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October 20, 2014


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

Docket Nos. A-2014-2424608, Application of Rasier-PA, LLC

Dear Secretary Chiavetta:

Enclosed for filing is Protestant J.B. Taxi LLC's Reply Exceptions in the above-referenced proceedings.

Very truly yours,


David W. Donley
Attorney for Protestant
412.331.8998

DAVID W. DONLEY ATTORNEY AT LAW
3361 STAFFORD STREET - PITTSBURGH PA 15204-1441
412.331.8998 DWDONLEY@CHASDONLEY.COM

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET A-2014-2416127
APPLICATION OF RASIER-PA, LLC

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PROTESTANT JB TAXI'S REPLY EXCEPTIONS

Statement of the Case

By application for authorization to operate in experimental service, the Applicant proposes to operate a ride-sharing network service to provide passenger transportation in Allegheny County. Protestant challenges the application because the ride-sharing network service, as proposed by Applicant, would most likely have significant, negative implications for Protestant's call and demand services if and when ride-sharing network services are proposed in counties where Protestant currently operates and in Washington County, wherein protestant has a pending request to provide call and demand service.

Hearings were convened during which Applicant and Protestants provided testimony and exhibits. Among the witnesses, was Matthew Gore, an employee of Uber Technologies, Inc. who was called by Applicant to be the primary witness supporting the business model of ride-sharing and Applicant's qualifications and proposed methods of operating Applicant's brand of ride-sharing. During the course of the hearings, Applicant's counsel instructed Witness Gore to withhold his testimony and not to answer questions which the Commission had previously ruled to be relevant subject matter.

The Recommended Decision was entered on September 25, 2014, dismissing the application and recommending the Applicant's request to provide service be denied.

Applicant has filed exceptions requesting that the Commission reverse the Recommended Decision and authorize the services as proposed in an amended form from those originally proposed. These Reply Exceptions are offered in response to Applicant's arguments.

Summary of the Basis for the Recommended Decision

In applying the standards for approving proposed passenger transportation operations by a public utility, the Presiding Officers determined that Applicant failed to sustain its burden to show its methods of providing the ride-sharing network services proposed would be consistent with the public's interest. The Recommended Decision sets forth a determination that the key feature of ride-sharing, as proposed by Applicant, is the reliance upon non-professional drivers using their personal automobiles more so than the technological innovations emphasized in the application. As to the process of enlisting and retaining non-professional drivers, the Recommended Decision finds that a sufficient basis does not exist to conclude that the interests of prospective consumers and the providers of the services are likely to be protected.

Among the shortcomings are the absence of a clear understanding as to who will be accountable to comply with driver and vehicle safety requirements, an ill-defined sharing of responsibilities among a parent company and its various subsidiaries, the absence of a plan or method of supervising drivers and continuing inspections of the vehicles to be used, the absence of any showing as to the Applicant's financial posture, and a reliance upon insurance policies that have yet to be written and whose terms and coverages remain unclear. The Recommended Decision also questions the impact of Applicant's Terms and Conditions of Service upon insurance coverages and other protections that might reasonably be anticipated by consumers, yet disclaimed by the Applicant. Finally, the Recommended Decision questions a business model which will rely upon novel insurance policies without educating the public and Applicant's drivers as to how the coverages are to work.

Exceptions

Applicant files its exceptions as follows:

Exception No. 1 -- By completely ignoring the compelling evidence demonstrating that the proposed service would fulfill and be responsive to a critical public need and demand, the Recommended Decision fails to address the core issue presented by the application and should be reversed.

Exception No. 2. -- Despite the mountain of evidence in the record demonstrating Rasier-PA's fitness to provide service, the Recommended Decision erroneously reaches the conclusion that Rasier-PA failed to meet its burden to establish fitness.

Exception No. 3. -- The Recommended Decision fails to apply the applicable legal standard in its analysis of whether Rasier-PA has a propensity to operate safely and legally and ignores the numerous examples of Rasier-PA's propensity to operate legally and safely

Exception No. 4. -- The Recommended Decision errs in finding that the insurance proposal is inadequate, particularly given Rasier-PA's commitment to maintain liability insurance coverage in amounts that meet and exceed the Commission's requirements, and otherwise misstates several elements of Rasier-PA's proposal.

Exception No. 5 -- The Recommended Decision contains several inappropriate references to a "licensing agreement" between UTI and users of its software, which was never properly authenticated and has no bearing on the regulatory responsibilities of Rasier-PA

Exception No. 6 -- Placing undue emphasis on the flexibility of Rasier-PA's proposed tariff, the Recommended Decision fails to appreciate the benefits of such a structure to the riding public and neglects to find that a prospective customer always knows the rate in advance and may obtain an estimate before booking the ride.

Protestant's Argument

Exception No. 1

Protestant urges the Commission to reject Applicant's suggestion that any particular "core issue," assuming it has been demonstrated to be favor to the public's interest, would ever justify a grant of permanent authority without addressing the other requirements of the Public Utility Code. Commission proceedings to evaluate a request for permanent authority have always conformed to the standard of the enabling legislation, that is, that a favorable decision follow a showing that an applicant's proposal is necessary or proper for the accommodation of the public in all respects pertinent to the proposed operation. 66 Pa.Code § 1103(a). With respect to passenger transportation services, that showing customarily includes the elements set forth by the Commission's policy which specifically includes aspects of the proposed operations going beyond any particular "core issue." The requirements for

authorizing a public utility service are more complex than a showing related to one particular aspect. For example, an applicant is required to show both technical and financial fitness. 52 Pa. Code § 41.14(b). Evidence bearing on one particular issue it would not trump the requirements for a showing of technical and fitness designed to protect the consumers and providers of a public utility service. Accordingly, the Commission should not conclude that its inquiry is concluded once an applicant demonstrates a favorable aspect of its proposal. Other determinations must also follow before a public utility service may be authorized.

