

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement
Senate Bill 1376 Requiring Transportation
Network Companies to Provide Access for
Persons with Disabilities, Including Wheelchair
Users who need a Wheelchair Accessible
Vehicle

R.19-02-012
(Filed February 21, 2019)

**THE SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY, SAN FRANCISCO
COUNTY TRANSPORTATION AUTHORITY, AND SAN FRANCISCO MAYOR'S OFFICE
ON DISABILITY PROPOSAL ON ASSIGNED COMMISSIONER'S AMENDED TRACK 5
SCOPING MEMO AND RULING**

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Dated: February 14, 2022

INTRODUCTION

In accordance with the Scoping Memo and Ruling issued on January 14, 2022 (“Track 5 Scoping Memo”), the San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority, and San Francisco Mayor’s Office on Disability (collectively “San Francisco”) submit proposals on Track 5A Issues related to the TNC Access for All Act (“Act”). Track 5A considers whether pre-scheduled Wheelchair Accessible Vehicles (“WAV”) trips should be permitted to qualify in the Access for All Program and if permitted, how such trips should be calculated for purposes of Offset Requests, Exemption Requests, and other requirements.

San Francisco defines a pre-scheduled WAV trip as “any trip where the customer chooses the pickup time (regardless of how far in the future).” Pre-scheduled trips are an important option for TNC services to offer because they provide confidence to the customer that they will be picked up on time for time-sensitive events, such as rides to the airport or an essential medical procedure. Since TNCs offer this service to the general public, as a matter of non-discrimination, WAV customers should be able to request a pre-scheduled trip the same as any non-WAV rider.

However, the California Public Utilities Commission (“Commission”) did not establish performance standards for pre-scheduled trips in the previous tracks of this proceeding. Hence, San Francisco does not support inclusion of these trips in the consideration for offsets or exemptions in the Access for All Program until the Commission establishes new performance standards for pre-scheduled WAV services, based on pre-scheduled non-WAV service, and reflective of county-level variation (consistent with the approach used to establish the current on-demand WAV service standards). On-demand and pre-scheduled WAV service are different, and need to be reported separately, using appropriate metrics including whether a pre-scheduled request was fulfilled, (i.e. including trip completion standards and a new Period C, which is the time between the scheduled arrival time and the actual arrival time). San Francisco declines to make a specific proposal for appropriate metrics for offsets and exemptions until the record includes the data required to establish these standards.

In the meantime, we understand from San Francisco consumers that Lyft has stopped offering pre-scheduled WAV trips in San Francisco, presumably while the Commission addresses this

oversight, and that Uber is not offering pre-scheduled WAV service at all. While San Francisco maintains TNCs should provide equal access to their services regardless of whether funding is available, we urge the Commission to establish these standards expediently so as not to further disincentivize or discourage TNCs from providing an essential service, on which some consumers had already started to rely.

DISCUSSION

1. On-Demand and Pre-Scheduled Transportation

a. How should the Commission define a “pre-scheduled” WAV trip (as compared to an “on-demand” WAV trip)?

Pre-scheduled trips are any trip the customer chooses the pickup time, independent of how far in the future. This definition applies whether a rider is requesting a standard TNC vehicle or a WAV.

b. Should “pre-scheduled” WAV trips be included in the Access for All Program for purposes of qualification for offsets, exemptions, access providers, and other requirements?

“Pre-scheduled” WAV trips should not be included in the Access for All Program for purposes of qualification for offsets and exemptions until the Commission establishes clear standards and metrics for their performance. Recent evidence in the record confirms that TNCs offer pre-scheduled trips to non-WAV riders.¹ The Commission is responsible for ensuring TNC rides are provided in a nondiscriminatory manner² and pre-scheduled trips are an important option for riders who need the additional confidence that their ride will pick them up at a pre-determined time for time-sensitive events, such as a ride to the airport or a scheduled medical procedure. Therefore, if pre-scheduled trips are a service offered to the general public, they should also be offered to WAV riders and we do not see any reason why pre-scheduled trips - which help provide prompt access to TNC services to

¹ Lyft Comments on Track 5 Amended Scoping Memo and Ruling (Track 5A: Questions 2.1.1.), pp. 1-2.

