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March 30, 2015

VIA E-FILING

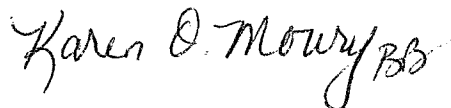
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd floor
Harrisburg, PA 17120

Re: Petition of Gegen, LLC For Waiver of the Commission's Limousine Tariff
Regulations at 52 Pa. Code § 29.334; Docket No. P-2015-

Dear Secretary Chiavetta:

On behalf of Gegen, LLC, I am electronically filing the Petition of Gegen, LLC For
Waiver of the Commission's Limousine Tariff Regulations at 52 Pa. Code § 29.334.

Very truly yours,



Karen O. Moury

KOM/bb

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Gegen, LLC For Waiver of :
the Commission's Limousine Tariff : Docket No. P-2015-
Regulations at 52 Pa. Code § 29.334 :

**PETITION OF GEGEN, LLC FOR WAIVER OF THE COMMISSION'S
LIMOUSINE TARIFF REGULATIONS AT 52 PA. CODE SECTION 29.334**

Pursuant to 52 Pa. Code § 5.43, Gegen LLC ("Gegen"), by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, hereby petitions the Pennsylvania Public Utility Commission ("Commission") for a waiver of the limousine tariff regulations at 52 Pa. Code § 29.334. In support hereof, Gegen avers as follows:

I. INTRODUCTION

1. By this Petition, Gegen seeks the flexibility to establish rates for limousine services arranged through the Internet and mobile application ("App") developed by Uber Technologies, Inc. ("UTI") in a manner that permits it to effectively balance supply and demand and to facilitate the choices of the riding public who may wish to arrange limousine service, such as an upscale product through the App, while providing transparency to the public as to the rates that are being charged.

2. The Commission's current regulations at 52 Pa. Code § 29.344 are antiquated in that they unduly restrict the ability of limousine carriers to set rates that reflect market forces and to adjust rates continuously so as to effectively balance supply and demand. By requiring rates to be based solely on time and by requiring one day's notice of any changes, the existing regulations stifle innovation and competition.

3. Particularly when consumers are able to obtain the real-time applicable rates and request an estimated fare when arranging limousine services through the App, no purposes are served by limiting the flexibility of limousine carriers to establish rates on a continuous basis. By allowing limousine carriers to have flexibility to establish rates based on market conditions, including time, mileage and flat rates, the Commission can facilitate the delivery of products to consumers that reflect optimum use of current technology and afford consumers choices in the way in which they arrange limousine services.

4. In 1997, the Commission adopted an Order recognizing that “given the current state of competition” in the limousine industry, “market forces are better suited than this Commission to set appropriate rates.” *Investigation of Flexible Ratemaking for the Bus and Limousine Industries*, Docket No. I-00960063, 27 Pa.B. 5846 (Order adopted October 2, 1997) (“*Flexible Ratemaking Order*”). At that time, the Commission implemented new procedures allowing limousine carriers to establish rates with one day’s notice to the Commission without any supporting financial data.

5. In 2006, the Commission took a step backwards from the *Flexible Ratemaking Order* in adopting the existing regulations at 52 Pa. Code § 29.344, which prohibit limousines from basing their rates on mileage or establishing flat rates and further require limousine charges to be based solely on time and to contain minimum 30-minute initial and incremental charges. *Passenger Service and Property and Household Goods Carriers*, Docket No. L-00020157 (Order adopted August 11, 2005), 36 Pa.B. 4181 (“*2006 Transportation Order*”).

6. Flexibility in establishing rates for limousine services arranged through the App on a continuous basis and based on any relevant market factors would be consistent with the Commission’s decision in the *Applications of Rasier-PA LLC for Experimental Service of*

Shared-Ride Network, Docket Nos. A-2014-2416127 and A-2424608 (Orders entered December 5, 2014) (“*Rasier-PA Orders*”). In the *Rasier-PA Orders*, the Commission found that because of the competitive nature of the transportation network company (“TNC”) industry, which also uses the App to arrange transportation services, it is reasonable to afford TNCs flexibility in establishing rates, particularly given the transparency of the fare information that is available through the App. *See Rasier-PA Order*, Docket No. A-2014-2424608, at pp. 70-71.

7. In short, the continued application of the existing regulations to limousine service that is arranged through the App will stifle innovation, growth and competition throughout Pennsylvania, to the detriment of the riding public who appreciate choices in the manner in which they arrange transportation services.

