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JUN 22 2015
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Lee Bruner
John "Jack" Connors
James L. Shuler

June 19, 2015

Aleisha Solem
Department of Public Service Regulation
Montana Public Service Commission
1701 Prospect Avenue
Helena, MT 59620-2601

RE: In the matter of the adoption of NEW RULE I. the amendment of ARM 38.3.104, 38.3.116, 38.3.124, 38.3.201, 38.3.401, 38.3.402, 38.3.405, 38.3.601, 38.3.602, 38.3.701, 38.3.702, 38.3.705, 38.3.706, 38.3.707, 38.3.708, 38.3.805, 38.3.1503, 38.3. 1504, 38.3.1505, 38.3.2001, 38.3.2014, 38.3.2015, 38.3.2016, 38.3.2101, 38.3.2404, and 38.3.2501, and the repeal of 38.3.501, 38.3.2406, 38.3.3304, and 38.3.3404 pertaining to motor carriers

Dear Ms. Solem:

Rasier, LLC ("Rasier") respectfully submits its comments on the proposed amendments to the Administrative Rules of Montana pursuant to Senate Bill ("SB") 396. Rasier, a Delaware limited liability company, is a wholly-owned subsidiary of Uber Technologies, Inc. ("Uber"). Rasier supports the Montana Public Service Commission's ("PSC's") development of a framework and rules for Transportation Network Companies ("TNCs") to operate in Montana pursuant to SB 396.

The PSC's proposed amendments to Rule 38.3.705 (*see* Appendix A) identify a "Form T" that is to be submitted by TNCs to the Commission as proof of insurance to satisfy the financial responsibility requirements of SB 396. However, it is our understanding that the State of Montana does not have an approved format for a Form T. Rasier therefore proposes the enclosed Form T (*see* Appendix B) based on the existing Form E Certificate of Insurance, with changes shown in redline. Rasier's suggested Form T contains the requisite information for the Commission to confirm that a TNC's insurance policies satisfy SB 396.

Second, the PSC's proposed amendments to Rule 38.3.706 (*see* Appendix A) also require that insurance policies issued to TNCs include "Casualty Endorsement MV-TNC."

Rasier proposes a draft Endorsement MV-TNC (*see* Appendix C), based on the existing Casualty Endorsement MV-4 form, revised as shown in redline to conform the document for use by TNCs. Because SB 396 permits either the TNC driver or the TNC to maintain the required motor vehicle liability insurance, the MV-TNC should only apply where the TNC driver does not maintain the required insurance. The enclosed proposed endorsement captures this point.

Raiser appreciates the opportunity to comment on the PSC's rules implementing SB 396, which will help bring economic opportunities and additional transportation options to Montana. Raiser urges the PSC to adopt Raiser's proposed Form T and Endorsement MV-TNC.

Respectfully submitted,

Lee Bruner

Lee Bruner
Senior Counsel

Encls:
cc: Nancy Chung Allred, Uber Technologies, Inc.

2149.001 - PL 217543

Appendix A, PSC proposed changes to A.R.M. 38.3.705 and 38.3.706

38.3.705 FORMS FOR CERTIFICATE OF INSURANCE (1) The following forms shall be utilized by the department and may be obtained from the commission,
~~1701 Prospect Avenue, Helena, Montana 59620-2601.:~~

(a) Form K. Uniform notice of cancellation of motor carrier insurance policies, stock form K.

(b) Form H. Uniform motor carrier cargo certificate of insurance.

(c) Form E. Uniform motor carrier bodily injury and property damage liability certificate of insurance for use by class A, B, C, and D motor carriers.

(d) Form T. Uniform bodily injury and property damage liability certificate of insurance for use by class E transportation network carriers.

38.3.706 ENDORSEMENTS (1) All insurance policies issued by the insurance company to the carrier must include, at time of issuance, the terms, conditions, and requirements set forth in this rule and repeated on endorsement forms approved by the commission and identified as "Endorsement MV4," ~~and~~ "Endorsement MV2," and "Endorsement MV-TNC" available from the ~~office of the~~ commission.

