

Karen O. Moury

717 237 4820
Karen.moury@bipc.com

409 North Second Street, Suite 500
Harrisburg, PA 17101

T 717 237 4800
F 717 233 0852

www.buchananingersoll.com

October 5, 2015

VIA E-FILING

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

Re: Application of Rasier-PA LLC, a limited liability Company of the State of Delaware, for amendment of its common carrier certificate, which grants the right to transport by motor vehicle persons in experimental service of ride-sharing network for passenger trips between points in Pennsylvania, excluding those which originate or terminate in the Counties of Beaver, Clinton, Columbia, Crawford, Lycoming, Mercer, Northumberland and Union and in that portion of the County of Luzerne which is located within an airline distance of 15 statute miles of the limits of the Borough of Berwick, Columbia County so as to permit the inclusion of the Counties of Beaver, Clinton, Columbia, Crawford, Lawrence, Luzerne, Lycoming, Mercer, Montour, Northumberland and Union;
Docket No. A-2015-2469287

Dear Secretary Chiavetta:

On behalf of Rasier-PA LLC, I am electronically filing the Unopposed Motion for Stay or Continuance, in the above-captioned proceeding.

Copies have been served on all parties as indicated in the attached Certificate of Service.

Very truly yours,



Karen O. Moury

KOM/bb

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Rasier-PA LLC, a limited liability	:	
Company of the State of Delaware, for amendment	:	
of its common carrier certificate, which grants the	:	
right to transport by motor vehicle persons in	:	
experimental service of ride-sharing network for	:	
passenger trips between points in Pennsylvania,	:	
excluding those which originate or terminate in the	:	Docket No. A-2015-2469287
Counties of Beaver, Clinton, Columbia, Crawford,	:	
Lycoming, Mercer, Northumberland and Union and	:	
in that portion of the County of Luzerne which is	:	
located within an airline distance of 15 statute miles	:	
of the limits of the Borough of Berwick, Columbia	:	
County so as to permit the inclusion of the Counties	:	
of Beaver, Clinton, Columbia, Crawford, Lawrence,	:	
Luzerne, Lycoming, Mercer, Montour,	:	
Northumberland and Union	:	

UNOPPOSED MOTION FOR STAY OR CONTINUANCE

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES LONG AND WATSON:

Rasier-PA LLC, a wholly owned subsidiary of Uber Technologies, Inc. (“Rasier-PA”), by and through its counsel, Karen O. Moury and Buchanan Ingersoll & Rooney PC, files this unopposed Motion for Stay or Continuance of the Initial Hearing, pursuant to Section 1.15(b) of the Commission’s regulations, 52 Pa. Code § 1.15(b), and consistent with the Prehearing Order dated August 7, 2015 of Administrative Law Judges (“ALJs”) Long and Watson. In support hereof, Rasier-PA states as follows:

1. On February 27, 2015, Rasier-PA filed an application seeking experimental authority to provide transportation network services in counties which it had previously excluded

from its statewide application filed on June 2, 2014 and conditionally approved by Order entered on December 5, 2014 at Docket No. A-2014-2424608.¹

2. Rasier-PA's pending application was published in the *Pennsylvania Bulletin* on March 21, 2015.

3. Timely protests were filed by MTR Transportation, Inc., t/d/b/a K-Cab Co. ("MTR") on March 25, 2015, by Billtown Cab Co., Inc. ("Billtown") on March 25, 2015 and by Prime Time Limo Service ("Prime Time") on April 2, 2015.

4. Rasier-PA timely filed preliminary objections to the protests filed by MTR, Billtown and Prime Time on April 27, 2015.

5. The ALJs issued an Interim Order dated June 18, 2015 denying Rasier-PA's preliminary objections to the protests filed by MTR and Billtown.

6. The ALJs issued an Initial Decision on July 8, 2015 granting Rasier-PA's preliminary objections to the protest filed by Prime Time. On August 12, 2015, the Commission entered a Final Order adopting this Initial Decision.

