**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held January 29, 2015

Commissioners Present:

Robert F. Powelson, Chairman, Joint Statement

John F. Coleman, Jr., Vice Chairman

James H. Cawley

Pamela A. Witmer, Joint Statement

Gladys M. Brown

Application of Rasier-PA LLC, Docket No. A-2014-2424608

a limited liability company 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 Pennsylvania, excluding

those which originate or terminate in the Counties

of Beaver, Clinton, Columbia, Crawford, Lawrence,

Lycoming, Mercer, Northumberland and Union

Application of Rasier-PA LLC, a limited liability Docket No. A-2014-2416127

company 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

**OPINION AND ORDER**

**REGARDING COMPLIANCE FILING**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) is the determination as to the completeness and adequacy of the compliance filings of Rasier PA LLC (Rasier-PA) with respect to the requirements to transport, by motor vehicle, persons in experimental service set forth in each of two separate Commission Orders issued on December 5, 2014, at Docket Nos. A-2014-2424608 and A-2014-2416127 (collectively, the December 5th Order). As set forth more fully below, the compliance filings and supporting information are consistent with the requirements and conditions set forth in the December 5th Order for issuance of a certificate of public convenience to offer experimental motor carrier service.

**DISCUSSION**

The Commission’s December 5th Order conditionally approves Rasier-PA to transport, by motor vehicle, persons in the experimental service of passenger trips between (1) points in Pennsylvania, excluding trips which originate or terminate in the Counties of Allegheny, Beaver, Clinton, Columbia, Crawford, Lawrence, Lycoming, Mercer, Montour, Northumberland, Philadelphia and Union and in that portion of the County of Luzerne which is located within an airline distance of 15 statute miles of the limits of the Borough of Berwick, Columbia County (Docket No. A-2014-2424608) and (2) points in Allegheny County, Pennsylvania (Docket No. A-2014-2416127). However, the December 5th Order requires Rasier-PA to submit the following documentation to the Commission before exercising the above-referenced transportation authority:

a. A Compliance Plan demonstrating how Rasier-PA will achieve compliance with the conditions set forth in Appendix A of the December 5th Order. The Plan shall be include the identities and office locations of the employees or individuals who will be responsible for regulatory compliance.

b. A Form E Certificate of Insurance evidencing compliance with the Commission’s insurance requirements and coverage amounts set forth in the December 5th Order, *regardless* of any insurance coverage held by Rasier-PA’s drivers or operators.

c. A tariff consistent with the December 5th Order.

d. An affiliated interest agreement between Rasier-PA, LLC and Uber Technologies, Inc. and any affiliates pursuant to Section 2102 Code, 66 Pa. C.S. § 2102.

e. Trip information required under the Interim Order dated July 31, 2014, in Rasier-PA’s Allegheny County application at Docket No. A-2014-2416127.

As of the date of this Order, Rasier-PA has appropriately filed with the Commission an acceptable Form E Certificate of Insurance, Tariff, Affiliated Interest Agreement between Rasier-PA LLC and Uber Technologies, Inc.,[[1]](#footnote-1) and trip information as required by the December 5th Order. On December 24, 2014, Rasier-PA also filed its Compliance Plans[[2]](#footnote-2) at Docket Nos. A-2014-2424608 and A-2014-2416127 (collectively, as supplemented on January 5th and 9th, 2015, the Compliance Plan) demonstrating how it will achieve compliance with the conditions set forth in Appendix A of the December 5th Order.

On January 2, 2015, the Protestants named in the December 5th Order, filed a letter with Chairman Robert F. Powelson regarding Rasier-PA’s Compliance Plan.[[3]](#footnote-3) On January 8, 2015, the Insurance Federation of Pennsylvania, Inc. (Insurance Federation) filed “objections” with the Commission regarding Rasier-PA’s Compliance Plan.[[4]](#footnote-4) This Order will specifically address the adequacy of the Compliance Plan.

