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PUBLIC SERVICE COMMISSION

May 9, 2013

David Collins
Executive Secretary
Public Service Commission of Maryland
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202-6806

RE: Staff's Report on Uber Technologies, LLC and Other Similar Companies

Dear Mr. Collins:

Enclosed please find the public version of Staff's report in the referenced matter. This document was electronically filed and provided to all parties by electronic mail. Please note that a confidential version of the report will also be filed and provided to Uber Technologies, LLC.

Please feel free to contact me at 410-767-1029 if you have any questions or concerns.

Sincerely,


Chuck McLean
Deputy Staff Counsel

cc: Brian Quinn, Esq., Counsel for Uber
Todd Chason, Esq., Counsel for Yellow Transportation
Peter Saar, Esq., Office of People's Counsel
Prof. Matthew W. Daus, Esq., IATR
(via email)

**STAFF'S REPORT ON UBER BEFORE THE
TECHNOLOGIES, LLC AND OTHER * PUBLIC SERVICE COMMISSION
SIMILAR COMPANIES * OF MARYLAND
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Pursuant to the Commission's Letter Order, dated February 13, 2013, the Staff of the Maryland Public Service Commission files this Report on Uber Technologies, LLC and other similar companies.

I. Procedural History

On February 13, 2013, the Commission issued a Letter Order denying Yellow Transportation's request to order non-transportation companies not operate in Baltimore City and Baltimore County pending further investigation without prejudice. However, the Commission also directed Staff:

to undertake an inquiry regarding the operations of Uber . . . and other companies operating in a similar manner to Uber, and to investigate, at a minimum, what vehicles and drivers are being used to provide the underlying transportation service to customers of Uber or similar companies, whether Uber or similar companies are using Commission-licensed vehicle and drivers, and how Uber or similar companies are billing for the transportation services and at what rates.¹

Additionally, as a result of the Commission's decision, on April 15 and April 16, 2013, the International Association of Transportation Regulators ("IATR"), a peer group of taxi, limousine and for-hire transportation regulators, made a filing in response to the Commission's Letter Order and the issues presented by Uber and other similar companies.² The filing contained the IATR's concerns with transportation technology companies, as well as model regulations for smartphone applications in the for-hire industry.

¹ Letter Order, dated February 13, 2013.

² ML146755 and 146767. Please note that the filings are dated March 29, 2013, but were initially provided directly to Staff and not officially filed with the Commission.

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II. Issues

In addition to the issues raised by the Commission, Staff also considered the issue of whether companies that utilize smart phone applications (“application”) / technology, in conjunction with transportation services, such as Uber, fall within the Commission’s jurisdiction. Staff’s review of Uber and similar companies was limited to companies that utilize a smart phone application, and did not include consideration of other “broker-type” companies.

III. Applicable Law

Public Utilities Article (“PUA”) § 1-101(x)(1) defines “public service company” as “a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.”

PUA § 1-101(e)(1) defines “common carrier” as “a person, public authority, or federal, State, district, or municipal transportation unit that is engaged in the public transportation of persons for hire, by land, water, air , or any combination of them.”

PUA § 1-101(e)(2) states that “common carrier” includes: . . . (ii) a car company, motor vehicle company, automobile company, or motor bus company; . . . (v) a taxicab company; . . . and (vii) a transit company.”

PUA § 2-112(a) states, “To the full extent that the Constitution and laws of the United States allow, the Commission has jurisdiction over each public service company that engages in or operates a utility business in the State and over motor carrier companies as provided in Title 9 of this article.”

PUA § 2-112(a)(1-2) states, “the Commission has the powers specifically conferred by law” and “the implied and incidental powers needed or proper to carry out its functions under this division.”

PUA § 9-103(b) states:

In addition to other information that the Commission requires, the tariff schedules of each common carrier shall show: (1) all of the current rates, fares, and charges, including those specified in § 4-503 of this article, for the transportation within

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the State between: . . . (2) the points between which passengers will be carried; . . . and (5) all rules and regulations that may change, affect, or determine any part of the aggregate of the rates, fares, or charges or the value of the service rendered.

PUA § 10-210(b)(2)(ii) states “The taximeter shall be the exclusive means of measuring the charges for service and is subject to inspection and testing by the Commission.”

COMAR 20.90.02.16H(1) states, in pertinent part, “A person may not operate a taxicab, or permit one to be operated, unless the taximeter has been first inspected, tested, approved, and sealed by a representative of the Commission.”

