**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement :

:

 v. :C-2014-2422723

 :

Uber Technologies, Inc. :

**INTERIM ORDER**

**MOTION FOR JUDGEMENT ON THE PLEADINGS**

 On June 6, 2014, the Commission’s Bureau of Investigation and Enforcement (BIE), filed a complaint against Uber Technologies, Inc. (Uber). The complaint alleges, among other things, that Uber is acting as a broker of transportation without a certificate of public convenience and that its actions constitute a violation of the Public Utility Code. The complaint seeks civil penalties in the amount of $95,000 and an additional $1,000 per day for each day that Uber continues to operate after the date of filing. Uber filed an answer on June 23, 2014.

 Uber filed a motion for judgment on the pleadings on November 6, 2014. BIE filed an answer in opposition to the motion on November 26, 2014.

 The Commission’s Rules of Administrative Practice and Procedure permit the filing of motions for judgment on the pleadings pursuant to 52 Pa.Code § 5.102, after the pleadings (formal complaint, answer, new matter and reply to new matter) are closed. A motion for judgment on the pleadings is properly granted where the pleadings “show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.” 52 Pa.Code § 5.102(d)(1).

 Judgment on the pleadings should be granted only in a case where the moving party’s right to prevail is so clear that a trial would be a fruitless exercise.[[1]](#footnote-1) Uber’s contention is that a hearing would be fruitless because Uber is merely a software developer which licenses software to others. Obviously, Uber’s role in transportation, its relationship with its affiliates and whether it is responsible for providing unauthorized transportation is an intensely contested question of fact.[[2]](#footnote-2) The reader is directed to our numerous orders on the various motions which have been filed in this matter for a complete recitation of this controversy. Suffice to say, that the pleadings here do not merit judgment in Uber’s favor as a matter of law. Uber’s right to prevail is not so clear that a trial would be fruitless exercise.

 THEREFORE,

 IT IS ORDERED:

 That the Motion for Judgment on the Pleadings of Uber Technologies, Inc. is denied.

Date: November 26, 2014

 Mary D. Long

 Administrative Law Judge

 Jeffrey A. Watson

 Administrative Law Judge

**C-2014-2422723- Pennsylvania Public Utility Commission, BUREAU OF INVESTIGATION AND ENFORCEMENT V. UBER TECHNOLOGIES, INC.**

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1. *Nein v. UGI Utilities, Inc.*, PUC Docket No. C-2012-2298099 (Final Order entered November 9, 2012). [↑](#footnote-ref-1)
2. *E.g., Petition of the Bureau of Investigation and Enforcement for an Interim Emergency Order*, PUC Docket No. P-2014-2426846 (Opinion and Order entered July 24, 2014); *BIE v. Uber Technologies,* C-2014-2422723 , Interim Orders on Motions to Compel entered October 3, 2014, and November 25, 2014. [↑](#footnote-ref-2)