(2) The following terms, conditions, and requirements are deemed a substantive part of all policies issued, and are incorporated therein:

(a) Cargo insurance for household goods carriers (Endorsement MV2) shall be issued in an amount no less than $10,000.

(b) Casualty (liability) insurance for class A, B, C, and D carriers (Endorsement MV4) shall be issued in an amount no less than: (i) $100,000 for 7 passengers or less;

(ii) $500,000 for 8 to 15 passengers;

(iii) $750,000 for 16 to ~~30~~ 26 passengers;

(iv) ~~$5,000,000 for 31 passengers or more;~~

~~(v)~~ except any class A or B motor carrier, other than as provided in (b)(i) ~~above,~~ operating under a certificate of public convenience and necessity or certificate of compliance authorizing passenger operations only within a particular city or 10-mile radius ~~thereof~~ is required to carry a minimum of $500,000 insurance regardless of size of vehicle used;

~~(vi)~~ (v) $100,000 for transportation of nonhazardous freight in a vehicle designed, equipped, and primarily intended for transportation of seven passengers or less or a vehicle of manufacturer's GVW rating of 10,000 pounds or less designed, equipped, and primarily intended for transportation of cargo;

~~(vii)~~ (vi) $500,000 for transportation of nonhazardous freight for all other vehicles.

(c) Liability insurance for class E carriers (Endorsement MV-TNC) shall be issued as specified in [SB 396 NEW SECTION 4].

(3) These endorsements must be executed, countersigned, and attached to the original policy when issued.

Form ~~E~~T

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY
DAMAGE **LIABILITY**
CERTIFICATE OF INSURANCE FOR USE BY CLASS E MOTOR CARRIERS

Filed with the Montana Public Service Commission (hereinafter called Commission)

_____This is to certify, that the Name of Company (hereinafter called Company)

of Home Office Address of Company

has issued to Name of Motor Carrier of Address of Motor Carrier

a policy or policies of insurance effective from Effective Date 12:01 A.M. standard time at the address of the insured stated in said policy or policies and continuing until cancelled as provided herein, which, by attachment of ~~the Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement~~Casualty Endorsement MV-TNC, has or have been amended to provide automobile bodily injury and property damage liability insurance covering the obligations imposed upon such motor carrier by the provisions of the motor carrier law of the State in which the Commission has jurisdiction or regulations promulgated in accordance therewith.

Whenever requested, the Company agrees to furnish the Commission a duplicate original of said policy or policies and all endorsements thereon, provided, however, that information regarding premium paid and calculated for the policy shall be deemed confidential and shall not be disclosed.

This certificate and the endorsement described herein may not be cancelled without cancellation of the policy to which it is attached. Such cancellation may be effected by the Company or the insured giving thirty (30) days' notice in writing to the ~~State~~ Commission, such thirty (30) days' notice to commence to run from the date notice is actually received in the office of the Commission.

Countersigned at Street Address, City, State Zip Code
this Day day of Month, 20Year

Insurance Company File No. Policy Number
(Policy Number)

Authorized Company Representative
(Authorized Company Representative)

CASUALTY INSURANCE ENDORSEMENT MV-4TNC

The policy to which this endorsement is attached is written in pursuance of and is construed in accordance with the MOTOR —CARRIER ACT, (Title 69, Chapter 12, Montana Code Annotated), as amended by SB 396, and the rules and regulations of the Public Service Commission of the state of Montana adopted thereunder. The policy is to be filed with the state in accordance with said statutes and rules.