COMAR 20.90.02.16H(5) states, “Taximeters shall be mounted and connected to the transmission or speedometer cable in an approved manner.”

COMAR 20.95.01.03B(2) defines “Company” as “every corporation, association, partnership, group of individuals, or individuals owning, controlling, operating, or managing one or more motor vehicles engaged in transportation of persons for hire over any road”

COMAR 20.95.01.03B(5) defines “Owner” as “the individual, partnership, carrier, or company to whom a permit has been issued.”

COMAR 20.95.01.08B states, “A schedule of times, rates, and charges may not be instituted or changed by an owner without prior approval of the Commission.”

COMAR 20.95.01.08C states, “An owner shall give the Commission and the public 30 days written notice before any changes in its times, rates, and charges, as required in Regulation .09C and D of this chapter.”

COMAR 20.95.01.19A(2) states, “An owner of a motor vehicle used in the transportation of a person for hire, which is not licensed as a taxicab by a county or by the Commission, may not equip the motor vehicle with a . . . meter;”

IV. Companies

A. Uber

As directed by the Commission, Staff met with representatives from Uber and its counsel to gain a better understanding of exactly how Uber operates in Maryland. Based upon that meeting, Staff sent a set of data requests to the Company to obtain written responses to many issues that were discussed during the meeting, as well as additional questions and clarifications. Uber provided written responses to a majority of Staff's data requests, all of which were labeled confidential.

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B. TaxiMagic

The only other smart phone application that has been considered by the Commission is TaxiMagic, an application used by Veolia Transportation on Demand through a contractual relationship with RideCharge, Inc.³ The application permits customers to make taxicab reservations on-line and pre-pay for the transportation. Veolia previously indicated that any fees above tariffed rates are not passed onto the customer and features that permit "extras" are not enabled.

C. Hailo

Hailo appears to be a similar application to Uber and TaxiMagic, and allows a customer to hail a cab and process payments through a smart phone. There is no indication that Hailo currently operates in Maryland.

³ ML140906, Staff Comments S-1345.

V. Analysis

A. Vehicles and Drivers providing the underlying transportation

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TaxiMagic is an application that is utilized by Veolia Transportation's taxicabs, which employs Commission-licensed drivers and inspected vehicles.

B. How are these companies billing for services?

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TaxiMagic does not calculate fares, but only provides an estimate. It is possible for a customer to pre-pay for transportation through the application based on an estimate. In the event the actual fare is less than the pre-paid estimate, Veolia indicated that a customer can contact either Veolia or TaxiMagic and the payment will be adjusted accordingly. Veolia also stated that when a customer pre-pays, TaxiMagic provides those funds to Veolia pursuant to the parties' contract. The ultimate fare will be based upon meters within each taxicab, which are required to be inspected and sealed by the Commission, and calculate fares in accordance with existing Commission-approved rates.

C. Jurisdiction

Maryland regulations and statutes clearly establish that an organization, entity or person engaged in the public transportation of individuals for hire are subject to the authority of the Commission, are required to follow the Commission's application process to obtain operating authority, and comply with applicable statutes and regulations. While Staff acknowledges that

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existing statutes and regulations were not drafted with a smart phone application in mind, Staff maintains that both the statutes and regulations can still be reasonably applied to the companies that use these applications.

First, Yellow Transportation, its drivers and vehicles are already within the Commission's jurisdiction, and the Commission has already approved Veolia's use of the TaxiMagic application. Therefore, Staff is not aware of any reason to revisit the use of that particular application.

Next, based upon Staff's meeting with Uber and its responses to data request, Staff believes Uber is a "common carrier", as defined by PUA § 1-101(e)(1), and is "engaged in the public transportation of persons for hire, by land,;" therefore, Uber is a "public service company", as defined by PUA § 1-101(x)(1) and within the Commission's jurisdiction pursuant to PUA § 2-112(a).

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Based upon Staff's review of the responses, we have concluded that Uber is providing transportation services based upon the referenced statutes and regulations, and is therefore a public service company that falls squarely within the Commission's jurisdiction. As a result of this determination, Staff believes that Uber should be directed to file for authorization to operate as a PFH company if it intends to continue operating in Maryland.

Staff notes that its analysis and recommendation are not intended to be a broad brush for all companies that have transportation-type applications. Each company, its application and operations would need to be reviewed on a case-by-case basis to determine whether it falls within the Commission's jurisdiction.

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VI. Recommendation

Staff recommends that Uber be directed to file for authorization to operate as a PFH company if it intends to continue operating in Maryland.



Chuck McLean
Deputy Staff Counsel