

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Gegen, LLC for Waiver of :
the Commission’s Limousine Tariff :
Regulations at 52 Pa. Code §29.334 : Docket No. P-2015-2474633

**COMMENTS OF AIRPORT LIMOUSINE SERVICE, INC., t/d/b/a EMBASSY COACH
TO THE APPLICATION OF GEGEN, LLC FOR WAIVER OF
LIMOUSINE TARIFF REGULATIONS AT 52 PA. CODE §29.334**

By the above cited Application, Gegen, LLC (hereinafter “Uber”) seeks to set aside existing limousine tariff requirements in favor of an unregulated, uncapped and uncontrolled fare structure. This application is filed as legislation addressing the very issue of limousine fare restructuring is pending in the Pennsylvania Legislature.¹

By its Application, Uber seeks to institute a system of rogue price gouging and abuse of the riding public. There are to be no fixed rates in Uber’s proposed “tariff” (query if it is a “tariff” at all), nor are there to be any requirements regarding notice of changing the “tariff” rate existing at any given moment to a new rate. Uber uses the word “transparency” multiple times throughout its Application, but then describes a system of totally unregulated and uncontrolled limousine charges which is obscure and obtuse to the point of being opaque – there is no “transparency” to the public because the public has no idea, minute to minute, what it is likely to be charged by Uber operated businesses. The suggestion by Uber that there be “no specific rate schedule (and that it) can be changed without advance notice of change” puts the public at risk of price gouging. No matter what inane rhetoric Uber uses to justify such a move, it will kill

¹ Airport Limousine Service, Inc., t/d/b/a Embassy Coach (“ALS”) holds brokerage rights granted by the Pennsylvania Public Utility Commission (“PUC”) at Docket No. A-00112577, F.3. ALS also holds rights to transport passengers in limousine service, said rights having been granted by the PUC at Docket Nos.: A-00112577, F.5, A-00112577, F.5, Am-A and A-00112577, F.5, Am-B.

innovation; kill growth; cause destructive competition between limousine operators; and leave the riding public without options.²

A quick perusal of the history of deregulation in the taxi industry should be sufficient for the PUC to see the predictable effects of Uber's proposed Application. Deregulation has not worked in any venue in which it has been attempted. It has caused major service and safety problems which have taken years to recover from.

Further, Uber would have the PUC permit other certificated limousine carriers to eschew their own existing tariffs to "piggy-back" the Uber tariff for all fares generated through a "partnering" with Uber through Uber's brokerage rights. This proposition again fits the Uber model of sidestepping regulation aimed at public protection and seeks to spread unmitigated fare wars throughout the industry. Surge pricing and tariffs that fail to defray the cost of transportation to the public are de facto a derogation of the very reason why the PUC exists.

As a broker, Uber has an obligation to fairly protect passengers employing its services by providing or advising the passenger of the transportation services which will best meet the, *inter alia*, rate needs of the passenger. 52 Pa. Code § 39.11(a). Permitting unregulated and uncontrolled limousine charges, as proposed by Uber, would not only be contrary to the public's best interest, but would also run contrary to a broker's obligation to its customers to secure transportation that best meets the pricing needs of the passenger.

Airport Limousine Service suggests that, in the same manner as the tariff that applies to Yellow Z, there must be a cap to what the public can reasonably be charged. Unrestrained surge pricing and pricing that changes on a whim leave the public helpless to know what the outside limit of their fare might be at any given time.

² If the Application is granted, Airport Limousine and other limousine operators will, of necessity, be filing for the same relief so that it can maintain the competitive playing field on an equal basis – for better or worse with respect to the riding public.

Further, should the Uber Application for Waiver be granted, then all app-based black car and limousine services will, out of necessity, be forced to seek the same relief in order to remain competitive in the same market place. The net result, of course, will be that fares will be driven down by competition; profits for many carriers will decrease; investment in vehicles and fleets will wane; and the industry will suffer to the detriment of the riding public. Fares should be reasonable and set so that the public is protected from price gouging and so that the utilities are able to profit and survive to meet public needs.

As set forth in Barasch v. Pennsylvania Public Utilities Commission, 532 A.2d 325 (Pa. 1987), “. . . the public is entitled to demand. . . that no more be exacted from it for the use of [utility property] than the service rendered by it are reasonably worth.” (Id at pg. 335). The whimsical establishment of fares does not serve the greater good of the public. Advanced reservation limousine service needs to be maintained as a separate and different service from call or demand taxi or TNC service. They serve different segments of the riding public and are differentiated by the advanced reservation requirement for limousine service as well as the type and kind of vehicles required for such service.

In the face of pending legislation addressing taxi, TNC and limousine regulation, it seems that the granting of Uber’s Application for Waiver will cause an unnecessary landslide of similar applications designed to keep the competitive playing field level. Change for the sake of change is a dangerous tact for the limousine industry to take. The “app technology” used by more and more ground transportation entities is a formidable and useful dispatching tool – its use is not, however, a justification for making wholesale changes to the basic tenets of regulating the transportation industry for the safety and benefit of the public. Uber’s use of unsupported allegations that this proposed waiver will “help” the public makes no real sense and certainly intuitively does not work. A limousine ride from Mt. Lebanon to the Rivers Casino

(approximately 5 miles) will be \$25 on an “off” night but \$400 on a night when Kenny Chesney is in concert. Is that really in the public’s best interest or Uber’s best interest?

The Application should be denied pending legislative initiative and a detailed discussion of the impact that such deregulation would cause to the limousine industry.

Respectfully submitted,

MALONE MIDDLEMAN, P.C.

Date: June 5, 2015

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of COMMENTS OF AIRPORT LIMOUSINE SERVICE, INC., t/d/b/a EMBASSY COACH TO THE APPLICATION OF GEGEN, LLC FOR WAIVER OF LIMOUSINE TARIFF REGULATIONS was served by placing same in the U.S. Mail, first-class, postage prepaid, this 5th day of June, 2015, as follows:

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