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July 20, 2015

**VIA ELECTRONIC FILING**

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

RE: Application of East Coast Resources, LLC; Docket Nos. A-2014-2453533  
**REPLIES OF EAST COAST RESOURCES, LLC TO THE EXCEPTIONS  
OF PROTESTANTS EZ TAXI, LLC; UNITED CAB, LLC; GOOD CAB,  
LLC; KEYSTONE CAB SERVICE, INC. AND CAPITAL CITY CAB  
SERVICE**

Dear Secretary Chiavetta:

Enclosed are the Replies of East Coast Resources, LLC to the Exceptions of Protestants EZ Taxi, LLC; United Cab, LLC; Good Cab, LLC; Keystone Cab Service, Inc. and Capital City Cab Service in the above-captioned proceeding. Copies of the Reply Exceptions have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. Please contact me with any questions you may have.

Sincerely,

William E. Lehman  
*Counsel to East Coast Resources, LLC*

WEL/jld  
Enclosure  
cc: Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge David Salapa**

APPLICATION OF EAST COAST  
RESOURCES, LLC

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Docket No. A-2014-2453533

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**REPLIES OF EAST COAST RESOURCES, LLC  
TO THE EXCEPTIONS OF PROTESTANTS  
EZ TAXI, LLC; UNITED CAB, LLC; GOOD CAB, LLC;  
KEYSTONE CAB SERVICE, INC. AND CAPITAL CITY CAB SERVICE**

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*Counsel to East Coast Resources, LLC.*

DATED: July 20, 2015

## **INTRODUCTION**

East Coast Resources, LLC, by and through its counsel in this matter, Hawke, McKeon and Sniscak, LLP, files its Replies to Exceptions submitted by EZ Taxi, LLC; United Cab, LLC; Good Cab, LLC; Keystone Cab Service, Inc. and Capital City Cab Service (together “Joint Protestants”) in the above-captioned matter. Administrative Law Judge David A. Salapa’s (“ALJ”) Initial Decision (“ID”) was issued by the Commission on June 19, 2015. In his ID, the ALJ correctly concluded that the Joint Protestants lacked standing to protest the experimental service application of ECR. (ID at 9; Conclusion of Law No. 5) Contrary to assertions by the Joint Protestants, the ALJ relied on well-established Commission precedent to determine that the Joint Protestants, who only have authority to provide call and demand service, do not have authority that is in conflict with the experimental service authority sought by the applicant, ECR, and therefore lack standing to protest the application. Nothing contained in the Joint Protestant’s exceptions require the well-reasoned ID of the ALJ to be overturned or modified in any way. Therefore, the Commission should affirm the ID in full and refer the Application to the Commission’s Bureau of Technical Utility Services for a full review of the Application, pursuant to its statutory obligation to ensure that ECR complies with all relevant statutory and regulatory requirements.

## **REPLIES TO EXCEPTIONS**

The Joint Protests each make one (1) exception to the ALJ’s ID essentially arguing the same things. Namely, that the ALJ ignored Commission precedent set in *Application of Raiser-PA, LLC*; Docket No. A-2014-2424608 (Final Order entered December 5, 2014) (*Raiser*) and that speculative assertions about the way ECR might do business could possibly present a

conflict in the future with the business interest of the Joint Protestants. As explained more fully below, neither of these assertions is correct and they should be rejected by the Commission.

In *Raiser*, the presiding ALJ's dismissed preliminary objections filed by Raiser alleging that the cab companies, among other things, lacked standing because they did not possess experimental service authority and thus were not in direct conflict with the applicant, Raiser. The ALJs in *Raiser* determined that the experimental service regulation at 52 Pa. Code § 29.352 provides the Commission with the discretion to apply the regulatory requirements from any of the other classes of transportation authority and to also create additional requirements, depending on the details of the service proposed. *Raiser Interim Order issued August 11, 2014*. Thus, in their view, this conveyed standing upon cab companies to protest experimental service applications. That ruling in *Raiser* is not controlling in the instant case for numerous reasons.

