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**Docket No. C-2014-2444131**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

**Via First-Class Mail**

Danielle Friedman  
2301 Church St.  
Philadelphia, PA 19124

Dated this 14<sup>th</sup> day of October, 2014.



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Karen O. Moury, Esq.