In consideration of ~~the~~ premium ~~stated in the policy to which this endorsement is attached~~paid, the Company hereby agrees to pay any final judgment recovered against ~~the insured~~any participating transportation network carrier driver for bodily injury to or ~~to~~for the death of any person or loss of or damage to any property of others (excluding ~~injury to or death of the insured's employees while engaged in the course of their employment, and~~ the loss of or damage to property of the ~~insured, and~~participating transportation network carrier driver, property transported by the ~~insured, designated as cargo),~~participating transportation network carrier driver, and any other loss excluded under the standard commercial automobile coverage form promulgated by the Insurance Services Offices, Inc.), resulting from the negligent operation, maintenance, or use of ~~motor vehicles~~the driver's personal vehicle under a certificate of ~~public convenience and necessity or permit~~compliance issued to the ~~insured~~transportation network carrier by the Public Service Commission of the State of Montana, under the Motor Carrier Act (Title 69, Chapter 12, MCA), either while such driver is logged on to the transportation network company's digital network and available to receive a transportation request or while engaged in a prearranged ride, within the limits of liability hereinafter provided, regardless of whether such motor vehicles are specifically described in the policy or not. It is understood and agreed that upon failure of the Company to pay any such final judgment, recovered against the ~~insured~~participating transportation network carrier driver, the judgment creditor may maintain an action in any court of competent jurisdiction against the Company to compel such payment. The bankruptcy or insolvency of the ~~insured~~participating transportation network carrier driver shall not relieve the Company of any of its obligations hereunder. The liability of the Company extends to such losses, damages, injuries, or deaths whether incurring ~~on the route or in the territory authorized to be served by the insured or elsewhere~~anywhere in the State of Montana.

EXCEPTION: Notwithstanding any of the foregoing, this endorsement shall not apply if the participating transportation network carrier driver maintains motor vehicle liability insurance on the driver's personal vehicle that recognizes that the driver is a transportation network carrier driver or otherwise transports passengers for compensation. In such case, the policy to which this endorsement is attached shall apply if and only to the extent required under the Motor Carrier Act (Title 69, Chapter 12, MCA), as amended by SB 396.

The liability of the Company on each motor vehicle for the following limits shall be continuing once notwithstanding any recovery hereunder:

SCHEDULE OF LIMITS
MOTOR CARRIERS BODILY INJURY AND PROPERTY DAMAGE LIABILITY

~~KIND OF EQUIPMENT~~

~~*Passenger Equipment (Seating Capacity)*~~

~~Seven (7) passengers or less~~	~~$ 100,000~~
~~Eight (8) to Fifteen (15) passengers~~	~~500,000~~
~~Sixteen (16) to Thirty (30) passengers~~	~~750,000~~
~~Thirty-one (31) passengers or more~~	~~5,000,000~~

~~**EXCEPTION:** Any motor carrier operating under a certificate of public convenience and necessity authorizing passenger operations only, within a particular city or ten (10) mile radius thereof is required to carry a minimum of $500,000~~ ____1) Motor vehicle liability insurance ~~regardless of the size of vehicle used, other than~~ that ~~utilizing seven (7) passengers or less equipment noted above.~~

~~*Freight Equipment*~~

~~*(check space provided below*~~provides $50,000 for ~~*limits applicable)*~~

____~~1)~~ **death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage while a participating transportation** ~~of nonhazardous freight in a vehicle designed, equipped and primarily intended for~~ **network carrier driver is logged on to the transportation** ~~of 7 passengers or less or a vehicle of manufacturer's GVW rating of 10,000 pounds or less designed, equipped and primarily intended for~~ **network carrier's digital network and is available to receive transportation** ~~of cargo~~**requests but is not engaged in a prearranged ride.**

____~~2) $500,000 for transportation of nonhazardous freight for all other vehicles.~~

~~3) The Federal Department of Transportation minimum insurance limits for hazardous materials freight, as hazardous materials is defined by that Department.~~

~~Nothing contained in the policy or any other endorsement thereon, nor the violation of any of the provision of the policy or any endorsement thereon by the insured, shall relieve the Company from liability hereunder or from the payment of any such final judgment.~~

2) Motor vehicle liability insurance that provides at least $1,000,000 for death, bodily injury, and property damage while a participating network carrier driver is engaged in a prearranged ride.

This endorsement may not be cancelled without cancellation of the policy to which it is attached. Such cancellation may be effected by the Company or the insured giving thirty (30) days' notice in writing to the Public Service Commission of the State of Montana at its offices at 1701 Prospect Avenue, PO Box 202601, Helena, Montana 59620-2601, said thirty (30) days' notice to commence to run from the date notice is actually received at the office of said Commission.

