

**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)

**REPLY COMMENTS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION
AGENCY, SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY, AND SAN
FRANCISCO MAYOR'S OFFICE ON DISABILITY ON TRACK 5A PROPOSALS AND
WORKSHOP**

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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 Reply Comments responding to comments on Track 5A proposals and the February 17, 2022 Workshop (“the workshop”). There is significant consensus among parties and the Consumer Protection and Enforcement Division (“CPED”) in this track of the proceeding that, 1) pre-scheduled trips should be incorporated in the Access for All program; 2) response times for pre-scheduled trips should be measured differently; and 3) TNCs should be reimbursed for pre-scheduled trips if they meet appropriate benchmarks and standards.

However, San Francisco notes there is one glaring issue that must be addressed by the Commission. Just as parties and the California Public Utilities Commission (the “Commission”) utilized CPED staff reports with response time and completion rate analysis to develop the current set of benchmarks, the Commission must examine response times and completion rates of pre-scheduled non-wheelchair-accessible vehicle (“WAV”) service in order to adopt appropriate standards and benchmarks for pre-scheduled WAV trips in the Access for All program. Without this data or any more information on non-WAV pre-scheduled trips, most parties are not in the position to develop or comment on any specific proposals. In the meantime, however, Transportation Network Companies (“TNCs”) should not be discouraged from providing pre-scheduled service or applying for Access Funds for reimbursement. San Francisco agrees with the Disability Advocates that while these standards are being developed, TNCs providing pre-scheduled WAV service could receive Access Funds for both on-demand and pre-scheduled WAV trips if their “on-demand” trips alone meet the existing benchmarks and they provide the proper substantiation for the costs.

DISCUSSION

1. The Definition of Pre-Scheduled Trips Should Not Adversely Limit What the Commission Considers An “On-Demand” Trip.

Both Lyft and CPED propose changes to the definition of “on-demand” transportation that are not necessary - either to define or measure pre-scheduled transportation services provided by TNCs.

The scope of this track is to consider whether pre-scheduled trips should be included in the Access for All program and, if so, how to incorporate them in performance measures and reporting. It is not necessary to re-define “on-demand transportation” in order to achieve these goals. Lyft’s latest comments in particular overreach by going as far as to insist “a service that offers only pre-scheduled WAV service is not on-demand transportation for purposes of the Act.”¹ This is not a distinction made explicit in the TNC Access for All Act or anywhere outside of the Access for All program. Nor would this change improve the Access for All program or make it easier to incorporate performance measures or reporting requirements for pre-scheduled trips. Instead, it could further limit the types of providers who are considered Access Providers, which is an issue that was already addressed in a previous track of this proceeding. In previous tracks, the Commission found it was important to recognize that Access Providers may provide “WAV transportation options [that] look different in certain counties, particularly those areas that have no or limited existing WAV service,” and that a more “flexible” definition of on-demand service was appropriate.² Therefore, the Commission should disregard both CPED and Lyft’s suggested revisions to the definition of “on-demand transportation” and instead only adopt a definition for pre-scheduled TNC services.

2. Pre-Scheduled Trips Are Distinct and Require Separate Standards That Include Response Times and Completion Rates Equivalent to Pre-Scheduled Non-WAV TNC Service.

Lyft and Uber both argue that pre-scheduled trips are effectively the same as trips requested for immediate dispatch and should be assessed according to the same offset and exemption benchmarks and standards.³ However, none of their arguments hold up when examined. For example, Lyft insists pre-scheduled and “on-demand” requests are the same “because both are not dispatched until minutes prior to the desired pick-up time.”⁴ Yet, Lyft notes in the same set of comments that “When a passenger pre-schedules a WAV trip it is immediately sent to the Driver Pool. A driver may reserve

¹ Lyft, Inc. Comments on WAV Track 5A Proposals (Track 5A: Questions 2.1.2) and WAV Track 5A Workshop (Lyft Comments”), p. 3

² Decision on Track 3 Issues, p. 21

³ Lyft Comments, p. 3-4; and Comments of Uber Technologies, Inc. on Track 5A Workshop and Proposals (“Uber Comments”, p. 3

⁴ *Ibid.*.

the trip any time after it is prescheduled.”⁵ In practice, therefore, these trips are not the same and the use of the term “dispatch” versus “reservation” in Lyft’s example is a technicality which should not sway the Commission. Uber also does not offer any evidence as to why pre-scheduled trips should be measured the same as “on-demand” trips. Instead, it simply asks the Commission to use the same benchmarks and performance measures but to calculate response times for pre-scheduled trips differently (i.e., time between the prescheduled requested time and the arrival time).⁶ Calculating a response time differently is not enough to account for the difference in driver and user experience and expectations for pre-scheduled trips versus “on-demand” trips. As the Disability Advocates note, “While wait time is critical, completion rates are also important to passengers. A pre-scheduled ride service that turns down a high percentage of trip requests is not serving its customers well.”⁷ Therefore, there is no evidence or good reason to support applying “on-demand” standards to pre-scheduled trips.