8. Therefore, Gegen submits two specific requests with this Petition. First, Gegen seeks permission to amend its own limousine tariff to add a rate schedule for limousine services arranged through the App that does not contain specific rates and foregoes the need for any advance notice of changes. Under such a schedule, Gegen would instead describe the basis for establishing applicable charges and note the transparency that would be afforded to consumers to obtain real-time applicable rates and to request estimated fares through the App. Second, Gegen seeks a declaration from the Commission that other Commission-certificated limousine providers who partner with Gegen (in its role as a broker) to provide transportation through the App may likewise amend their limousine tariffs in a similar manner on one days’ notice.

II. BACKGROUND

9. On January 24, 2013, the Commission approved Gegen’s application for a brokerage license, evidencing its approval of the right and privilege to operate as a broker, to arrange for the transportation of persons, between points in Pennsylvania. *Application of Gegen*,

LLC for Brokerage License, Docket No. A-2012-2317300 (Order adopted January 24, 2013) (“*Gegen Broker Order*”). In the *Gegen Broker Order*, the Commission noted that Gegen would contract with transportation providers and that transportation would be arranged through the App.¹ A brokerage license was issued to Gegen on March 1, 2013 at A-6915035, pursuant to the *Gegen Broker Order*.

10. On August 15, 2013, the Commission approved Gegen’s application for the additional right to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, from points in Bucks, Chester, Delaware, and Montgomery counties, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority (“Philadelphia suburbs”). *Application of Gegen, LLC for Limousine Authority*, Docket No. A-2012-2339043 (Order adopted on August 15, 2013) (“*Gegen Limousine Order*”). In the *Gegen Limousine Order*, the Commission noted that transportation would be arranged through the App developed by UTI and recognized that Gegen would not employ drivers but rather would enter into contracts with independent contractors to provide transportation services. A certificate of public convenience was issued to Gegen on October 29, 2013 at A-6915035, pursuant to the *Gegen Limousine Order*.

III. ARGUMENT

11. The Commission’s current regulations governing limousine tariffs are antiquated in that they preclude limousine carriers from setting rates that reflect market forces and from adjusting rates continuously so as to effectively balance supply and demand. By limiting limousine carriers to rates that are based solely on time and by requiring one day’s notice of any changes, they unduly and unnecessarily stifle innovation and competition. *See* 52 Pa. Code §

¹ Although UTI was not mentioned in the *Gegen Broker Order*, the application that led to the issuance of the brokerage license listed UTI as the only member of Gegen. Also, the *Gegen Broker Order* recognized Gegen’s plans to use the App to connect riders with drivers.

29.334. The result is that consumers are deprived of access to reliable and affordable limousine services and a choice in the way they arrange those services.

12. Particularly when consumers are able to obtain real-time applicable rates and request an estimated fare when arranging limousine services through the App, no purposes are served by limiting the flexibility of limousine carriers to establish rates on a continuous basis. By allowing limousine carriers to have flexibility to establish rates based on market conditions, including time, mileage and flat rates, the Commission can facilitate the delivery of products to consumers that reflect optimum use of current technology and afford consumers choices in the way in which they arrange limousine services.

13. Prior to the adoption of these regulations in 2006, the Commission adopted a *Flexible Ratemaking Order* in 1997 addressing the value of flexibility in setting limousine rates. At that time, the Commission recognized that “given the current state of competition” in the limousine industry, “market forces are better suited than this Commission to set appropriate rates.” *Flexible Ratemaking Order*.

14. The Commission’s adoption of the current regulations in 2006 represented a step backwards in that it removed much of the flexibility previously afforded to limousine carriers by requiring them to base their rates solely on time and to contain minimum 30-minute initial and incremental charges. *2006 Transportation Order*.

15. Recently, in approving the TNC application of Rasier-PA, the Commission recognized the value of allowing the market to determine rates. Specifically, the Commission found that because of the competitive nature of the TNC industry and the transparency of fare information that is available through the App, it is reasonable to permit a tariff structure that

explains the basis upon which fares will be established without specifying rates or filing advance notice of changes with the Commission. *Rasier-PA Orders*.

16. Under its brokerage license, Gegen is exploring launching a product in Pennsylvania that would include relying on certificated limousine providers to furnish transportation services that are arranged through the App. The vehicles used by Gegen will be luxury type vehicles typically used in the provision of limousine services.

17. To facilitate the effective balancing of supply and demand, Gegen requests that the Commission grant a waiver of its limousine tariff regulations at 52 Pa. Code § 29.334 so that rates charged by Gegen for limousine services arranged through the App need not be set forth in the tariff on file with the Commission. In lieu of having specific rates set forth in the tariff for transportation arranged through the App and needing to give one day's advance notice of changes, Gegen proposes to revise its tariff to include a new schedule that is applicable to such transportation, which largely follows the format approved by the Commission for Rasier-PA LLC. *See Applications of Rasier-PA LLC for Experimental Service of Shared-Ride Network*, Docket Nos. A-2014-2416127 and A-2424608 (Orders entered January 29, 2015 and Tariffs filed on March 2, 2015).