**Components of Rasier-PA’s Compliance Plan**

*Insurance*

Appendix A of the December 5th Order requires Rasier-PA to: (1) file with the Commission a Form E Certificate of Insurance; (2) inform drivers, in writing, of the levels of insurance coverage provided during certain stages of operation; and (3) direct and verify that drivers have informed their personal automobile insurer regarding any policy impacts that may be caused by operating the vehicle for transportation network company use. To comply with these requirements, on December 19, 2014, Rasier-PA filed with the Commission an acceptable Form E Certificate of Insurance affirming coverage as required by the December 5th Order.

Also, in the Compliance Plan, Rasier-PA has indicated that it will inform drivers in writing, through electronic notification, of the levels of insurance coverage provided during certain stages of operation as required by the December 5th Order. Finally, Rasier-PA will require each driver to verify through an electronic signature that, within 30 days of being activated on the platform, he/she will review the terms of his/her personal automobile insurance policy with his/her insurer regarding the use of the insured vehicle on Rasier-PA’s platform.

In its response to the comments filed by the Insurance Federation, Rasier-PA clarified that it intends to require existing drivers to provide such insurance verifications through a separate process as is described for prospective drivers through the sign-up process. As such, Rasier-PA is not seeking to exempt existing drivers from providing these verifications.  Rather, Rasier-PA is establishing a separate process through which to obtain these verifications.

Therefore, the Commission has determined that Rasier-PA has satisfied the requirements regarding insurance set forth in Appendix A of the December 5th Order.

*Driver Integrity*

Appendix A of the December 5th Order requires Rasier-PA to undertake at certain intervals of time: (1) driver background checks consistent with 52 Pa. Code §§ 29.503 and 29.505 and (2) drivers’ history checks consistent with 52 Pa. Code § 29.504. To comply with these requirements, Rasier-PA has indicated in its Compliance Plan that it will continue, at the time of driver sign-up, to undertake driver criminal background checks consistent with 52 Pa. Code §§ 29.503 and 29.505 and drivers’ history checks consistent with 52 Pa. Code § 29.504.

Additionally, Rasier-PA will implement a process to conduct criminal background checks and drivers’ history checks on an annual basis thereafter. Further, Rasier-PA has provided the Commission with the specific entities, including Hirease, Inc., which it uses to conduct criminal background and drivers’ history checks. Rasier-PA has also included in its Compliance Plan details regarding the specific timing of criminal background and drivers’ history checks, specifications for screening of drivers, and the factors for determining driver disqualification. As part of these criminal background and drivers’ history checks, Rasier-PA will also conduct drug and alcohol screening of its drivers. Drivers who violate Rasier-PA’s “zero tolerance policy” will be deactivated from the platform. As such, the Commission has determined that Rasier-PA has satisfied the requirements regarding driver integrity set forth in Appendix A of the December 5th Order.

*Vehicle Safety*

Appendix A of the December 5th Order requires Rasier-PA to: (1) ensure that drivers’ vehicles successfully pass the Pennsylvania Department of Transportation (PennDOT) inspection pursuant to 52 Pa. Code § 29.405 annually; (2) ensure that drivers’ vehicles remain in continuous compliance with the Commission’s vehicle standards at 52 Pa. Code §§ 29.402(1) and (2) and 29.403; (3) not permit the use of vehicles older than eight model years consistent with 52 Pa. Code § 29.314(d); and (4) require that all vehicles be marked as specified at 52 Pa. Code §§ 29.71 and 29.72 during certain stages of operation.

To comply with these requirements, Rasier-PA has indicated in its Compliance plan that it will ensure that drivers’ vehicles successfully pass the annual PennDOT inspection by collecting evidence of the successful completion of such annual inspection during the driver sign-up process and annually thereafter. Rasier-PA also audits proof of compliance with PennDOT inspection requirements on a weekly basis by reviewing driver inspection documents which are expiring in the upcoming week and sending those drivers an electronic mail and text message instructing them to upload new inspection documents.[[5]](#footnote-5) Uber Technologies, Inc. (UTI) employees review this documentation, including inspection sticker and vehicle identification numbers, to verify that they are correct, current and compliant. If a new inspection document is not uploaded, reviewed and approved by the document expiration date, the driver account is suspended, which means that the driver cannot access or receive trips through the application. The driver account will remain suspended until the driver provides current inspection documents and those documents are verified by a UTI employee to be correct, current and compliant.