7. On August 4, 2015, the Commission issued a Hearing Notice scheduling an Initial Hearing for October 14, 2015.

8. On August 7, 2015, the ALJs issued a Prehearing Order containing several directives. Pursuant to the Prehearing Order, Rasier-PA has engaged in informal discovery and settlement negotiations with the MTR and Billtown.

9. Rasier-PA is requesting a stay of this proceeding due to efforts currently underway in the General Assembly to address transportation network services. Rasier-PA is aware of seven bills that are pending consideration in the legislature, which if passed would likely affect the pending application.

¹ A certificate of public convenience was issued to Rasier-PA on January 29, 2015.

10. Pending bills include House Bill 1065 (Representative Killion); Senate Bill 763 (Senator McGarrigle); Senate Bill 447 (Senator Fontana); Senate Bill 984 (Senator Bartolotta); House Bill 241 (Representative DeLuca); and Senate Bill 749 (Senator Vulakovich). It is expected that if a bill is passed, it will address the scope of the Commission's jurisdiction over transportation network services and may affect the type of application that must be filed. Although these bills contain different provisions and regulatory frameworks, a common theme throughout them is a streamlined process for being licensed by the Commission to provide transportation network services.

11. Public hearings have been held and are scheduled to be held on various pending bills. However, due to the Commonwealth continuing to operate without an approved budget, legislation that is unrelated to the budget is generally not moving forward. It is Rasier-PA's understanding that the pending bills that would address transportation network services will not be acted upon until after the budget is resolved.

12. If legislation is not enacted in the near future, Rasier-PA will desire to move forward with this application in an effort to obtain statewide authority (except for Philadelphia County), to be on a level playing field with Lyft, Inc. *See Application of Lyft, Inc.*, Docket No. A-2014-2415047 (Order entered February 12, 2015).

13. Even if legislation is enacted, Rasier-PA may still wish to move forward with this application depending on the Commission's implementation of the legislation and the requirements that are applicable to applicants seeking to offer transportation network services.

14. In any event, Rasier-PA submits that it would be prudent to stay the current application proceeding until such time as either: a) legislation has been enacted; or b) legislation

has not been enacted and Rasier-PA informs the ALJs and the protestants of its desire to move forward with the application.

15. Staying this proceeding would conserve resources of the Commission and the parties until such time as legislation is passed or Rasier-PA desires to move forward.

16. If this proceeding is stayed, Rasier-PA proposes to submit status reports to the ALJs every 60 days.

17. In a limousine application filed by an affiliate of Rasier-PA, ALJ Pell issued a Stay Order on January 20, 2015, which is attached, under similar circumstances as set forth in this Motion. *Application of Danach, LLC*, Docket No. A-2013-2391804.

18. In the event that the ALJs deny the request to stay the proceeding, Rasier-PA alternatively requests a 120-day continuance for the reasons described above.

19. Rasier-PA has consulted with counsel for MTR and Billtown, who has indicated that he does not oppose this request for a stay or continuance.

WHEREFORE, Rasier-PA LLC respectfully requests approval of this unopposed Motion for Stay or Continuance.

Respectfully submitted,



Karen O. Moury
Buchanan Ingersoll & Rooney PC
409 North Second Street
Suite 500
Harrisburg, PA 17101
(717) 237-4820

Attorneys for Rasier-PA LLC

Dated October 5, 2015

ATTACHMENT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Danach, LLC to transport as a	:	A-2013-2391804
common carrier persons in limousine service from	:	
points in the counties of Bucks, Montgomery,	:	
Delaware and Chester to points in the	:	
Commonwealth of Pennsylvania and return	:	
	:	

STAY ORDER

On October 16, 2013, Danach, L.L.C. (Danach or applicant) filed an Application for Motor Common Carrier of Persons in Limousine Service with the Pennsylvania Public Utility Commission (Commission) requesting a certificate of public convenience providing an initial grant of authority for the following:

To transport as a common carrier persons in limousine service from points in the counties of Bucks, Montgomery, Delaware and Chester to points in the Commonwealth of Pennsylvania and return.

Notice of the Application was provided in the December 7, 2013, *Pennsylvania Bulletin*, 43 Pa.B. 7201. Protests were due by December 23, 2013.

