

# Buchanan Ingersoll & Rooney PC

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January 14, 2015

## VIA E-FILING

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

Re: Bureau of Investigation and Enforcement v. Uber Technologies, Inc.  
Docket No. C-2014-2422723

Dear Secretary Chiavetta:

On behalf of Uber Technologies, Inc., I have enclosed for electronic filing the Motion for Scheduling of Settlement Conference and Assignment of Settlement Judge, in the above-captioned matter.

Copies have been served on all parties as indicated in the attached certificate of service.

Sincerely,



Karen O. Moury

KOM/bb  
Enclosure

cc: Chief Administrative Law Judge Charles E. Rainey, Jr. (*via email and First Class Mail*)  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY</b>	:	
<b>COMMISSION, BUREAU OF</b>	:	
<b>INVESTIGATION AND ENFORCEMENT</b>	:	
	:	<b>Docket No. C-2014-2422723</b>
v.	:	
	:	
<b>UBER TECHNOLOGIES, INC.</b>	:	

**MOTION FOR SCHEDULING OF SETTLEMENT CONFERENCE  
AND ASSIGNMENT OF SETTLEMENT JUDGE**

TO CHIEF ADMINISTRATIVE LAW JUDGE RAINEY, ADMINISTRATIVE LAW JUDGE LONG AND ADMINISTRATIVE LAW JUDGE WATSON:

Pursuant to 52 Pa. Code § 5.231, by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, Uber Technologies, Inc. (“UTI”) hereby files this Motion for Scheduling of Settlement Conference and Assignment of Settlement Judge (“Settlement Motion”), and in support hereof avers as follows:

1. Section 5.231(a) of the Commission’s regulations provides that “[i]t is the policy of the Commission to encourage settlements.” 52 Pa. Code § 5.231(a). To facilitate that process, the Commission’s regulations permit parties to request the scheduling of settlement conferences and to request a presiding officer be designated to participate in settlement conferences. 52 Pa. Code § 5.231(b) and (c).

2. UTI submits this request for the scheduling of a settlement conference on a mutually convenient date, in consultation with the parties, by February 6, 2015 and for the assignment of an administrative law judge (“ALJ”) other than the presiding ALJs to participate in the settlement conference.

3. Hearings are currently scheduled for February 18, 2015 on the Complaint that was filed by the Bureau of Investigation and Enforcement (“I&E”) in the above-captioned matter on June 5, 2014. Through this Settlement Motion, UTI is not seeking to delay the hearings.

4. On January 9, 2015, I&E filed a Second Motion for Sanctions, Application for Subpoena and an Amended Complaint. Responses to those pleadings are currently due on January 14, 2015, January 21, 2015 and February 2, 2015,<sup>1</sup> respectively.

5. Today, UTI is separately filing a response opposing the Second Motion for Sanctions, requesting that it be denied for the reasons set forth in UTI's answer filed on November 12, 2014 in response to the original Motion for Sanctions, or alternatively, that it be held in abeyance pending disposition of this Settlement Motion and the scheduling of a settlement conference.

6. As part of this Settlement Motion, UTI requests that the Application for Subpoena<sup>2</sup> and the Amended Complaint be held in abeyance pending the disposition of this Settlement Motion and the scheduling of a settlement conference, so that responsive pleadings are not due until after such conference is held.

7. The dispute in the pending Second Motion for Sanctions relates to UTI's failure to provide the trip data requested by I&E via discovery in this proceeding. Importantly, however, UTI is willing to provide the trip data sought by the Interrogatories to I&E and a settlement ALJ on a confidential basis<sup>3</sup> in the context of a structured settlement conference, where it is understood and agreed that the information is to be used only to aid in settlement discussions. By contrast, providing this information through discovery would expose it to public disclosure if it ends up being the basis for an amended complaint and a Commission decision. *See* 66 Pa.C.S. § 335(d); *Pennsylvania Public Utility Commission v. Seder*, No. 2254

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<sup>1</sup> Although the Amended Complaint was filed on January 9, 2015, the Secretary's Bureau served it on UTI on January 13, 2015 providing for responsive pleadings within 20 days.

<sup>2</sup> UTI has provided I&E with an alternative representative of the company to whom the subpoena should be directed.

<sup>3</sup> In fact, Rasier-PA LLC, a wholly owned subsidiary of UTI, has provided the confidential trip data required by the Secretarial Letter dated July 28, 2014, under seal, to the Commission for review by Commissioners and advisory staff at the Commission who have duties to monitor compliance with the Commission's Orders entered on December 5, 2014 at Applications of Rasier-PA LLC, Docket Nos. A-2014-242617 and A-2014-2424608.

C.D. 2013 (Opinion filed December 3, 2014) (documents relied upon by the Commission in reaching a determination should be made part of the public record).

8. On December 11, 2014, UTI provided a proposed term sheet to I&E and a settlement meeting was held on December 15, 2014. No progress was made during that settlement meeting, and no counter-proposal has been provided by I&E.

9. Based on the failure of the December 15, 2014 to advance settlement discussions and the recent filing of the Amended Complaint seeking a significantly higher civil penalty than was sought by the original Complaint, UTI believes that the designation of an ALJ to participate in a settlement conference would substantially aid in the negotiations and offer a greater likelihood of success.

10. A settlement of this proceeding would end the ongoing motions practice, which is not achieving meaningful results, and alleviate the need for litigation, thereby significantly conserving the resources of I&E, UTI and the ALJs, as well as other Commission staff.

11. Even if a settlement is not successful, a conference facilitated by an ALJ may result in a narrowing of the issues, including stipulations of fact.

12. To enable the Chief Administrative Law Judge or presiding ALJs to issue a timely ruling on this Settlement Motion and make it possible to hold a settlement conference by February 6, 2015, UTI requests that I&E's time period for responding to this Motion be shortened so that responses are due on or before January 22, 2015.

WHEREFORE, Uber Technologies, Inc. ("UTI") respectfully requests that the Commission grant this Motion for Scheduling of Settlement Conference and Assignment of Settlement Judge.

Respectfully submitted,

January 14, 2015



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*Attorneys for Uber Technologies, Inc.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY</b>	:	
<b>COMMISSION, BUREAU OF</b>	:	
<b>INVESTIGATION AND ENFORCEMENT</b>	:	
	:	<b>Docket No. C-2014-2422723</b>
<b>v.</b>	:	
	:	
<b>UBER TECHNOLOGIES, INC.</b>	:	

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 Email and First Class Mail**

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Dated this 14<sup>th</sup> day of January, 2015.

  
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Karen O. Moury, Esq.