Also, Rasier-PA will ensure that drivers’ vehicles remain in compliance with the Commission’s vehicle standards by:

a. Informing drivers during the sign-up process that they are responsible for complying with such standards and resolving any deficiencies with Commission enforcement officers.

b. Following-up with drivers to resolve negative feedback about their vehicles that is provided by customers.

c. Requiring drivers to provide evidence of successful completion of PennDOT inspection on an annual basis.

d. Ultimately deactivating a driver from the platform who fails to provide evidence of successful annual PennDOT inspection or who fails to rectify any safety-related deficiencies with their vehicles.

Additionally, Rasier-PA will ensure that drivers are not using vehicles older than eight model years by collecting vehicle information to verify that vehicles are not currently older than eight model years in their database. Rasier-PA will then, within thirty days prior to the vehicles reaching eight model years old, provide notification to drivers that their vehicles need to be replaced. If such a vehicle is not replaced, Rasier-PA will deactivate that driver from the platform until the vehicle is replaced.

In its Compliance Plan, Rasier-PA notes that Section 29.314(d) of the Commission’s regulations (which does not permit the use of vehicles older than eight model years) is currently the subject of a final rulemaking order which, if approved, will revise the eight-model year requirement to ten model years for conventional vehicles or twelve model years for alternatively fueled vehicles. *See Final Rulemaking Order in Vehicle List, Age and Mileage Requirements for Taxis and Limousines*, Docket No. L‑2013-2349042 (Order entered November 19, 2014). The Commission desires to extend the use of vehicles that are ten model years in age (or twelve model years in age for alternatively fueled vehicles) to transportation network companies, including Rasier-PA. However, the Commission will require Rasier-PA to comply with the current eight-model year requirement until such time as this requirement is revised and in effect for taxicab and limousine companies.

Further, Rasier-PA will ensure that all vehicles be marked as specified at 52 Pa. Code §§ 29.71 and 29.72 by requiring that each driver to affix a “U” placard to the front windshield on the passenger side of the vehicle, which is clearly visible from outside the vehicles at all times, while operating in certain stages. The “U” placards are 4 inches by 4 inches in size and printed with the UTI logo on glossy cardstock. In its Compliance Plan, Rasier-PA provided that each driver is given a placard and a plastic sleeve, along with instructions for where to affix such placard. Drivers are also instructed to use these placards when they are logged into the application and are available to pick up passengers.[[6]](#footnote-6)

Upon review, we find that, for purposes of transportation network service, the placard will be adequate for both passengers and enforcement officers to identify the vehicle as one being used for transportation network service. Therefore, we shall waive the more detailed vehicle marking requirements in our regulations. However, the Commission reserves the right to require Rasier-PA to use different or additional vehicle markings in the future if experience indicates that the placards, as presently proposed, are not adequate. At this time, the Commission has determined that Rasier-PA has satisfied the requirements regarding vehicle safety set forth in Appendix A of the December 5th Order.

*RecordKeeping, Reports and Audits*

Appendix A of the December 5th Order requires Rasier-PA, among other items previously discussed, to: (1) maintain verifiable records for service for a period of two years after the service was provided; (2) comply with the accident reporting requirements of 52 Pa. Code § 29.44; and (3) comply with the assessment reporting requirements of 52 Pa. Code § 29.43.