On December 23, 2013, Michael S. Henry, Esq. filed a timely Protest to the Application on behalf of Executive Transportation Company, Inc. D/B/A/ Luxury Sedan Service.

On January 2, 2014, Mr. Henry filed Protests to the Application on behalf of Black Tie Limousine Service, Inc., Germantown Cab Co., and Five Star Limousine Service, Inc.

Also on January 2, 2014, regarding the Protests he filed on behalf of Black Tie Limousine Service, Inc., Germantown Cab Co., and Five Star Limousine Service, Inc., Mr. Henry filed a Motion To Accept E-Filing Nunc Pro Tunc.

Applicant subsequently filed Preliminary Objections¹ to the Protests of Executive Transportation Company, Inc. D/B/A/ Luxury Sedan Service, Black Tie Limousine Service, Inc., Germantown Cab Co., and Five Star Limousine Service, Inc. Applicant requested dismissal of all four Protests on the grounds that they were filed beyond the December 23, 2013 filing deadline and are therefore untimely. Applicant also seeks dismissal of these Protests on the grounds that there is no longer a requirement to show need for a limousine applicant and also because the Protests are invalid because they each lack the required legal and factual specificity. Additionally, applicant seeks dismissal of the Protest filed by Germantown Cab Co. on the grounds that this protestant lacks standing.

On January 22, 2014, each protestant filed an Answer to applicant's Preliminary Objections. Each Answer essentially denied the averments set out in applicant's Preliminary Objections. Each protestant also requested that, if the Commission concludes that the protest is not sufficiently specific, the Commission grant it leave to amend its Protest pursuant to 52 Pa.Code § 5.101(c).

By Hearing Notice dated February 14, 2013, a hearing was scheduled for March 19, 2014, at 10:00 a.m. and the matter, including the outstanding Motions and Preliminary Objections, was assigned to me.

By Initial Decision dated March 5, 2014, I dismissed the Protest of Germantown Cab Company.

By Hearing Cancellation/Reschedule Notice dated March 18, 2014, the hearing was rescheduled for May 15, 2014 at 10:00 a.m.

¹ The Commission's electronic docketing system indicates that the applicant filed its Preliminary Objections to the Protests filed by Executive Transportation Company, Inc. D/B/A/ Luxury Sedan Service and Germantown Cab Co. on January 13, 2013 while the applicant filed its Preliminary Objections to the Protests filed by Black Tie Limousine Service, Inc. and Five Star Limousine Service, Inc. on January 15, 2013.

On April 8, 2014, Germantown Cab Company filed Exceptions to my Initial Decision.

On April 21, 2014, Danach LLC filed Reply Exceptions.

On April 23, 2014, Germantown Cab Company filed Preliminary Objections Of Germantown Cab Company To Reply of Danach, LLC To Exceptions Of Germantown Cab Company To Initial Decision Of ALJ.

By Order dated May 14, 2014, I granted the applicant's Motion for Continuance of the May 15, 2014 hearing.

By Order entered June 19, 2014, the Commission denied Germantown Cab Co.'s exceptions and dismissed its Protest for lack of standing.

By Hearing Cancellation/Reschedule Notice dated June 23, 2014, the hearing was rescheduled for September 9, 2014 at 10:00 a.m.

On July 21, 2014, Germantown Cab Co. filed a Petition for Review with the Commonwealth Court, requesting that the Court reverse the Commission's decision dismissing its Protest and find that it has standing in this matter. In support of its Petition, Germantown Cab referenced *Application of Rasier-PA, LLC*, Docket No. A-2014-2416127, maintaining that the Commission has rejected the notion that carriers with one type of authority may not protest applications filed by entities seeking authorization to provide a different type of transportation service.

In light of the arguments raised by Germantown Cab regarding the nature of the service and the potential conflict in precedent between *Application of Rasier-PA, LLC* and the June 19, 2014 Commission Order in this case, the Commission asked the Commonwealth Court to

remand jurisdiction back to the Commission. The Court granted the Commission's Application for Remand on September 4, 2014.