Instead, the Commission should heed the suggestions of the Disability Advocates, San Francisco Taxi Workers Alliance (“SFTWA”), and CPED, who echo San Francisco. All four parties recommend and provide clear reasoning for, 1) establishing separate standards for pre-scheduled trips equivalent to non-WAV pre-scheduled TNC trips .and 2) including both response times and completion rates. To ignore this recommendation would, as SFTWA points out, “incentivize [TNCs] to prioritize pre-scheduled over “on-demand” requests, thereby pumping up their performance numbers.”⁸

To develop the appropriate standards and benchmarks, San Francisco maintains that the Commission should remain focused on providing equivalent service to riders who require wheelchair accessible vehicles, and therefore, the standards should be based on similar metrics for non-WAV pre-scheduled trips. This reasoning underpins practically every matter of equal access so it is confounding

⁵ *Id.*, p. 9

⁶ Uber Comments p. 3

⁷ Proposal on Track 5A Scoping Memo Questions from Disability Rights Education and Defense Fund, Disability Rights California, and the Center for Accessible Technology (“Disability Advocates Comments”) , p. 3

⁸ Opening Comments of the San Francisco Taxi Workers Alliance (SFTWA) on Track 5A Proposals (Pre-scheduled Trips) (“SFTWA Comments”), p. 3

why Uber wildly claims San Francisco and the Disability Advocates have “offered no reason as to why data on non-WAV response times, completion rates, and arrival times is necessary to determine an appropriate benchmark for pre-scheduled WAV response times.”⁹ Equally absurd is Lyft’s claim that “the milestones adopted by the Commission already incorporate pre-scheduled rides.”¹⁰ As was discussed during the Workshop and in our previous comments,¹¹ while Lyft may have assumed this (silently, without any explicit comment), pre-scheduled trips were not understood to be incorporated or considered in the current framework by any other party, and the response times and completion rates specifically for pre-scheduled non-WAV trips were not examined by the Commission. Therefore, it is essential that standards and benchmarks with appropriate response times and completion rates are developed and San Francisco continues to urge the Commission to base them on data for non-WAV pre-scheduled trips. Without this data, most parties are not in the position to develop or comment on any specific proposals.

3. On-Demand and Pre-Scheduled Trips are Distinct and Therefore Must Have Distinct Reporting Requirements.

San Francisco, the Disability Advocates, and CPED have established that pre-scheduled trips are different from “on-demand” trips and therefore the two trip types must be reported separately. As CPED states in their proposal, the Commission should “consider on-demand and pre-scheduled WAV services as fundamentally distinct, and as such, the Commission [should] develop a different performance metric and framework for pre-scheduled WAV trips that... [i]ncentivizes on-time performance according to the requested pick-up time [and] [i]ncentivizes a high trip completion rate.”¹²

Furthermore, as the Disability Advocates explain, “allowing TNCs to mix data from pre-scheduled rides – for which wait times approach zero and for which it is easier to complete a higher

⁹ Uber Comments, p. 6-7

¹⁰ Lyft Comments, p. 4

¹¹ Comments of San Francisco on Track 5A Proposals and Workshop (“San Francisco Comments”), p. 4

¹² CPED Track 5A Staff Proposal, p. 5

percentage of rides – will incentivize TNCs to pull resources away from the on-demand rides that are the focus of the TNC Access for All Act in favor of pre-scheduled rides.”¹³

San Francisco therefore rejects Lyft’s argument that pre-scheduled trips should be treated the same as on-demand trips in reporting and eligibility for offsets and exemptions.¹⁴ San Francisco also takes issue with Lyft’s statement that “[i]f the Commission wants to analyze pre-scheduled non-WAV and pre-scheduled WAV trip data, that information is readily available.” If the information is readily available, then it should be made available in this proceeding. Currently, this information is not part of the record. As always, the standard must be equivalent service, and pre-scheduled non-WAV trip data is essential to determining appropriate benchmarks for pre-scheduled WAV trips.

San Francisco appreciates Uber’s willingness to separately designate pre-scheduled WAV trips from on-demand trips in data reporting.¹⁵ San Francisco understands Uber’s request that on-demand and pre-scheduled WAV trips be “addressed as part of the same advice letter filings for a given quarter” to reduce the administrative burden. San Francisco agrees that pre-scheduled trip data should be reported within the same advice letter but believes that a new reporting template should be created for pre-scheduled trips because the metrics for pre-scheduled and on-demand trips are distinct. As all parties have agreed, Periods A and B as currently defined are not necessary when reporting pre-scheduled trips, so including pre-scheduled trips in the on-demand reporting template does not make sense. New benchmarks for pre-scheduled WAV trips must be developed to require service equivalent to non-WAV prescheduled trips, and a new reporting template for pre-scheduled trips should therefore be developed as well.

¹³ Disability Advocates Comments, p. 4

¹⁴ Lyft Comments, p. 8

¹⁵ Uber Comments, p. 6

CONCLUSION

San Francisco appreciates the opportunity to provide comments on Track 5A of this proceeding and urges the Commission to adopt our proposals in its Proposed Decision.

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Respectfully submitted,

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