To comply with these requirements, Rasier-PA indicates in its Compliance Plan that it will maintain verifiable records for service for a period of two years after the service was provided, including: trip information (date, time origination, destination and fare), vehicle information under 52 Pa. Code § 29.314(c), and the identity and driver’s license numbers of all drivers. Additionally, Rasier-PA will ensure compliance with the Commission’s accident reporting requirements by providing telephonic notification to the Commission’s Bureau of Technical Utility Services’ Transportation Division within 24 hours of an accident resulting in death of a person, and maintaining records of any accident that results in a police report for a period of one year. Finally, Rasier-PA states in its Compliance Plan that it, its affiliate and third party contractors will comply with the assessment reporting requirements at 52 Pa. Code § 29.43, including reporting the gross intrastate operating revenues derived from the experimental service authority. As such, the Commission has determined that Rasier-PA has satisfied the requirements regarding recordkeeping, reports and audits set forth in Appendix A of the December 5th Order.

Although the records of the Commission demonstrate that Rasier-PA has complied with all of the necessary requirements set forth in the December 5th Order to operate, the Commission specifically reserves the right to require Rasier-PA to provide the Commission with additional documentation or information evidencing compliance with these requirements in the future.

*Waivers*

In addition to the waivers granted by the Commission in the December 5th Order, Rasier-PA has requested the Commission to waive additional regulations in its Compliance Plan. Specifically, Rasier-PA has requested that the Commission waive the following provisions in 52 Pa. Code: Section 23.41 (changes in rates may only be made upon 30 days’ notice); Section 29.61 (carrier must begin operating within 30 days after receipt of certificate) [[7]](#footnote-7); Section 29.313(e) (carrier may not carry packages or parcels unless accompanied by a passenger); and Section 29.314(e) (requires vehicles to have dome lights). The Commission agrees that waiving Sections 23.41, 29.61 and 29.314(e) is consistent with the nature of operating as a Transportation Network Company and, by this Order, waives such regulations as requested by Rasier-PA in its Compliance Plan.

The remaining provision Rasier-PA requests to be waived, Section 29.313(e), provides as follows:

(e) *Expressage.* The driver may carry packages or parcels when the merchandise is accompanied by a passenger but shall refuse to carry the packages or parcels when the contents cause the vehicle to become stained or evil smelling. *Nothing contained in this subsection may be interpreted as permitting the hiring of vehicles for expressage purposes only unless the rights are specifically included in a certificate held by the carrier.*

52 Pa. Code § 29.313(e) (emphasis added). By requesting waiver of this section of the Commission’s regulations, Rasier-PA specifically seeks the ability to deliver products (without an accompanying passenger) to consumers who request these services through the mobile application, such as carrying parcels for a customer to a clothing drive. However, this type of service is beyond the scope of the passenger transport operation contemplated by the December 5th Order. Additionally, Rasier-PA is not authorized, nor does it seek authorization, to operate as a property carrier. As such, the Commission denies Rasier-PA’s request to waive Section 29.313(e) of the Commission’s regulations.

As an additional item in the Compliance Plan, Rasier-PA seeks confirmation from the Commission regarding the applicability of 52 Pa. Code § 29.312 to the experimental services approved by the December 5th Order. As Rasier-PA notes in its Compliance Plan, Section 29.312(4) of the Commission’s regulations provides as follows:

(4) *Territorial restrictions, exclusive service.* When engaged in service on an exclusive basis, a call or demand vehicle may transport persons:

(i) In the area authorized by the certificate.

(ii) From a point in the area authorized by the certificate to a point in this Commonwealth.

(iii) From a point in this Commonwealth to a point in the area authorized by the certificate, provided that the request for the transportation is received in the area authorized by the certificate.

52 Pa. Code § 29.312(4). Although this section of the Commission’s regulations authorizes call or demand vehicles to provide service originating or terminating in the Commonwealth outside of the area authorized by the certificate in certain situations, the December 5th Order clearly states that “our Order does *not* authorize Rasier-PA to provide experimental service originating or terminating at points in the City of Philadelphia.”[[8]](#footnote-8) *See* December 5th Order at 15-16 and 73, footnote 25. As such, the termination of service to points within the City of Philadelphia is not authorized under the experimental motor carrier authority granted in the December 5th Order.