First, contrary to the Joint Protestants' assertions, the interim order issued by the ALJs in *Raiser* is not precedent that binds the ALJ or the Commission in this case. That interim order was never excepted to or appealed and the Commission never ruled on the standing issues and thus, is not binding precedent. But second, and most importantly, *Raiser* was the first experimental, application-based type application brought before the Commission. The ALJs made a standing-based ruling in that case without any guidance from the Commission in these types of cases. However, in the *Raiser* Final Order, made after extensive hearings and evidence was provided, the Commission stated that there are a "myriad of differences between TNC's and the traditional taxicab industry ..." (*Raiser Final Order at 11*.) The Commission went on to grant Raiser an experimental service certificate with numerous conditions attached related specifically to experimental service (not the least of which was a two-year time limit). This

holding, provides the backdrop and guidance to the ALJ in the instant case that experimental application-based service is unique and not related to traditional call or demand service.

In the instant case, the ALJ correctly held, given the guidance from the Commission in the *Raiser* case that traditional call or demand service is quite different from experimental app-based service and that standing to protest an application for experimental or TNC service should not be subject to a standard that is different from the standard to protest applications for other types of motor carrier authority. (ID at 9) Therefore, the ALJ, relying on the only facts of record, namely that the Joint Protestants hold only call or demand service authority and not experimental service authority, relied on well-established decisions of the Commission, which he should, and held that the Joint Protestants did not have the same authority as the Applicant and lacked requisite standing to protest the Application. (ID at 9) This decision is well-reasoned and consistent with Commission precedent and should not be overturned.

Next, the Joint Protestants assert that there is a potential for ECR to operate its business in a certain way that could potentially put it into conflict with the Joint Protestants call or demand service. These allegations are purely speculative and cannot form the basis for the Joint Petitioner's standing in this matter. As the ALJ noted in his ID, "mere conjecture about possible future harm does not confer a direct interest in the subject matter of a proceeding." (ID at 7 quoting *Official Court Reporters of the Court of Common Pleas of Philadelphia County v. Pennsylvania Labor Relations Board*, 467 A.2d 311 (Pa. 1993).

Furthermore, the Commission is fully capable, without the Protestant's help, to fully vet and analyze ECR's fitness to provide the requested service. As the ALJ recognized,

The Commission has the statutory obligation and the statutory authority to ensure that East Coast [ECR] complies with all relevant statutory and regulatory requirements. The Public Utility Code empowers the Commission to grant a certificate of public convenience only if it is necessary or proper for the service,

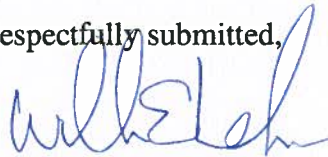
accommodation and convenience or safety of the public. East Coast must demonstrate that there is a need for the proposed service and its financial and technical fitness to provide the proposed service in a safe, reliable manner. Whether approving an application promotes the public interest is a central consideration in every case reviewed by the Commission. Whether or not the application is protested, the Commission reviews the application to ensure that it complies with the relevant statutory provisions and determines whether approving the application is consistent with its policies. (ID at 9-10).

For the reasons stated above, the Commission should deny the exceptions of the Joint Protestants and affirm the ID of the ALJ in its entirety.

## CONCLUSION

For all of the reasons set forth above, East Coast Resources respectfully requests that the Exceptions of the Joint Protestants to the Initial Decision of Administrative Law David A. Salapa be denied and that ECR's application be approved in its entirety.

Respectfully submitted,



William E. Lehman  
*Counsel to East Coast Resources, LLC.*

DATED: July 20, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that I have served on this date copies of the foregoing Replies to  
Exceptions on the following persons and in the manner described:

**VIA ELECTRONIC AND FIRST CLASS MAIL**

Honorable David Salapa  
Pennsylvania Public Utility Commission  
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William E. Lehman

DATED: July 20, 2015