

# Buchanan

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February 27, 2025

## VIA E-FILING

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


Re: Jael Hernandez v. Raiser – PA LLC  
Docket No. C-2025-3053091

Dear Secretary Chiavetta:

Enclosed please find Raiser-PA LLC's Preliminary Objections to the Complaint of Jael Hernandez to be filed in the above captioned matter.

Sincerely,

BUCHANAN INGERSOLL & ROONEY PC

By:   
\_\_\_\_\_  
Alan M. Seltzer, Esquire

AMS/psm  
Enclosure  
cc: Jael Hernandez

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jael Hernandez	:	
Complainant	:	
	:	Docket No. C-2025-3053091
v.	:	
Raiser-PA LLC	:	
Respondent	:	

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**NOTICE TO PLEAD**

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TO: Jael Hernandez  
6214 Charles Street  
Philadelphia, PA 19135

Pursuant to 52 Pa. Code § 5.101(b), you are hereby notified that, if you do not file a written response to the enclosed Preliminary Objections of Raiser-PA LLC to the Complaint of Jael Hernandez within **ten (10) days** from service of this Notice, the Preliminary Objections may be granted. All pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Raiser-PA LLC and, where applicable, the Administrative Law Judge presiding over the case.

**File with:**

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

**With a copy to:**

Alan M. Seltzer, Esquire  
John F. Povilaitis, Esquire  
Buchanan Ingersoll & Rooney, PC  
409 North Second Street, Suite 500  
Harrisburg, PA 17101

Dated: February 27, 2025



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Alan M. Seltzer, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jael Hernandez	:	
Complainant	:	
	:	Docket No. C-2025-3053091
v.	:	
Raiser-PA, LLC	:	
Respondent	:	

**PRELIMINARY OBJECTIONS OF RAISER-PA, LLC  
TO COMPLAINT OF Jael HERNANDEZ**

**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

AND NOW, Raiser-Pa, LLC. (“Raiser” or the “Company”), by and through its counsel, Alan M. Seltzer, John F. Povilaitis and Buchanan Ingersoll & Rooney PC, hereby files these Preliminary Objections to the Formal Complaint of Jael Hernandez (“Complainant”) pursuant to Section 5.101 of the Pennsylvania Public Utility Commission (“Commission”) regulations at 52 Pa. Code § 5.101(a) as follows:

**I. Introduction**

1. On February 12, 2025, Raiser was served the Formal Complaint of Jael Hernandez alleging a lack of transparency in driver payment calculations (“Complaint”). The Complainant implies he is an existing driver for Raiser who is not getting clear or timely answers to his questions about potential issues associated with fares and his ultimate compensation. The Complainant seeks the disclosure of “the exact rates per mile and per minute” used “to calculate driver payment.” Complaint, ¶5. He claims a need for this information to “assess if Uber is paying me fair wages ...” Complaint, ¶5.

## **II. Background**

2. Raiser is a licensed Transportation Network Company<sup>1</sup> in Pennsylvania and, as such, is subject to the provisions of the Chapter 26 of the Public Utility Code (“Code”), 66 Pa.C.S. §§2601-2610. As a Transportation Network Company, Raiser is subject to the regulatory jurisdiction of the Commission as specified in Chapter 26 of the Code, 66 Pa. C.S. §2604(a): “A transportation network company may not operate in this Commonwealth unless it holds and maintains a license issued by the commission.”

## **III. Legal Standards Applicable to Preliminary Objections**

3. The Commission’s Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101; *see also Equitable Small Transportation Interveners v. Equitable Gas Company*, Docket No. C-00935435 (Final Order entered July 18, 1994).

4. The grounds for preliminary objections are set forth in 52 Pa Code § 5.101(a):

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.

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<sup>1</sup> A Transportation Network Company is “[a] person or entity licensed by the commission to operate a transportation network service in this Commonwealth and that uses a digital network to facilitate prearranged rides. The following shall apply: (1) The term shall include a dual motor carrier.

(2) The term shall not include:

(i) A common carrier, common carrier by motor vehicle or motor carrier other than a dual motor carrier.

(ii) A company providing transportation under a ridesharing arrangement, as defined under the act of December 14, 1982 (P.L.1211, No.279), entitled "An act providing for ridesharing arrangements and providing that certain laws shall be inapplicable to ridesharing arrangements."

- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

5. The Commission’s procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Interveners*, Docket No. C-00935435 (July 18, 1994).

6. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources*, 406 A.2d 1020 (Pa. 1979); *Rivera v. Philadelphia Theological Seminary of St. Charles Borromeo, Inc.*, 595 A.2d 172 (Pa. Super. 1991). The Commission has adopted this standard. *Montague v. Philadelphia Electric Company*, 66 Pa. PUC 24 (1988).