Attached to and forming a part of Policy No._____issued by the _____

Insurance Company to _____

_____ _____

(DATE) *(Signature of Agent or other Officer)*

MV-~~1 5/00~~TNC 6/15

RECEIVED
JUN 26 2015
MONT. P.S. COMMISSION

Norma Duffy
49 Fairway Drive
Dillon Montana 59725

To the PSC,

I am writing about the proposed rule changes to Motor carrier rules: 38.3.104, 38.3.116, 38.3.124, 38.3.201, 38.3.401, 38.3.402, 38.3.405, 38.3.601, 38.3.602, 38.3.701, 38.3.702, 38.3.705, 38.3.706, 38.3.707, 38.3.708, 38.3.805, 38.3.1503, 38.3.1504, 38.3.1505, 38.3.2001, 38.3.2014, 38.3.2015, 38.3.2016, 38.3.2101, 38.3.2404, and 38.3.2501, and the repeal of 38.3.501, 38.3.2406, 38.3.3304, and 38.3.3404 pertaining to motor carriers.

Prologue:

This may be sloppy because I only had two days to write a protest, but the gist is in there.

Because of the passing of SB 396 I am ambivalent that you're really here to help Motor carriers at all. Because almost half of the commissioners lobbied for this bill!

That you have no concept of our property rights as authority holders and are currently disrupting our property and our livelihoods is of paramount concern to me..... which I believe is a violation of section §17 of the Montana Constitution (regarding Due Process which was never given to class authorities) and the law SB 396 Violates section **§31** of the Montana Constitution(**Ex post facto, obligation of contracts, and irrevocable privileges.** No ex post facto law nor any law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislature.) of the States constitution.

I also have Issues of there being a fair judgment of these rules since I do not believe the PSC has complete rule-making authority, and I don't believe fairness for all parties can be reached on these proposed rules except by Interim Study **HJ16**...

Regarding two of the PSC Commissioners, Lake and Kuvulla.... They actively went out of there way to testify and lobby on behalf of passing E – carrier laws in this state. I am sorely disappointed as a taxi company owner in them....

These two commissioners made comments like (Paraphrasing) "I don't like overseeing the taxi industry and you can take that Authority from me at any time." (Kuvulla), and "They(Taxi s) don't bring in enough money for us to deal with them"(Lake). I have copies of the videos of Legislative committee meetings, if you need them, where they made these statements, Kuvulla went as far as to write a letter, and enter it into evidence, as a commissioner calling Taxi businesses "Notoriously Bad Businesses".... These two commissioners, who never contacted us current license holders, about

changing the law, lobbied for Uber and E Carrier services during the last Legislative session.

I do love the workers there at the PSC Though, God bless them, they try their best to serve us as Taxi Companies, but the PSC is notoriously understaffed enforcement wise.

Thousand of new cars are going to be on the streets and highways because of SB396 and you don't even have proposed enforcement provisions or interpretive language of enforcement written in these proposed laws that might protect Class A,B,or C Businesses or the public? And how are you gonna enforce any New laws with only 2 PSC investigators for the entire state?

Why are you rushing when we have an interim study in place(**HB16**) that hasn't even started yet! That is the proper forum for rule changes regarding the Motor carrier act and Montana annotated code by the legislature?

Why the rush to codify new regulations that are obviously arbitrary, and beyond the scope of the commission's duties far past any interpretive rule about forms, and petitons?

SB 396 is just bad law at this point. And overreaching as an agency is just gonna put you in court. I can see you are using reserved numbers for a lot of these rules actually making new regulation, without providing instruction on How this can be considered interpretive rule...on the fly.

These proposed regulation numbers are set aside for rulemaking And you didn't even speak or explain what reserved Numbers are to laymen either. Someone not familiar with reserved numbers would have taken these proposed laws to heart as law. And that is not true either.

SB 396

Wheres the revenue that would come into the state as tax from Uber if SB396 was written correctly to protect all transportation needs in Montana? The fiscal note of the bill was wrong and stripping the 5 dollar fee per car is will be wrong also. The note said there would be no fiscal changes. Your proposed laws change that.

No Revenue? There will be No new tax monies for our state. Nothing has been written to make them pay for the publics surface roads. We taxis pay at least 5 dollars for every vehicle we put on the road yearly and your gonna repeal that law as well? Our state gets nada because of SB 396, yet retains all the risk from bad Uber drivers?