By Hearing Cancellation/Reschedule Notice dated September 9, 2014, the hearing was rescheduled for December 18, 2014 at 10:00 a.m.

By Order entered November 13, 2014, the Commission reversed its June 19, 2014 Order and determined that Germantown Cab Co. has standing to participate in this matter.

By letter dated December 8, 2014, the applicant requested a Stay of the proceeding. The applicant offered the following in support of the request:

The above referenced application has been scheduled for hearing on December 18, 2014. Just last week an affiliate of the Applicant, Rasier-PA, received a breakdown of an order granting them an experimental license to operate a ride share program in the Commonwealth of Pennsylvania (Docket A-2014-2424608), including the territories that the Applicant is seeking here. That order has several compliance provision (sic) which Rasier-PA is working toward. How Rasier-PA operates may determine how the Applicant will operate it (sic) business. Additionally there is legislation pending that will address these very same services that will be taken up by the Legislature at the beginning of the year. Given that these upcoming matters will have such a large impact on proposed operations I would like to request a stay of the matter for an indefinite period to sort out the issues with Rasiers (sic) experimental license and to allow the Legislation to run its course. The Applicant would notice Your Honor and all parties promptly when that has been completed. Alternatively we would request a one hundred and twenty (120) day continuance to achieve that purpose. Since Danach does not have any operating authority presently under the jurisdiction of the Pennsylvania Public Utility Commission there is no prejudice to the Protestants herein of the grant of a continuance.

I subsequently sent an email to Protestants' Counsel, Michael Henry, asking if he had any objection to the applicant's request. Mr. Henry never responded to my email.

Based on the stated reasons for the request, and since the request for the Stay comes from the applicant, and also because the protestant did not object to the request, the applicant's request for a Stay is granted. The applicant must file a status report with the Commission at this Docket, with a copy to me and the protestants, within sixty (60) days of the date of this Stay Order, and every sixty (60) days thereafter, until this matter is relisted for a hearing.

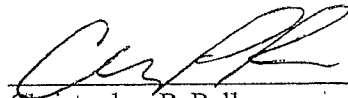
THEREFORE,

IT IS ORDERED:

1. That the request for a Stay of this proceeding submitted by the applicant Danach, LLC is granted; and

2. That the applicant shall file status reports with the Commission at this docket, with a copy to the presiding officer and the protestants, within sixty (60) days of the date of this Order, and every sixty (60) days thereafter, until this matter is relisted for a hearing.

Date: January 20, 2015



Christopher P. Pell
Administrative Law Judge

Application of Danach, LLC
Docket Number A-2013-2391804

SERVICE LIST

David P. Temple, Esquire
Gallagher Malloy & Georges
1760 Market Street, Suite 1100
Philadelphia, PA 19103

Michael S. Henry, Esquire
Michael S. Henry LLC
2336 S. Broad Street
Philadelphia, PA 19145

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Rasier-PA LLC, a limited liability :
Company of the State of Delaware, for amendment :
of its common carrier certificate, which grants the :
right to transport by motor vehicle persons in :
experimental service of ride-sharing network for :
passenger trips between points in Pennsylvania, :
excluding those which originate or terminate in the : Docket No. A-2015-2469287
Counties of Beaver, Clinton, Columbia, Crawford, :
Lycoming, Mercer, Northumberland and Union and :
in that portion of the County of Luzerne which is :
located within an airline distance of 15 statute miles :
of the limits of the Borough of Berwick, Columbia :
County so as to permit the inclusion of the Counties :
of Beaver, Clinton, Columbia, Crawford, Lawrence, :
Luzerne, Lycoming, Mercer, Montour, :
Northumberland and Union :

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

Mary D. Long
Jeffrey A. Watson
Administrative Law Judges
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Lloyd R. Persun, Esquire
Persun & Heim, P.C.
P.O. Box 659
Mechanicsburg, PA 17055-0659
*Counsel for MTR Transportation, Inc. and
Billtown Cab Co., Inc.*

Dated this 5th day of October, 2015.



Karen O. Moury, Esq.