7. The Commission may dismiss a pleading without hearing if, in its opinion, a hearing is not necessary in the public interest. 52 Pa. Code § 5.21(d); see also *Lydine Dutton v. Cordia Communications Corporation*, Docket No. F-2010-2201413 (Initial Decision entered March 10, 2011; Order entered September 22, 2011) (citing 66 Pa.C.S. § 703(b)).

#### IV. Argument

##### A. **Preliminary Objection to the Protestants’ Standing Pursuant to 52 Pa. Code § 5.101(a)(1)**

8. Raiser incorporates the preceding paragraphs as if set forth fully herein.

9. The Commission’s regulations specifically allow for preliminary objections to a complaint for “[l]ack of Commission jurisdiction ...” 52 Pa. Code §5.101(a)(1).

10. Here, the Complaint focuses on and seeks relief solely with respect to the Complainant’s concerns about the calculation of fares and how it translates into his compensation from Raiser.

11. Issues relating to a driver's compensation with Raiser (as a Transportation Network Provider) are governed by Raiser's Platform Access Agreement and associated addenda including, but not limited to, any Driver Fare Addenda, which are private contractual arrangements. These documents are available to all Raiser drivers, including the Complainant, on their online Raiser account.

12. However, the Commission does not have jurisdiction over complaints where the allegations raised arise from duties owed under a private contract between utilities and other parties. *Robert Ely v. Raiser-PA LLC*, Docket No. C-2016-2571984 (Initial Decision dated January 10, 2018 and Final Order entered March 1, 2018).

13. Further, the Commission does not have jurisdiction to set or review the adequacy of driver compensation. In *Richard Scloppert v. City Delivery Service, Inc.*, Docket No. C-2015-2478408 (July 9, 2015), a driver for City Delivery Service, a public utility authorized to provide motor carrier service, alleged he was not being compensated correctly. Administrative Law Judge ("ALJ") Hass considered preliminary objections filed by City Delivery Service arguing that the dispute was outside of the Commission's jurisdiction. ALJ Hass ruled in favor of City Delivery Service and granted the preliminary objections, stating:

Complainant alleges a dispute between an employee and an employer regarding the employee's compensation. The Complainant claims he is being paid incorrectly. Such a claim, even if proven to be true, does not constitute a violation of the Public Utility Code or a Commission regulation or order but, rather constitutes a private contractual dispute. The Commission lacks jurisdiction to adjudicate private contractual disputes. Here, as in the cases cited above, the Commission is not the appropriate tribunal to adjudicate this complaint. It is clear from the face of the complaint that the Complainant's dispute is a private dispute with his employer concerning the amount he is being compensated.

14. The appropriate venue for disputes over driver compensation and related issues is the court of common pleas and not the Commission. *Designer Homes, Inc. v. Pennsylvania Power & Light Company*, 1993 Pa. PUC LEXIS 30 (May 18, 1993). See e.g., *Feingold v. Bell of Pennsylvania*, 383 A.2d791, 794-795 (Pa. 1978); *Hoch v. Philadelphia Electric Company*, 492 A.2d 27, 31-32 (Pa.Super. 1985); *Behrend v. Bell Telephone Company*, 363 A.2d 1152, 1158 (Pa.Super. 1976).

15. Importantly, while Code Chapter 26 addresses a variety of matters pertaining to transportation network companies like Raiser, there is nothing in that Chapter, including the section on licensure requirements, 66 Pa. C.S. §2604.1, that contains any standards or requirements relating to driver compensation.

WHEREFORE, Raiser-PA LLC hereby requests that these Preliminary Objections be granted, that the Complaint filed by Jael Hernandez be dismissed with prejudice, and that the Commission grant Raiser-PA such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,



Alan M. Seltzer, Esq.

John F. Povilaitis, Esq.

BUCHANAN INGERSOLL & ROONEY PC

409 North Second Street, Suite 500

Harrisburg, PA 17101-1357

(717) 237-4862

Attorneys for Raiser-PA LLC

Dated: February 27, 2025

## VERIFICATION

I, Nicholas Davoli of Raiser-PA LLC., have read the foregoing document and verify that the facts set forth therein are true and correct to the best of my knowledge, information and belief.

I understand that any false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

By: \_\_\_\_\_

Name: Nicholas Davoli

Date: 27-Feb-2025

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Jael Hernandez	:	
Complainant	:	
	:	Docket No. C-2025-3053091
v.	:	
Raiser-PA LLC	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the Raiser-PA LLC's Preliminary Objections to the Complaint of Jael Hernandez upon the parties listed below via First Class Mail:

Jael Hernandez  
6214 Charles Street  
Philadelphia, PA 19135

Dated: February 27, 2025

  
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Alan M. Seltzer