² “Third, akin to the public interest in ensuring TNC rides are provided in a nondiscriminatory manner is the public interest that persons with disabilities have equal access to TNC rides. Civil Code § 54.1 specifically prohibits discrimination against persons with disabilities in the provision of services, including transportation services.” See Rulemaking 12-12-011, Administrative Law Judge’s Ruling Granting, In Part, The Motions of Uber Technologies, Inc., Lyft, Inc., Hopskipdrive, Inc., and Nomad Transit, LLC For Confidential Treatment of Portions of Their 2021 Annual Transportation Network Company Report, p. 75.

WAV users - could not be eligible for reimbursement through the Access for All Program once appropriate metrics are established.

However, since the Commission did not consider pre-scheduled trips when establishing the current metrics, it needs to establish new performance standards for pre-scheduled WAV services. These standards should be based on the distinct pre-scheduled service model where customer expectations are measured by acceptance rate, trip completion, and on-time arrival rather than “response time” as currently defined by the Commission. Consistent with the approach used to establish the current on-demand WAV service standards, these standards should also take into consideration the performance of pre-scheduled non-WAV service so as to be comparable/equivalent, and be reflective of county-level variation. In the interim, while the Commission develops appropriate performance standards, pre-scheduled WAV trips should be reported separately from trips requested for immediate dispatch so as not to skew performance data or create perverse incentives to focus on one service over another, as we describe in more detail in Section 1.c.

c. If “pre-scheduled” WAV trips are included in the Access for All Program, should such trips be subject to different performance requirements than “on-demand” WAV trips? If so, what performance framework or requirements should be applied?

Yes, “pre-scheduled” WAV trips should be subject to different performance requirements than “on-demand” WAV trips. Riders have different expectations for the reliability of pre-scheduled trips since they can be pre-assigned and pre-scheduled by drivers and therefore these trips are generally more reliable and on time. It follows then that the performance requirements should reflect the realities of this specific service type and related customer expectations and experiences.

Previous tracks of this proceeding only considered how offset and exemption requirements may improve WAV services which are requested for *immediate* dispatch (emphasis added). Since the current performance standards for offsets/exemptions are predicated on satisfying metrics comparable to these types of trips, they are not appropriate for evaluating the performance of pre-scheduled service. In fact, these standards, if applied in any way to pre-scheduled trips, would likely set way too low of a bar as to be meaningless. It is also important to note that, as further described in Section 2, two distinct service models require two distinct sets of reporting requirements as well.

Another reason pre-scheduled trip requests and requests for immediate dispatch should be subject to different reporting and performance requirements is to ensure that WAV riders are receiving a high level of service for both types of requests. San Francisco fears that if the definitions and reporting requirements are not changed, there could be a perverse incentive for TNCs to focus more heavily on pre-scheduled trips with more achievable pre-scheduled arrival times than on the requests for immediate dispatch. The record shows that rides for immediate dispatch are critically important to riders with disabilities³ and should not be sacrificed for TNCs to better achieve certain benchmarks.

To establish appropriate performance metrics, the Commission, or any party asked to develop a proposal, needs to understand the completion rates, scheduled times, and arrival times for non-WAV pre-scheduled trips. To our knowledge, the Commission did not analyze or differentiate this data on pre-scheduled trips when developing response time standards, and evidence on similar non-WAV trips has not been entered into the record by any TNC. Without this data, San Francisco declines to make a specific proposal in these comments but reserves the right to comment with more information.

2. Response Time Definitions

- a. Should the adopted “response time” definition be applied to pre-scheduled WAV trips? If yes, how should the definitions of Periods A and B be applied? If no, how should “response time” be defined for pre-scheduled WAV trips?**
- b. For example, should Period A be defined as the time between when the TNC dispatches a trip request to its driver pool and when a driver ultimately accepts/denies that request? Should Period B be defined as the time between when a driver accepts a trip request and when the driver arrives at the passenger’s pickup location?**

Based on Lyft’s previous Advice Letter filings with negative response time numbers, San Francisco’s protest, and subsequent communication with CPED staff, it is clear the adopted definition of response time does not account for instances when a rider is requesting a ride at some point in the future (a “pre-scheduled” trip) rather than for immediate dispatch. “On-demand” and pre-scheduled WAV service are different, and need to be reported separately, using appropriate metrics including a new Period C, which is the time between the scheduled arrival time and the actual arrival time. The

³ See R.19-02-012, Catherine Callahan, Public Comment on November 4, 2021, (<https://apps.cpuc.ca.gov/apex/f?p=401:65:0::NO::>)

minimum value for Period C for any given trip request should be 0 minutes, because early actual arrivals are not a benefit to travelers. It is more important to understand for pre-scheduled trips whether a ride showed up at all (trip completion numbers) and whether it arrived at the scheduled time or later, rather than how long it took from the initial request to receive a ride.