Apparently we are not as smart as other states and cities like New York city, that require Uber or lyft to pay a tax of about 8.5% tax per customer directly to the city coffers. So where's the bonus for the state? There is none, and then E class do not have to prove necessity either.....

The Laws you propose to change:

First of all nowhere in the Motor Carrier Act does it give the PSC rule-making authority.

§38.3.104, §69-11-101 <u>"CONTRACT" VS. "COMMON" CARRIER</u>

What legal test, or "Fact Based Information" did you use to prove that E- Carriers are not Contract or common carrier? According to **§69-11-101** ***A person who offers to the public to carry persons, property, or messages, excepting only telegraphic or telephonic messages, is a "common carrier" of whatever the person offers to carry.*** Where is the information that you say proves they do not fit within those sections of **§38.3.104, or §69-11-101** ?? Does the new proposed subsection infer E-carriers don't also have to have safe seating capacities that class A, B or C must? Do they get to cram as many people into a car as they can without safety rules present? SB 396 carries no safety rules for Companies like Uber, except insurance.

Please send me all information that proves they do not fit into **§38.3.104** Subsection A, B, and C, and therefore a new rule should exist on E- carriers behalf including no safe seating arraignments. SB396 does not change current Motor carrier Law.

§69-12-415:

You also state **§69-12-415, MCA** still applies to E-Licensees but you offer no proof that Companies like Uber are Carriers, or are fit to be carriers. Uber doesn't own cars, or have drivers. They themselves say ***"Uber is not a taxi business, "Uber is to the taxi business what Expedia is to companies like Air Canada. We provide city residents with a convenient and efficient technological platform to request transportation services from local transportation providers."*** So they are not a carrier by the standard of the Motor carrier laws written for Montana. And there drivers are??? You also have to ask the obvious question, why didn't they work with Taxis in the first place, Like Expedia did with airliners? Did Anyone not notice there are no Uber airlines?

Maybe you also forget

§38.3.102 DEFINITIONS:
Definitions of terms as utilized under the Montana Motor Carrier Act generally shall be that meaning as utilized within the motor carrier industry or utilized by this commission in prior commission policy.

So a Carrier owns their fleet, by prior commission policy correct? Uber doesn't own a fleet -- it is a "PHONE APP"(by their admission). Prior Commission policy and law reflects that Uber is not a carrier. I believe your proposed rule-making on E carriers behalf, can only be considered overreach by the very definition of the law. So how are you gonna license E carriers when they are unfit by their own testimony, and by **§38.3.102** to be Carriers?

And whats this? Are you gonna license every driver who works for Uber, or are you going to skirt law **§69-12-302.**

Class C contract requirements.
A Class C motor carrier may operate under no more than six contracts that are effective at any given time, and each contract must be effective for a minimum of 180 days. Before transportation service may commence, pertinent contract information must be furnished to the commission for each contract on forms prescribed by the commission. The commission shall retain a duplicate of the information in its files, and a copy of the form, confirmed by the commission, must be kept in the cab of the motor carrier when operating under that contract.

(2) All Class C motor carriers shall annually submit to the commission the names and addresses of all persons, corporations, or other legal entities with whom the Class C carrier has executed a contract, charter, agreement, or undertaking for the distribution, delivery, or collection of wares, merchandise, or commodities or for transporting persons.

Again no proof exists at this time, that future E licensees are carriers. And it looks to me that you are expanding them the same class A,B,C license privileges without all that paperwork that we as Montana Businesses have to do as Class A B and C Businesses. Are you expanding them at some point into class C drivers? This means each and every driver of an E- licensee as a contractor,, regardless of the law written in SB396, must follow **§69-12-302.**

Please send me all the Fact-based information or legal test that you used to make this determination about Future E-Licensees as a carrier.

§69-12-201, MCA does not give PSC authority to write new regulations, nor preemptively change change legislative intent or repeal statute. Even thought **SB396** will become law, it itself cannot butt heads with longstanding policy without legislative review and possibly soon Court review.
As an Agency, you cannot write new regulatory law or interpretive law for **SB396**, this commission is overreaching its Authority. There is an Interim study thats purpose is to write and recommend new law **(HB16)**, or you can go back to the legislature to fix this in two years.