Exception No. 2

The Commission should support the findings and conclusion in the Recommend Decision that the Applicant does not have a plan or method of compliance, particularly with respect to assigning responsibilities for assuring driver and vehicle safety. In place of a plan or method, Applicant recites the experience of unnamed affiliates, only one of which is named. Notably the named affiliate relies upon certificated providers, not non-professional drivers using personal automobiles. Ill-defined responsibilities to be assigned to third-party contractors or employees of the parent company as they might be assigned from time to time should not be accepted by the Commission in these circumstances as demonstrating that the public will be protected.

Exception No. 3

The Commission should not overlook the evasive nature of witness Gore's testimony when questioned about the relationships between his employer, Uber Technologies, Inc. and the various subsidiaries created for the purposes of entering the Pennsylvania market. Consistently, the record shows an absence of the Applicant's understanding of the regulatory requirements arising under the Public Utility Code together with a justification that a parent and its subsidiaries need only offer "for business and accounting reasons" to explain compliance responsibilities and shortcomings. Even after receiving emergency temporary authority, the Applicant appears to disregard willfully the requirements related to insurance notifications to drivers and the corresponding directive to notify drivers' insurance providers. The clear suggestion from the ongoing operations is that Applicant feels free to disregard its compliance responsibilities so long as it also continues a debate as to whether or not the

responsibilities are appropriate. The Commission should hold the Applicant accountable for compliance.

Exception No. 4

Applicant should not be permitted to sustain its burden to demonstrate compliance with insurance requirements by arguing that Applicant knows what coverages its policies provide to the public even though it cannot produce any copy of the policy or its specific terms, coverages, exclusions or requirements because the policy has yet to be written. In the absence of reliance upon conventional liability policies covering commercial operations, the Recommended Decision finds appropriately that the Applicant has not demonstrated the public will be protected in the manner required by the Commission's regulations.

Exception No. 5

The Recommended Decision appropriately states as unclear the interplay between Applicant's terms and conditions binding upon a consumer wishing to obtain a public utility service and the insurance coverages that might vary on the basis of those terms and conditions. The Public Utility Code requires a determination by the Commission that the rates as well as all terms and conditions that accompany the application of those rates are just and reasonable. 66 Pa.C.S. §1302. Applicant suggests it will rely upon a tariff bearing the description of "Rates and Rules Governing the Transportation of Persons in Experimental Service" to meet the Commission's requirements, even though not one of the terms and conditions upon which its services are based is disclosed. See Applicant's Exhibit No. 3 and JB Taxi Exhibit A.

Exception No. 6

Protestant refers to and incorporates here its reply to Exception No. 5 above. Protestant argues also that tariff fails to provide any basis upon which the Commission could satisfy the requirements for a finding required under the just and reasonable standard of the Public Utility Code. Notification of a fare, term or condition that fails to meet the standard of just and reasonable should not justify a departure from that statutory standard and the protections intended for the benefit of consumers relying upon public utility services. With similar purpose, Protestant argues also the Applicant fails to provide any explanation as to why its tariff cannot set forth its rates, terms and conditions.

Conclusion

For these reasons, Protestant requests that the Exceptions be denied and all of the relief requested by Applicant be denied.

Respectfully submitted,



David W. Donley
Attorney for Protestant
3361 Stafford Street
Pittsburgh PA 15204-1441
(412) 331-8998
Pa ID 19727

Certificate of Service

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

By first-class mail, postage prepaid

Karen O. Moury, Esquire
Buchanan Ingersoll & Rooney PC
409 North Second Street, Suite 500
Harrisburg PA 17101-1357

Justine Pate, Esquire
620 S 13th Street
Harrisburg PA 17104

Michael S. Henry, Esquire
Michael S. Henry LLC
2336 South Broad Street
Philadelphia PA 19145

Joseph T Sucec, Esquire
325 Peach Glen-Idaville Road
Gardners PA 17324

Lloyd R. Persun, Esquire
Persun and Heim, PC
P.O Box 659
Mechanicsburg PA 17055

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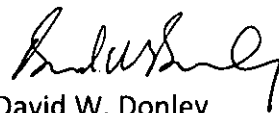
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By email

Admin. Law Judge Mary D. Long
Pennsylvania Public Utility Commission
Piatt Place - Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Admin. Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Piatt Place - Suite 220
301 5th Avenue
Pittsburgh, PA 15222

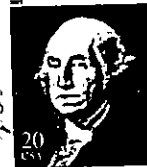
Dated this 20th day of October, 2014



David W. Donley
Attorney for Protestant
3361 Stafford Street
Pittsburgh PA 15204-1441
(412) 331-8998
Pa ID 19727

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DAVID W DONLEY
ATTORNEY AT LAW
3361 STAFFORD STREET
PITTSBURGH PA 15204-1441



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P.O. BOX 3265
HARRISBURG PA 17105-3265