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October 11, 2017

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

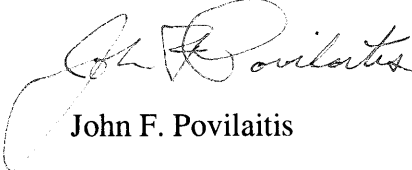
Re: *Robert Ely v. Rasier-PA, LLC*
Docket No. C-2016-2571984

Dear Secretary Chiavetta:

On behalf of Rasier-PA, LLC, enclosed for electronic filing is the Motion for Entry of Procedural Order Setting a Prehearing Conference in the above-captioned matter.

Copies have been served on all parties as indicated in the attached Certificate of Service.

Sincerely,


John F. Povilaitis

JFP/tlg
Enclosure
cc: Administrative Law Judge Joel Cheskis
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Robert Ely

v.

RASIER-PA LLC

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Docket No. C-2016-2571984

**MOTION FOR ENTRY OF A PROCEDURAL ORDER SETTING A
PREHEARING CONFERENCE**

Pursuant to 52 Pa. Code § 5.15, 52 Pa. Code § 1.15, Rasier-PA, LLC (“Rasier-PA” or “Company”), by and through its attorneys, John F. Povilaitis, Brian C. Wauhoh and Buchanan Ingersoll and Rooney PC, moves the Pennsylvania Public Utility Commission (“Commission”) and Administrative Law Judge (“ALJ”) Joel H. Cheskis for the adoption of a procedural order converting the hearing currently set for October 19, 2017 in this matter, to a Prehearing Conference or settlement conference. In addition, Rasier-PA supports the scheduling of a conference call of the Parties and the ALJ in advance of October 19, 2017, subject to the ALJ’s availability, to facilitate settlement of this Complaint. Mr. Ely was requested to concur or not object to the relief requested in this Motion. However as of the time counsel requested it to be provided, the Complainant had not provided his position. It was necessary to make a filing without further delay due to the proximity of the October 19, 2017 hearing. In support of this Motion for Entry of a Procedural Order, Raiser-PA states as follows:

1. This matter commenced on October 18, 2016 when the Complainant, Mr. Robert Ely, filed a Formal Complaint at the above-captioned docket. Rasier-PA filed an Answer and New Matter, as well as Preliminary Objections to the Complaint on November 15, 2016. On November 25, 2016 and December 6, 2016 respectively, Mr. Ely replied to Rasier-PA’s Preliminary Objections and the Company’s Answer and New Matter. On July 20, 2017, ALJ

Cheskis issued an Order granting in part and denying in part Rasier-PA's Preliminary Objections. An initial call-in telephonic hearing was set for this matter on September 1, 2017. On August 7, 2017, Raiser-PA served Interrogatories and Requests for Production of Documents on the Complainant. By email dated August 24, 2017, Mr. Ely requested that the hearing scheduled for September 1, 2017 be continued for at least 45 days so that he could respond to Rasier-PA's discovery, prepare comments to a Commission motor carrier rulemaking and to provide time for the Parties to exchange further discovery. Specifically, Mr. Ely stated in his continuance request to the ALJ that "[i]n the interim there are some new regulations pending and I have 'commented' on this (due September) and while doubtful there would be positive change, these 'comments' if acted upon or adopted would go a long way towards fixing the problems."

2. Rasier-PA did not oppose the continuance request and the ALJ granted a continuance of the September 1, 2017 hearing. The ALJ noted that providing time for discovery was good cause for a continuance and that a continuance would provide additional time to explore settlement of this matter. Order of August 28, 2017 at 3-4. The ALJ set a new initial hearing date of October 19, 2017 for this matter.

3. The Complainant has not to date responded to Rasier-PA's August 7, 2017 discovery requests. On September 15, 2017, Mr. Ely propounded seventy (70) discovery requests on Rasier-PA. In the Company's view, the great majority of those requests were objectionable and Rasier-PA timely served objections to this discovery on September 25, 2015. On October 5, 2015, the Company responded to Complainant's discovery requests that were not the subject of objections. These Company responses, *inter alia*, pointed out that several of Complainant's discovery requests could not be answered because the Complainant has not responded to Rasier-Pa's discovery, pending since August 7, 2017, which sought further information on Complainant's claims.

4. The Company has conducted settlement discussions with the Complainant and believed progress had been made in the direction of settlement. However, Mr. Ely has not agreed to the submission of a Certificate of Satisfaction of the Complaint to date. Rasier-PA remains open to settlement discussions and would participate in further discussions, including settlements talks involving the ALJ, prior to October 19, 2017 or on that date.

5. Rasier-PA respectfully submits that convening a hearing in this matter on October 19, 2017 would not be productive or a meritorious use of the Commission's or the Parties' resources for the following reasons. The precise violations of current law that the Complainant intends to support are not clear. In the ALJ's Order on Preliminary Objections, Complainant's class action claims and driver compensation claims were clearly stricken. Any remaining specific concerns are not clear from the Complaint and the Complainant has failed to respond to the Company's discovery seeking clarification of any remaining claims. Rasier-PA is therefore in a position where it cannot adequately prepare any defense against Complainant's allegations. Mr. Ely is neither a driver for Rasier-PA nor a customer of the Company's Transportation Network Services, raising the issue of whether there are any jurisdictional matters the ALJ and Commission may adjudicate. Furthermore, to the extent Mr. Ely wishes to bring forward matters on behalf of his cab company, the Complaint does not establish a basis for such matters in his Complaint and Commission regulations require a company to be represented by counsel. 52 Pa. Code §§ 1.21-1.22.

6. Based on Mr. Ely's continuance request and the nature of his discovery requests, Rasier-PA continues to be of the view that the Complainant's concerns are largely directed to the relationship of traditional passenger motor carrier service to Transportation Network Service and the manner in which the Commission regulates Transportation Network Service. Proceedings such as the Commission's current motor carrier rulemaking at Docket No. 2017-2604692, which

Mr. Ely is participating in, are a more appropriate and potentially productive forum for addressing his concerns.

WHEREFORE, Raiser-PA respectfully requests that the ALJ (i) issue an Order converting the initial evidentiary hearing scheduled for October 19, 2017 into a Prehearing Conference or settlement conference; (ii) schedule a settlement conference in which the ALJ participates prior to October 19, 2017 if the ALJ's schedule permits, and (iii) grant Raiser-PA any other relief as appropriate.

Dated: October 11, 2017

Respectfully submitted,



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Brian C. Wauhop, Esquire
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Harrisburg, PA 17101-1357

Counsel for Raiser-PA, LLC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROBERT ELY

v.

RASIER-PA LLC

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Docket No. C-2016-2571984

CERTIFICATE OF SERVICE

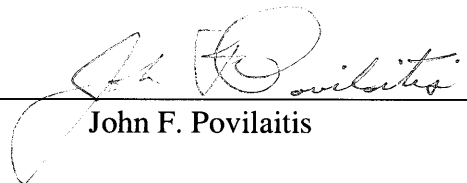
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Via Regular U.S. Mail and electronic mail:

Administrative Law Judge Joel Cheskis
PO Box 3265
Harrisburg, PA 17105-3265
jcheskis@pa.gov

Robert Ely
1163 Miller Road
Lake Ariel, PA 18436
callacarwb@gmail.com

Dated this 11th day of October, 2017.



John F. Povilaitis