

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BM ENTERPRISES INC., T/A A & G TAXI : Docket No. C-2014-2452316
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UBER TECHNOLOGIES, INC. :

ANSWER OF BM ENTERPRISES., T/A A & G TAXI TO THE PRELIMINARY
OBJECTIONS OF UBER TECHNOLOGIES, INC. TO THE AMENDED COMPLAINT

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

BM Enterprises Inc., t/a A & G Taxi, (“BM Enterprises”), by and through its counsel, Michael S. Henry, Esquire, of Salaman, Grayson & Henry, P.C., hereby files this Answer to the Preliminary Objections of Uber Technologies, Inc. to the Amended Complaint of BM Enterprises, and in support thereof, avers as follows:

1. Denied. The averments contained within Paragraph 1 are erroneous conclusions of law to which no response is required. To the extent any of the allegations are factual in nature, it is specifically denied that BM Enterprises has failed to set forth the requisite legal standing to complain about the licensing by UTI of its Internet and mobile application to enable its subsidiaries, Raiser PA LLC and Gegen LLC to perform transportation network company services and brokerage services pursuant to the authority granted by the Commission. It is further specifically denied that the Amended Complaint is a thinly-veiled and improper attempt to seek reconsideration of the Commission’s Order entered on December 5, 2014 and January 23, 2014. To the contrary, BM Enterprises has set forth the requisite legal standing to complain about the licensing by UTI of its Internet and mobile application to enable its subsidiaries, and the Amended Complaint properly sets forth a cause of action for the Commission to order Uber to cease and desist from violating the law.

2. Denied. The averments contained within Paragraph 2 are erroneous conclusions of law to which no response is required. To the extent any of the allegations are factual in nature, it is specifically denied that the Amended Complaint fails to allege that transportation network services and brokerage services are provided. To the contrary, the Amended Complaint specifically details the transportation network services and brokerage services and how each user utilizes the services from acceptance of the application to payment. See, Amended Complaint ¶¶ Count I and II. It is further specifically denied that the Amended Complaint fails to allege any specific harm arising from the licensing of the App by UTI and relies on bald assertions. To the contrary, the Amended Complaint avers that:

Respondent Uber's facilitation or brokering of experimental service provided by Raiser-PA likewise violates the Public Utility Code and the Authority's regulations because the service being facilitated or brokered is not "motor carrier" service within the meaning of the Public Utility Code. [. . .] Accordingly, both Raiser-PA and Respondent Uber are violating the Public Utility Code and the Commission's regulations by providing, facilitating and brokering such service. Respondent Uber is violating the Public Utility Code and the Commission's regulations by violating the Ridesharing Arrangement Act and facilitating commercial transportation services pursuant to ridesharing arrangements that will be provided by individuals or entities that do not possess certificates of public convenience.

Amended Complaint, ¶¶ 45, 52, 57.

3. Admitted.

4. Admitted in part and denied in part. It is admitted that on December 1, 2014, UTI filed Preliminary Objections to the Complaint. It is denied that the averments in Paragraph 4 properly characterize the Interim Order of February 11, 2015 as the Order is a writing which speaks for itself. See, Interim Order of February 11, 2015.

5. Admitted.

6. Denied. The averments contained within Paragraph 6 are erroneous conclusions of law to which no response is required. To the extent any of the allegations are factual in nature, it is specifically denied that Amended Complaint must be dismissed for the failure of the Complainant to demonstrate the requisite legal standing to pursue claims regarding UTI's licensing of the App to Raiser-PA and Gegen to provide Commission-authorized operations. It is further specifically denied that no legitimate purposes would be served by holding hearings on the Amended Complaint. To the contrary, the Amended Complaint demonstrates that Complainant has the requisite legal standing to pursue a claim. To wit, the Amended Complaint states that BM Enterprises holds a certificate of public convenience issued by the Commission authorizing it to transport, as a common carrier, persons, upon call or demand, in the borough of Bristol and the townships of Bristol and Bensalem, all located in Bucks County and in the township of Solebury, and the borough of New Hope, the portion of Bucks County located south and east of Pa. Route 232, and the portion of Montgomery County located north and west of Pa. Route 73. Furthermore,

Complainant has standing to file the instant complaint because the Respondent is facilitating the provision of illegal call or demand service in Complainant's designated territory, using private individuals without certificates of public convenience and such service is in actual, or potential, conflict with Complainant's Commission-issued call or demand authority in its designated territory.

See, Amended Complaint ¶ 3.

7. Denied. The averments contained within Paragraph 7 are conclusions of law to which no response is required.

8. Denied. The averments contained within Paragraph 8 are conclusions of law to which no response is required.

9. Denied. The averments contained within Paragraph 9 are conclusions of law to which no response is required.

10. Denied. The averments contained within Paragraph 10 are conclusions of law to which no response is required.

11. Denied. The averments contained within Paragraph 11 are conclusions of law to which no response is required. To the extent the averments are factual in nature, it is specifically denied that the Amended Complaint should be dismissed. To the contrary, BM Enterprises has standing and has shown that it has been aggrieved by the fact that UTI is illegally operating within BM Enterprises Territory and the Amended Complaint should not be dismissed.

12. Denied. The averments contained within Paragraph 12 are conclusions of law to which no response is required.

13. Denied. The averments contained within Paragraph 13 are conclusions of law to which no response is required.

14. Denied. The averments contained within Paragraph 14 are erroneous conclusions of law to which no response is required. To the extent any of the allegations are factual in nature, it is specifically denied that Amended Complaint contains no allegations that the Complainant's interest in the subject matter is direct. To the contrary, the Amended Complaint does in fact allege that the Complainant's interest in the subject matter is direct as Respondent is unlawfully operating in its territory and is obviously depriving Complainant of direct economic benefits derived from customers and clients, thereby causing economic harm.

15. Denied. The allegations contained within Paragraph 15 are erroneous conclusions of law to which no response is required. To the extent any of the allegations are factual in nature, it is specifically denied that Complainant's interest is not immediate because it has not alleged any

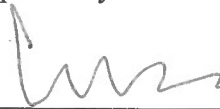
injury or specific harm. To the contrary, the Amended Complaint does in fact allege that Complainant's interest is immediate and that Complainant has suffered injury and specific harm as Respondent is unlawfully operating in its territory and is obviously depriving Complainant of direct economic benefits derived from customers and clients, thereby causing economic harm.

16. Denied. The allegations contained within Paragraph 16 are erroneous conclusions of law to which no response is required. To the extent any of the allegations are factual in nature, it is specifically denied that Complainant's interest is not substantial and that no legitimate purpose would be served by holding hearings on the averments contained within the Amended Complaint. To the contrary, the Complainant's interest is substantial and a legitimate purpose will be served by holding hearings on the averments contained within the Amended Complaint.

17. Denied. The allegations contained within Paragraph 17 are erroneous conclusions of law to which no response is required. To the extent any of the allegations are factual in nature, it is specifically denied that the Complainant lacks standing and the Complaint should be dismissed on that basis. To the contrary, Complainant does have standing, has set forth a valid cause of action, and the Complaint should not be dismissed.

WHEREFORE, BM Enterprises Inc., t/a A & G Taxi, hereby requests that these Preliminary Objections to the Complaint are overruled, and that the Commission grant BM Enterprises Inc., t/a A & G Taxi other such relief as is just and reasonable under the circumstances.

Respectfully Submitted,



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