

BEFORE THE PENNSYLVANIA UTILITY COMMISSION

FRIEDMAN WAGNER-DOBLER

:

:

v.

:

Docket No. C-2017-2593690

:

Rasier-PA, LLC dba Uber

:

RESPONSE TO UBER's BRIEF of

November 30, 2017

December 9, 2017

UBERS'S FAILURE TO COMPLY WITH TARIFF OBLIGATIONS

Title 66 Chapter 25 § 2607 (b) provides "A transportation network company shall file and maintain with the commission a tariff that sets forth the terms and conditions of service, including the basis for its fares and its policies regarding dynamic pricing."

This requirement evidently imposes not only a "file and maintain" requirement, but assumes that the TNC will indeed charge fares in accordance with what has been filed. It also establishes objective expectations that a customer can have about what he or she will be charged.

When Uber offers and charges a fare that is ten times the distance travelled, the published tariff is wildly at odds with the actual fare, and therefore Uber has failed to comply with title 66 Chapter 25 § 2607 (b). Uber contends that there is nothing wrong with this and they will continue to do so.

FIXED PRICE OR ESTIMATE?

Title 66 Chapter 25 § 2607 (b) also provides "If a fare is charged, a transportation network company must disclose the fare calculation method [sic] prior to providing an arranged ride."

It is noteworthy that the TNC need not disclose the actual fare itself, just the fare calculation method. The drafters assumed that the fare could change after the trip commenced, and that was just fine as long as the fare calculation method was clear.

Put another way, the price provided before the trip is an estimate. Things can happen on the trip that will change the price – detours, road closures, traffic jams to increase it, or shortcuts to decrease it.

Uber contends that they offer a fixed price that is locked in once it has been accepted. This is incredible for a number of reasons:

- a) Uber's own Language (Uber main brief page 6)
- b) There is no language in the app makes this clear
- c) Uber's own admission that there are circumstances where the "fixed price" could go up

Uber has failed to comply with Title 66 Chapter 25 § 2607 (b) in two different ways here:

- 1) For the three trips on 24 February, 10 March and 13 March, failing to recalculate the fare when the actual trip was much shorter than the routing mis-calculated by Uber's algorithm.
- 2) For the proposed trip on March 6, disclosing a fare calculation routing that was different from the price calculated, and therefore failing to correctly disclose the fare calculation method. (Page 5 of the appendix to the complaint form refers.) Uber has correctly pointed out that I did not accept this trip, but that is irrelevant: the obligation to disclose the fare calculation correctly is independent of the acceptance of the ride.

Therefore Uber has failed to comply with title 66 Chapter 25 § 2607 (b) on these four occasions. Uber contends that there is nothing wrong with this and they will continue to do so.

LACK OF JURISDICTION

Respondent also maintains that the Commission has no jurisdiction over price, and that it therefore cannot intervene. That is like saying the police can't intervene in a bank robbery because they have no jurisdiction over interest rates.

It is true per Title 66 Chapter 25 § 2607 (f) that "The amount [sic] of a donation, charge, fare or other compensation provided or received for transportation network service shall not be subject to review or approval by the commission under Chapter 13 (relating to rates and distribution systems)."

But this is not applicable to this case for two reasons:

- 1) The commission is free to review amounts other than under Chapter 13; all this sentence says is that the machinery in Chapter 13 isn't applicable
- 2) The commission is free to review the method of calculation as opposed to the amount calculated

The formal complaint form states on page 3: "The PUC can [...] fine a utility or company for not following rules and can order a utility or company to correct a problem with your service." It seems reasonable to assume then that the PUC believes it has jurisdiction unless Uber claims a TNC is not a company.

WORKAROUND

Respondent maintains that it is easy enough for customers to deal with erroneous routings. This is a dubious claim:

- 1) Customer is expected to make a detailed assessment of the actual routing that is provided in summary, and understanding any alternative routings or shortcuts that are available, for a routing where customer may not have any knowledge of local conditions
- 2) Customer is expected to be familiar with geolocation issues as far as mapping addresses to a location
- 3) Customer is expected with Uber's proprietary routing algorithm and what effect moving the pickup pin might have on that algorithm
- 4) Customer is expected to be familiar with Application design, or intuit that moving the pickup pin has no effect unless the Uber application is closed (which most customers would assume is a bug in the application, and cynical customers would claim is a deliberate ratchet that increases Uber's vigorish).

I contend that all in all, there is no reasonable workaround here, and certainly not one you'd likely find when ordering an Uber home at 2am after a party.

REQUESTED RELIEF

My request for refunds with respect to two trips is now moot. However, Uber's violations of Title 66 will continue unless the company is sanctioned.

As a non-lawyer I am not an expert in what appropriate sanctions are, and refer to the original complaint. To the extent that any of the requested sanctions require class action status or are outside the court's jurisdiction, I withdraw them.

If, as the complaint form states, the "PUC can [...] fine a utility or company for not following rules" then I respectfully request that Uber be charged the amount of \$25,000 for each of the four proven violations of Title 66, or some other amount the court deems appropriate.

If the PUC can "order a [...] company to correct a problem with your service" then appropriate relief would be an order requiring Uber to correct fares downward automatically where the ride differs materially from the estimated basis, or in the event that is not possibly, to establish a complaint category of "I've been overcharged" and ensure appropriate directions and training for support staff, or any other correction the PUC may deem appropriate.

Respectfully submitted



Friedman Wagner-Dobler, pro se

Dated: December 9, 2017