San Francisco proposes the Commission adopt the following definitions:

- Period A (applies only to on-demand): time difference between request to acceptance
- Period B (applies only to on-demand): time difference between acceptance to arrival
- Period C (applies only to pre-scheduled, for both WAV and non-WAV rides): time difference between scheduled arrival and actual arrival

3. How should previously approved Advice Letters that included pre-scheduled WAV trips be treated? How should pending Advice Letters that include pre-scheduled WAV trips be treated?

The Commission should immediately require TNCs to re-submit data for any pending Advice Letters that include pre-scheduled trips. In the revised Advice Letter submittals, TNCs should report pre-scheduled trips separately from “on-demand” trips, using the Period C definition San Francisco has proposed. Offsets should be awarded only if the service meets established performance metrics for rides requested for immediate dispatch. Advice Letters that included pre-scheduled trips and were previously approved should be resubmitted with the CPED’s guidance to use “0” instead of a negative response time.⁴

4. How should data on the use of pre-scheduled WAV trips be reported to the Commission?

Clearly distinguishing between pre-scheduled and on-demand trips should be incorporated into reports for both WAV and non-WAV service. In the AL Offset Request Data Report (updated July 2021)⁵ the tables labeled “WAV Trips” and “Response Times” should include separate tables for pre-scheduled and on-demand trip requests. The table labeled “Response Times” should include a field to

⁴ Lyft Comments on Track 5 Amended Scoping Memo and Ruling (Track 5A: Questions 2.1.1.), p. 3

⁵ AL Offset Request Data Dictionary, https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/consumer-protection-and-enforcement-division/documents/tlab/accessforall/al-offset-request-data-dictionary-7_1_21---csv-data-dictionary.xlsx

capture Period C as proposed by San Francisco (Period_C_RT). The tables labeled “OTS” and “TCS” should be revisited once performance requirements for pre-scheduled WAV trips have been established.

In addition, the tables within the TNC Annual Report Template should be revised as follows:

Report Name	Revision to report pre-scheduled and on-demand trip requests
Driver Names & IDs	None
Accessibility Report	Add fields to report pre-scheduled and on-demand trip requests for the following fields: NumRidesReq, NumAccessVeh, NumAccessVehReq, PercentAccessVehReq, NumAccessVehFilled, PercentAccessVehFilled
Accessibility Complaints	Add field: TripRequestType, with the options being pre-scheduled and on-demand
Accidents & Incidents	None
Assaults & Harassments	None
50,000+ Miles	None
Number of Hours	None
Number of Miles	None
Driver Training	None
Law Enforcement Citations	None
Off-platform Solicitation	None
Aggregated Requests Accepted	Add fields for TotalAcceptedTripsPreScheduled and TotalAcceptedTripsOnDemand
Requests Accepted	Add field: TripRequestType, with the options being pre-scheduled and on-demand Add fields: Period_A_RT, Period_B_RT, Period_C_RT

Requests Accepted Periods	Add field: TripRequestType, with the options being pre-scheduled and on-demand
Aggregated Requests Not Accepted	Add fields for TotalNotAcceptedTripsPreScheduled and TotalNotAcceptedTripsOnDemand
Requests Not Accepted	Add field: TripRequestType, with the options being pre-scheduled and on-demand
Suspended Drivers	None
Total Violations & Incidents	None
Zero Tolerance	None

CONCLUSION

San Francisco appreciates the opportunity to provide comments on Track 5A issues and looks forward to engaging with all parties at the upcoming workshop on February 17, 2022. While we decline to make a specific proposal on performance metrics for pre-scheduled WAV trips at this time, we are hopeful that we will obtain the necessary information to develop a well-informed and data-grounded proposal before the Proposed Decision is issued. In the meantime, we reiterate the importance of offering pre-scheduled WAV trips, equivalent to what is offered to the general public, regardless of whether the service is currently included in the consideration for offsets and exemptions.

Dated: February 14, 2022

Respectfully submitted,

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