



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

**FILED**

STATE OF CALIFORNIA

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Order Instituting Rulemaking on  
Regulations Relating to Passenger  
Carriers, Ridesharing, and New Online-  
Enabled Transportation Services

**R.12-12-011**

(Filed December 20, 2012)

**OPENING COMMENTS ON ISSUES IDENTIFIED IN THE SCOPING  
MEMORANDUM**

**FILED ON BEHALF OF THE  
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY AND  
THE SAN FRANCISCO INTERNATIONAL AIRPORT**

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## **SFO Is Committed To Safe And Efficient Ground Transportation**

Managing safe ground transportation options is a critical function of landside operations at San Francisco International Airport (“SFO”). SFO requires commercial operators of ground transportation to obtain a permit issued by the Airport Director, which permit requires, among other things, that permittees carry significant liability insurance and undergo annual vehicle inspections.

More than 40 million people will travel through SFO this year. Many of those passengers will arrive at or depart from SFO by motor vehicle. In Fiscal Year 2010-11, approximately 20 million automobiles (taxis, limousines and private automobiles) used the Airport’s roadways. Those automobiles, along with buses and shared ride vans, share a very limited resource – 1.5 miles of Airport roadways. Efficiently managing Airport roadways is another critical function of landside operations at SFO.

## **NOETS Are Not Simply Software Platforms**

NOETS are not simply software platforms – they operate and earn revenue as commercial transportation businesses. NOETS determine how fares are calculated, what forms of payment are accepted, driver dress code, minimal vehicle standards, and whether and how to rate drivers. Certainly, these requirements are evidence that NOETS are more than a smartphone application.

## **SFO Enforcement Activity**

California Penal Code § 602.4(a) expressly prohibits the very sort of operations promoted by NOETS. Section 602.4(a) provides:

Every person who enters or remains on airport property owned by a city, county, or city and county, but located in another county, and sells, peddles, or offers for sale any goods, merchandise, property, or services of any kind whatsoever, to members of the public, including transportation services, on or from the airport property, without the express written consent of the governing board of the airport property, or its duly authorized representative, is guilty of a misdemeanor.

In February 2013, SFO issued cease and desist letters to five NOETS. Since late March 2013, the Airport Bureau of the San Francisco Police Department (“SFPD-AB”) has issued over 100 verbal admonishments and 12 citations to NOETS drivers who dropped off their passengers at terminal curbsides. Fifty-six percent of the drivers said they drove for Lyft; 35% said they drove for Uber-X; 8 % said they drove for SideCar, and the remaining 1 % drove for other NOETS. Several of the NOETS drivers have made more than one trip to SFO, and one driver even made two trips within a 60 minute period on May 28, 2013. One NOETS driver had no insurance, and another was driving with a suspended license.

### **NOETS Are Not A Form Of Ridesharing**

As SFMTA/SFO have consistently contended during these proceedings, to fall within the statutory framework of rideshare under Cal. Pub. Util. Code § 5353(h), the driver and passenger must have a common, work-related destination, and the rideshare must be incidental to the primary purpose of the rider’s trip. It is highly unlikely this would ever be the case when NOETS operate at SFO, as the data gathered by the SFPD-AB indicates. Workers employed at SFO – whether they are employees of the City and County of San Francisco, or work for an airline or Airport tenant – have numerous safe and efficient options to commute to work. SFO workers typically drive to work and park in an Airport lot, take BART to the SFO station at a reduced rate, or take some other form of public transportation. Although NOETS assert they are part of a “sharing” economy and their services cut down on carbon emissions, not one of the more than 100 NOETS drivers admonished by the Airport SFPD-AB was sharing a ride to work at their SFO-based job, and only 17% of their cars were clean air vehicles.<sup>1</sup> Clearly – and consistent with the promotions on the websites of Lyft, SideCar and others – NOETS drivers are driving to SFO for commercial transportation purposes.<sup>2</sup>

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<sup>1</sup> In contrast, 100% of SFMTA-permitted taxis are clean air vehicles.

<sup>2</sup> As of May 31, 2013, Lyft’s website said drivers could make up to \$35 an hour and SideCar’s site put the hourly rate at \$30.



**APPENDIX TO  
OPENING COMMENTS ON ISSUES  
IDENTIFIED IN THE SCOPING MEMORANDUM**

**Tab A : California Penal Code Section 602.4**

**TAB A**

**CALIFORNIA PENAL CODE SECTION 602.4 :**

Every person who enters or remains on airport property owned by a city, county, or city and county but located in another county, and sells, peddles, or offers for sale any goods, merchandise, property, or services of any kind whatsoever, to members of the public, including transportation services, other than charter limousines licensed by the Public Utilities Commission, on or from the airport property, without the express written consent of the governing board of the airport property, or its duly authorized representative, is guilty of a misdemeanor.

Nothing in this section affects the power of a county, city, or city and county to regulate the sale, peddling or offering for sale of goods, merchandise, property, or services.