**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement :

:

v. :C-2014-2422723

:

Uber Technologies, Inc. :

**INTERIM ORDER ON**

**REQUEST FOR A CONTINUANCE**

On June 6, 2014, the Commission’s Bureau of Investigation and Enforcement (BIE), filed a complaint against Uber Technologies, Inc. (Uber). The complaint alleged, among other things, that Uber was acting as a broker of transportation without a certificate of public convenience and that its actions constitute a violation of the Public Utility Code. The complaint seeks civil penalties in the amount of $95,000 and an additional $1,000 per day for each day that Uber continues to operate after the date of filing. Uber filed an answer on June 23, 2014.

On August 8, 2014, BIE served interrogatories and a request for documents upon Uber, intended to elicit the information directed by a July 28, 2014 Secretarial Letter wherein the parties were directed to provide trip data and other information for consideration as part of the record in the enforcement proceedings.

On November 7, 2014, BIE filed a motion for sanctions because Uber refused to respond to BIE’s discovery as directed by the October 3 Order. BIE contended that Uber’s continued refusal to provide the trip data and other information sought in discovery, BIE has been unable to discover the scope of Uber’s transportation activities and has not been able to fully prepare its case. Uber filed a response to the motion.

By order dated November 26, 2014 we required that Uber serve full and complete answers to all outstanding discovery requests on or before December 12, 2014. The order further provided that, in the event that Uber would fail to serve answers to discovery on or before December 12, 2014, it shall be assessed a civil penalty in the amount of $500 per day for each day it fails to answer until the conclusion of the evidentiary hearing on the above-captioned complaint. The penalties were made due and payable each day. We concluded that the assessment of a civil penalty was appropriate pursuant to Section 3301 of the Public Utility Code, which permits the assessment of a civil penalty to “refuse to obey, observe, and comply with any regulation or final direction, requirement, determination or order made by the Commission” and Section 5.372(a)(4) of the Commission’s regulations, which permits us to impose any sanction which is just. We indicated that we would provide Uber with one more opportunity to comply with the October 3 Order, however, if it continued to refuse to comply, we shall impose a civil penalty of $500 per day for each day thereafter that it fails to serve discovery responses until the conclusion of the evidentiary hearing on the complaint. The order entered on November 26, 2014 further provided that the $500 per day civil penalty, as a sanction for failing to provide the requested discovery information would be assessed, in addition to any penalties which we may impose if BIE is successful in proving the violations of the Public Utility Code alleged in its complaint.

On January 9, 2015, BIE filed an amended complaint, which replaces its complaint filed on June 5, 2014, in order to identify additional respondents affiliated with Uber Technologies to this proceeding which are averred to be responsible for or involved in facilitating and/or providing unauthorized passenger motor carrier services within the Commonwealth. In addition, the amended complaint updates and quantifies the alleged violations alleged by BIE by removing the “per day” violation component and replacing it with a “per ride” violation component and recalculating the appropriate civil penalty as the relief requested. BIE also calculated a proposed civil penalty based upon a “proxy” number of trips. On February 2, 2015, Uber filed an answer to the amended complaint, and requested that the amended complaint be dismissed with prejudice.

Also, on January 9, 2015, BIE filed its second motion for sanctions. BIE avers that Uber has failed to provide answers to discovery requests pursuant to the interim order on the motion to compel and motion for continuance entered on October 3, 2014 and that Respondent failed to comply with the interim order motion for sanctions entered on November 26, 2014. BIE has averred that Uber has openly refused to comply with the orders and regulations of the Commission and has failed to abide by the November 26, 2014 order requiring Respondent to serve full and complete answers to all outstanding discovery requests on or before December 12, 2014 or pay the civil penalty. BIE avers that Uber has neither served the outstanding discovery, nor paid the daily civil penalty, and requests that new, more severe sanctions be imposed upon Uber.

BIE proposes several possible sanctions for our consideration, including the imposition of civil penalties of $1,000 for each day Uber continues to fail to answer the discovery from October 17, 2014 to the date that Uber complies with the discovery order; grant BIE permission to use a “proxy” number of trips taken while Uber lacked Commission authority without objection or cross-examination; prohibiting Uber from asserting the defense that transportation was provided by an affiliate of Uber Technologies, rather than by Uber itself; as well as any other sanction deemed appropriate.

On January 14, 2015, Uber filed an answer to the motion. In its answer to the second motion for sanctions, Uber reiterated that it opposed the motion for the same reasons set forth in its response filed to the original motion for sanctions on November 12, 2014.

On January 29, 2015, an interim order on the second motion for sanctions was entered. The motion for sanctions was held in abeyance, and scheduled oral argument on the motion for February 18, 2015.

The oral argument on the second motion for sanctions convened as scheduled on February 18, 2015. After initial argument by counsel and prior to adjourning the proceeding, the parties entered into discussions in an attempt to resolve the outstanding issues in this matter. Counsel for the parties expressed a desire to continue their discussions subsequent to the February 18, 2015 proceeding. By order dated February 24, 2015, the matters agreed upon were memorialized. Specifically, the parties were directed to submit a proposed stipulation of fact on or before March 4, 2015. In the event that the parties were not able to enter into a stipulation, Uber was directed to serve full and complete answers to all outstanding discovery requests and the parties were directed to provide proposed dates for the scheduling of the evidentiary hearing in this matter.

By letter dated March 4, 2015, the parties reported that they have engaged in good faith discussions, but were unable to reach a final agreement on proposed stipulations by

March 4, 2015. BIE further stated that Uber indicated that it would provide discovery responses. In BIE’s view, the receipt of these responses would further assist the parties in reaching consensus on factual stipulations. Therefore, the parties jointly request a continuance to continue their negotiations.

THEREFORE,

IT IS ORDERED:

1. That the request for a continuance is granted. That the parties shall be permitted to continue their settlement discussions, and shall submit their proposed stipulations to the undersigned presiding officers on or before March 16, 2015. In the event that the parties are unable to enter into any proposed stipulations, the parties shall promptly provide proposed dates for the scheduling of the evidentiary hearing in this matter.
2. That all other provisions of the interim order dated February 24, 2015, remain in effect.

Mary D. Long

Administrative Law Judge

Date: March 9, 2015

Jeffrey A. Watson

Administrative Law Judge

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