You cant write regulations. It was never in the intent of legislature to give you Rule-making authority. Or repeal **§38.3.501, §38.3.2406, §38.3.3304, and §38.3.3404** pertaining to motor carriers .

If you have proof, Fact based information, or legally applied premise, or permission otherwise....That you don't have to follow the legislative intent of **§69-12-201** Please send copies of all the information to me.

Proposed Law by the PSC

PSC Proposed law: §38.3.116 TRANSPORTING FOR HIRE ON A COMMERCIAL BASIS (1) *Every* ***motor carrier*** *as defined within the Montana Motor Carrier Act (69- 12-101, MCA)* *is deemed to be in the business of transporting people or property for hire on a commercial basis upon the public highways of the state of Montana.* *Any business venture or business transaction inconsistent with the status of the carrier as providing common carriage, contract carriage, or transportation network carrier service, is deemed not within the interest of providing and maintaining a public transportation system and is prohibited.* ***Such business ventures or transactions include transportation movements of private carriage, so-called "buy and sell" agreements, or operating under so-called "brokerage agreements," and are therefore prohibited.***

Am I the only person that read this law correctly?? Isn't "Brokerage deals" what Network transportation companies like Uber do? Aren't they selling the EXCLUSIVE RIGHTS TO SELL BUSINESS LISTINGS of contracted drivers on their app??? Doesn't Uber get a commission of every ride they sell??? isn't that prohibited under this law???? better go back to the chalkboard with this one. Uber is not a carrier, as the company itself has said, and it deals in brokerage agreements all the time with their drivers, they are already breaking the law, and the PSC has no authority to write new law , only interpretive law. Only the legislature can change this.

Again I ask, if you have proof, Fact based information, or legal premise or permission....That the PSC doesn't have to follow the legislative intent of **§69-12-201** Please send copies of all pertinent information to me.

PSC Proposed Law:§38.3.124 RECEIPT CONTENT *(1) remains the same. (2) When a commission-regulated motor carrier provides a receipt to a shipper or a passenger or maintains a receipt for its own records, whether required by law to do so or does so as a matter of policy, the receipt shall include sufficient information that the commission can readily determine that charges are in accordance with the motor carrier's tariffs, if applicable, and that the movement is within the scope of the motor carrier's authority.*

The PSC does not have rule-making authority. Do you have proof, Fact based information, or legally applied premise or legislative permission....That the PSC doesn't have to follow the legislative intent of **§69-12-201?** Please send copies of all pertinent information to me.

PSC Proposed Law:§38.3.401 COMPLETION OF APPLICATIONS *(1) remains the same. (2) Application forms for operating authority must be submitted on a printed form supplied by this commission. (3) remains the same.*

Actually this rule doesn't bother me except again the PSC has no rule-making authority.

PSC Proposed Law:§38.3.402 APPLICATION AND PROTEST FEES *(1) Every application for operating authority and every protest to application for operating authority must be accompanied by the appropriate filing fee: (a) The application fee for a certificate of public convenience and necessity or for a certificate of compliance to operate as a motor carrier is $500, $300 to be refunded by the commission if the application does not proceed to hearing. (b) The application fee for a certificate of public convenience and necessity or for a certificate of compliance to operate as a motor carrier under a federal or state contract, as provided under 69-12-324, MCA, is $100. (c) The protest fee for a motor carrier protest or motor carrier applicant protest of an application for a certificate of public convenience and necessity or for a certificate of compliance is $500. (d) If a written request for the withdrawal of a protest is received by the commission at least two business days before the scheduled hearing, the protest fee will be refunded by the commission.*

Again are you changing the Fiscal note of SB396???? Sorry I am beginning to sound like a broken record but the PSC has no rule-making authority.