**CONCLUSION**

Based upon our review of the record, and given the experimental nature of the service offered by transportation network companies, we find that Rasier-PA has complied with the necessary requirements to operate set forth in the December 5th Order. As such, a Certificate of Public Convenience evidencing the Commission’s approval of the right to operate as referenced in the December 5th Order shall be issued to Rasier-PA LLC; **THEREFORE,**

**IT IS ORDERED:**

1. That the records of the Commission demonstrate that Rasier-PA LLC has complied with all of the necessary requirements to operate as set forth in the December 5th Order.

2. That a Certificate of Public Convenience evidencing the Commission’s approval of the right to operate as referenced in the December 5th Order shall be issued to Rasier-PA LLC.

3. That the Certificate of Public Convenience will be valid until abandoned, until two (2) years from the date of issuance, or until the Commission enacts regulations governing the new class of service, whichever occurs first.

4. That the operating rights granted by this Order shall not limit the right of the Commission to require Rasier-PA LLC to provide the Commission with additional documentation or information evidencing compliance with the requirements set forth in the December 5th Order in the future.

5. That Rasier-PA LLC shall submit quarterly reports to the Commission’s Bureau of Technical Utility Services demonstrating its continuing compliance with each condition set forth in Appendix A of the December 5th Order.

6. That Rasier-PA LLC shall comply with all provisions of the Public Utility Code as now existing or as may be hereafter amended, and with all regulations applicable to call and demand service with the exception of the following regulations which are waived: 52 Pa. Code §§ 21.2, 23.32, 23.41, 23.64, 23.67, 29.61, 29.62, 29.101, 29.103, 29.313(c) and (f), 29.314(b), (c) and (e), 29.315, 29.316, 29.317, 29.318, 29.356 and 29.402(3).

7. That failure to comply with the terms and conditions of the December 5th Order and the Commission’s regulations shall be sufficient cause to impose civil fines or to suspend, revoke or rescind the rights and privileges conferred by the certificate.

8. That any directive, requirement, disposition or the like contained in the December 5th Order shall have the full force and effect as if fully contained in this part.

9. That a copy of this Opinion and Order be served on all parties of record.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: January 29, 2015

ORDER ENTERED: January 29, 2015

1. Rasier-PA filed a revised Affiliated Interest Agreement between Rasier-PA LLC and Uber Technologies, Inc. with the Commission on January 5, 2015. This revised Agreement adds many names of specific employees that will be involved in providing and managing the operations of Rasier-PA in the Commonwealth. [↑](#footnote-ref-1)
2. At the request of Commission staff, Rasier-PA filed additional information concerning its Compliance Plan on January 9, 2015. [↑](#footnote-ref-2)
3. Although such letter does not constitute a formal pleading, the comments in the letter regarding the Compliance Plan, as well as Rasier-PA’s response thereto filed on January 13, 2015, have been considered by the Commission in review of Rasier-PA’s compliance filings. [↑](#footnote-ref-3)
4. The comments in this filing regarding the Compliance Plan, as well as Rasier-PA’s response thereto filed on January 13, 2015, have been considered by the Commission in review of Rasier-PA’s compliance filings. [↑](#footnote-ref-4)
5. The Commission notes that drivers are also required to provide evidence of valid insurance prior to obtaining a PennDOT inspection sticker. [↑](#footnote-ref-5)
6. In its Compliance Plan, Rasier-PA also provided the Commission with photographs of the “U” placard and with a copy of instructions for using these placards. [↑](#footnote-ref-6)
7. Rasier-PA has only requested waiver of Section 29.61 of the Commission’s regulations regarding its authority to operate statewide (Docket No. A-2014-2424608) as it does not expect to begin operating in all counties authorized by this Order within 30 days. Rasier-PA has not requested waiver of Section 29.61 of the Commission’s regulations regarding its authority to operate in Allegheny County, Pennsylvania (Docket No. A-2014-2416127). [↑](#footnote-ref-7)
8. The City of Philadelphia and the County of Philadelphia encompass the same political subdivision and geographic territory. [↑](#footnote-ref-8)