18. Specifically, under Gegen's proposal (a sample new Schedule is attached as Exhibit A), it would revise its tariff to provide as follows for any transportation arranged through the App:

- a. Rates are calculated on the basis of the distance and/or time between the point of origin and destination and include a minimum base fare.
- b. Flat fees may be charged for trips to specific destinations.
- c. Rates may increase or decrease in real time for the purpose of balancing supply and demand.

- d. In the event of a natural disaster or emergency, surge pricing will comply with the Pennsylvania Price Gouging Act, 73 P.S. §§ 232.1 *et seq.*
- e. In all situations, the prospective customer will be advised of the applicable rates being charged and will have the option of receiving an estimated fare before booking the transportation.
- f. Cancellation fees and cleaning fees may be applied as necessary, with advance notice to the customer.

19. In addition, in order to maximize the ability of Gegen in its role as a broker to be responsive to members of the riding public who wish to arrange their limousine service through the App and to offer this service outside the Philadelphia suburbs, Gegen will need to contract with other certificated limousine providers to accept ride requests through the App. To facilitate those efforts, Gegen proposes that the Commission declare that certificated limousine carriers who partner with Gegen to provide services arranged through the App may file revised tariffs on one days' notice, which mirror the example provided as Exhibit A, or as modified by the Commission in addressing this Petition.

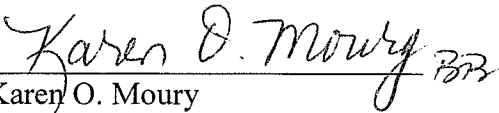
20. By granting the waivers requested by Gegen in this Petition, the Commission can promote the use of technology and innovation to give consumers choices in the way that they arrange limousine services. As part of an already competitive industry, limousine carriers using the App are unduly restricted by the existing regulations that limit rates to time and require advance notice of changes. Paving the way for more competition in the limousine industry, particularly given the transparency of the App in disclosing applicable charges to the riding public, the Commission can ensure that Pennsylvanians have access to reliable and affordable limousine services and receive optimum benefits from advancements in technology.

IV. CONCLUSION

WHEREFORE, Gegen LLC respectfully requests that the Commission grant this Petition for Waiver of the Commission's Limousine Tariff Regulations at 52 Pa. Code § 29.334.

Respectfully submitted,

Dated March 30, 2015



Karen O. Moury
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Suite 500
Harrisburg, PA 17101
(717) 237-4820

Attorneys for Gegen LLC

EXHIBIT A

EXHIBIT A

SCHEDULE OF RATES

- C. For limousine services arranged by riders through the Internet or a mobile application (“App”) developed by Uber Technologies, Inc., the following rules shall apply:
- 1.1. Rates are calculated on the basis of the distance and/or time between the point of origination and the destination and include a minimum base fare.
 - 1.2. Flat fees may be charged for trips to specific destinations.
 - 1.3. Rates may increase or decrease in real time for the purpose of balancing supply and demand. At times of tight supply, such as special events or holidays, surge pricing goes into effect.
 - 1.4. When a natural disaster or emergency results in a state of disaster emergency being declared by the Governor of Pennsylvania, the surge pricing will be computed to comply with the Pennsylvania Price Gouging Act, 73 P.S. §§ 232.1 *et seq.* For any natural disaster or emergency that does not result in a state of disaster emergency being declared by the Governor of Pennsylvania, the surge price will be established on the basis of the prices charged over the preceding sixty days.
 - 1.5. In all situations, the prospective customer will be advised of the applicable rates being charged and will have the option of receiving an estimated fare before booking the ride.
 - 1.6. Cancellation fees and cleaning fees may be applied as necessary, with advance notice to the customer.

Issued: [Insert Date]

Effective: [Insert Date]

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Gegen, LLC For Waiver of :
The Commission's Limousine Tariff : Docket No. P-2015-
Regulations at 52 Pa. Code § 29.334 :

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).

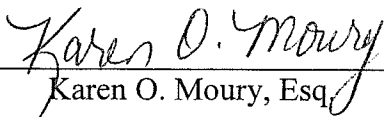
Via First-Class Mail

Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Bureau of Investigation & Enforcement
PO Box 3265
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265

Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 202
Harrisburg, PA 17101

Dated this 30th day of March, 2015.



Karen O. Moury, Esq. 