PSC Proposed Law:§38.3.405 COMPLETION OF MOTOR CARRIER PROTEST TO APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY *(1) Motor carriers and motor carrier applicants Persons protesting an application for a certificate of public convenience and necessity must include in the protest: MAR Notice No. 38-3-229 10-5/28/15 -632- (a) a statement that the application is being protested in whole or in part and, if being protested only in part, a statement of the limitations of the protest; (b) an identification of the specific application-proposed service areas in which a protesting motor carrier perceives a service conflict; (c) a statement of the protesting motor carrier's annual revenues received for services provided in the specific application-proposed service areas in which the protesting motor carrier perceives a service conflict. (2) and (3) remain the same*

I humbly ask, if you have proof, Fact based information, or legally applied premise or legislative permission....That the PSC doesn't have to follow the legislative intent of **§69-12-201**

Proposed law §38.3.201: *Class A, B, C, and D motor carriers must pay payment of an annual per vehicle registration fee for which a registration receipt will be issued, a copy of which shall be carried in each vehicle at all times* Again this changes the Fiscal note of 396. Changing this law changes the fiscal note of SB396, because the state will lose money. Again I ask that the Agency do the right thing explaining to the legislature that SB396 Causes no changes to the Motor Carrier Act, but does to its fiscal note... that the differences need be reconciled by Legislative review, or Interim Study HJ16. There is just a lot of stuff here you cannot do. It is not interpretive regulations it is actually changing motor Carrier law. Something I dont think you can do.

Conclusion:

Interpretive law, which your allowed as an agency to offer is far different than rulemaking. SB396 was not written to change Motor carrier law, and thats a problem because it is so different than what Motor Carrier law says it is, I ask the judge in this hearing to not implement 396 or any interpretive law. Until the differences can be resolved either by the next legislative session or by an Interim committee started by HJ16, which carries with it the full dity of the legislature to change and write new law and submit it to the next legislative session

Thank you for your time!

Norma Jeanne Duffy
Cowboy Taxi Transportation

FAX COVER SHEET

Recipient Information:
To: Public Service Commion
Fax#: 14064447618
Subject:

Sender Information:
From: Norma Duffy
Pages: 7
Date: Jun 26, 2015

Comments:

Protest letter regarding rule changes

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DONEY CROWLEY P.C.
ATTORNEYS AT LAW

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James L. Shuler

DIAMOND BLOCK, SUITE 200, 44 WEST 6TH AVENUE, P.O. BOX 1185, HELENA, MONTANA 59624-1185 406-443-2211 406-449-8443 FAX

VIA EMAIL

June 26, 2015

Aleisha Solem
Department of Public Service Regulation
Montana Public Service Commission
1701 Prospect Avenue
Helena MT 59620-2601

RE: In the matter of the adoption of NEW RULE I, the amendment of ARM 38.3.104, 38.3.116, 38.3.124, 38.3.201, 38.3.401, 38.3.402, 38.3.405, 38.3.601, 38.3.602, 38.3.701, 38.3.702, 38.3.705, 38.3.706, 38.3.707, 38.3.708, 38.3.805, 38.3.1503, 38.3.1504, 38.3.1505, 38.3.2001, 38.3.2014, 38.3.2015, 38.3.2016, 38.3.2101, 38.3.2404, and 38.3.2501, and the repeal of 38.3.501, 38.3.2406, 38.3.3304, and 38.3.3404 pertaining to motor carriers

Dear Ms. Solem:

Rasier, LLC ("Rasier") respectfully submits its supplemental comments on the proposed amendments to the Administrative Rules of Montana pursuant to Senate Bill ("SB") 396. Rasier is a transportation network company ("TNC") that connects riders to drivers using the popular Uber software application and is a wholly owned subsidiary of Uber Technologies, Inc. Rasier appreciated the opportunity to participate in the PSC's public hearing on June 24, 2015 and to address questions about TNCs. Based on the comments and questions raised by parties at the hearing, Rasier understands that TNC insurance coverage is an area of confusion and concern. In these comments, Rasier outlines its insurance coverage as required by statute and regulation.

The insurance provisions of SB 396 establish two distinct time periods for insurance with separate liability limits for each.

The first period, which begins when a driver opens the Uber app and is available for transportation requests but has not yet accepted a request, requires that the TNC driver, or the TNC on the driver's behalf, maintain an automobile liability policy with limits of $50,000 for bodily injury to any one person and up to $100,000 for bodily injury to all persons in any one accident, with an additional $25,000 available for property damage caused in an accident.

The second time period begins the moment a driver accepts a transportation request, continues while the driver is en route to the ride requestor, and then extends to all times requesting passengers are in the car until the last requesting passenger exits the vehicle.

During this period SB 396 requires that a TNC driver, the TNC on the driver's behalf, or any combination of the two, maintain primary automobile liability insurance with a single combined limit of $1,000,000 for death, bodily injury and property damage occurring in any one accident.

Rasier maintains separate insurance policies that meet the requirements of Montana law for each time period. Effective July 1, 2015, both policies will provide primary insurance coverage, meaning that these policies are obligated by their own terms to respond to a claim at the first dollar, unless the driver's own automobile policy specifically provides for coverage during ridesharing. TNC drivers will otherwise continue to maintain personal automobile coverage as required by state financial responsibility law and registration purposes which will provide coverage when the driver is not active on the Uber app.

The net effect of these policies is that while the driver is operating their vehicle on purely personal time and the Uber app is turned off, the driver's own auto policy provides state mandated coverage for any claims. The moment a driver turns on his or her Uber app, the driver's or TNC's rideshare coverage provides liability coverage of $50,000 for bodily injury to any one person and up to $100,000 for bodily injury to all persons in any one accident, with an additional $25,000 available for property damage caused in an accident.

From the moment a driver accepts a transportation request, while the driver is en route to the ride requestor, and at all times in which requesting passengers are in the car until the last requesting passenger exits the vehicle, the liability limit increases to a combined single limit of $1,000,000 for death, bodily injury and property damage occurring in any one accident. The coverage then returns to the $50,000/100,000/25,000 level when the final passenger departs the vehicle until the driver either accepts the next request for transportation or the driver turns logs off the Uber app, at which point the driver's own automobile coverage applies pursuant to state law. Uber has maintained ridesharing insurance with a similar structure for over two years now, and some 25 states have codified this tiered approach, including nearby Idaho and North Dakota.

The PSC's proposed Rule 38.3.702(3) requires class E carriers to file a certificate of insurance that comply with the insurance requirements of SB 396. This proof of insurance will identify the insurance company providing coverage, the effective dates of the policy, the types of coverage provided, and limits of liability. Rasier will fully comply with this and all other requirements of SB 396.

Respectfully submitted,

/s/

Lee Bruner
Senior Counsel

2149.001 - PL 217848

COMMENTS

To: Public Service Commission

FAX#: 406-444-6198

From: Yellow Cab of Missoula, Inc.

Jerry Tyacke, Co-Owner 406-241-1409

Date: June 26, 2015

Re: Passenger Transportation Regulation Changes

1) Lost Revenue
Permit fee grants as many vehicles as the TNC so desires whereas current MCA"s pay a per vehicle fee. PSC Commissioner Kavulla submited an Excel spreadsheet to the Montana State Legislature which states the 70 MCA's current value is $1.3 million. Yet at the same PSC hearing the PSC states they took no position on SB396; so if the PSC had no position or took no position, who asked Kavulla to appear at any hearing? $1.3 million dollar value of current 70 MCA's Excel spreadsheet submitted to the Legislature puts the current value of each license to be roughly $20,000 which SB396 is selling at $200 for each new license.

In order for any MCA to be considered for any new application or modification to said permit they have to be in good standing. With all the current litigation underway regarding some TNC's, how can they be considered to be in good standing? For example, a San Francisco pedestrian was ran over and the TNC's app was not on so the insurance will not pay any claims. There are several cases of litigation currently underway around the world regarding TNC's.

2) Name on Insurance
The name of the applicant on the application for a certificate and the name of the insured on proof of insurance must match exactly; if Razer is on the ACCORD form, then James River where is Uber listed?

A TNC does not control, direct or manage the TNC drivers that connect to its' network; however the State of California says otherwise stating the TNC driver is actually an employee of said TNC.

3). Taxes, fees, licenses

No work comp, no unemployment insurance, no city business license, no employment tax, no Medicare taxes, no state taxes, no accountability if TNC's will pay for these services putting the State Fund at risk as well as no annual reports which brings into question the Montana State Constitution Section 2, Article 9.