



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
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

**OPENING COMMENTS OF SAN FRANCISCO INTERNATIONAL AIRPORT AND  
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY TO PROPOSED  
DECISION ON PHASE II ISSUES AND RESERVING ADDITIONAL ISSUES FOR  
RESOLUTION IN PHASE III**

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conclusions reached regarding these issues in sections 2.1.4.2 and 2.1.5.3 of the Proposed Decision. Specifically, the Proposed Decision requires that TNCs collect and maintain SR1 reports for a period of three years, and that TNCs provide annual reports to the CPUC on driver suspensions and deactivations for reasons related to safety or consumer protection, including but not limited to: (1) violation of the zero-tolerance policy; (2) assaulting a passenger or any member of the public while providing TNC services; (3) threatening a passenger or harassing any member of the public while providing TNC services; and (4) soliciting business separate from rides arranged through the TNC's app (i.e., transportation services that may not be covered by any CPUC-required insurance policies). None of these requirements are stated in the Proposed Order. The City's proposed modifications to the Proposed Order are set forth in Appendix A.

### **C. Driver Training**

The CPUC's Decision 13-09-045 required TNCs to "establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer the service," and required TNCs to file their driver training programs with the CPUC within 45 days of the Decision."<sup>1</sup> After the issuance of Decision 13-09-045, the City noted in several sets of Comments that the CPUC should provide parameters for the required training, and noted that the TNCs' driver training programs filed with the CPUC in accordance with Decision 13-09-045 evidenced a need for guidance regarding what constitutes an effective driver training program.<sup>2</sup> The City was therefore pleased to see that the Assigned Commissioner's Ruling Amending the Scoping Memo and Ruling for Phase II of Proceeding ("the Amended Scoping Memo"), dated April 28, 2015, sought the parties' input on how driver training programs should be designed to protect consumers and enhance public safety. The City recommended that the CPUC develop a uniform driver training program covering specified topics and suggested that the CPUC require

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<sup>1</sup> Decision 13-09045, p.27.

<sup>2</sup> City's Opening Comments dated April 21, 2014, p.7; City's Reply Comments dated June 30, 2014, p.3.

review each TNC driver training program to determine whether it will effectively improve the quality of TNC services and protect the safety of TNC passengers and other members of the public; (3) where the SED determines that any of the ten mandatory training components are not adequately addressed, the SED shall notify the affected TNC which training components are inadequate and require that proposed improvements be submitted to the SED within 30 days of the notice regarding training deficiency. The City's proposed modifications to the Proposed Order to this effect are set forth in Appendix A.

**D. TNCs Driving Unaccompanied Minors**

The Proposed Decision requires that TNCs that primarily transport unaccompanied minors comply, at a minimum, with the background check requirements articulated in Decision 97-07-063.<sup>6</sup> The City agrees with this requirement and with the Proposed Decision's conclusion that compliance with Decision 97-07-063, which requires use of the Trustline registry, is necessary to ensure the safety of unaccompanied minors traveling in TNCs. The City notes, however, that the Proposed Decision does not define the term "primarily," and it is therefore unclear whether a particular TNC must use the Trustline system. It is the City's view that all TNCs that transport unaccompanied minors, whether or not such minors are the majority of its passengers, should be required to use the Trustline system. The City therefore recommends that the CPUC require all TNCs that do not use the Trustline registry to: (1) prohibit unaccompanied minors from using their services; (2) prohibit their drivers from transporting unaccompanied minors; and (3) make their unaccompanied minors policy clearly visible to all users and all drivers. The City's proposed modifications to the Proposed Order to this effect are set forth in Appendix A.

**E. Filing Insurance Certificates**

The City concurs with the Proposed Decision's requirement.

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<sup>6</sup> Proposed Decision, pp. 6, 54.

or from Lyft, whose worth is estimated to exceed \$2 billion.<sup>9</sup> The City urges the CPUC to impose a graduated fine schedule calculated to ensure that the TNCs it regulates have sufficient incentive to comply with applicable rules and regulations.

#### **G. Trade Dress**

The City supports the Proposed Decision to the extent that it requires that consistent trade dress, which can be read during daylight hours at a distance of at least 50 feet, be located on both the front and rear of TNC vehicles. However, the trade dress requirement is unclear, as it also appears to give TNCs the option of placing trade dress on the sides of their vehicles, rather than on the front and rear, because it allows trade dress to be located on vehicle doors.<sup>10</sup>

In 2015, the TNCs made 1,330,880 drop offs at SFO and 1,905,908 pickups at SFO. Lyft and Uber, both of which require drivers to place the trade dress in the front window, made 99% of these trips. The CPUC should make front facing trade dress mandatory because that is where passengers and enforcement officers expect to see trade dress. In addition, rear facing trade dress should also be required because it alerts drivers and bicyclists behind TNC vehicles that a quick stop or turn is likely to occur. But giving TNCs the option of placing trade dress on side doors or panels, *instead* of in the front and rear will cause passenger and enforcement confusion. The City's proposed modifications to the Proposed Order to this effect are set forth in Appendix A.

#### **H. Additional Issues**

##### **1. Personal Vehicles**

The Proposed Decision's effort to clarify the meaning of the term "personal vehicle" does not provide a clear, complete, or workable definition of the term, and does not adequately address the many ways that vehicles are being marketed for use by TNC drivers. TNC drivers

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<sup>9</sup> See <http://money.cnn.com/2015/10/27/investing/uber-ford-gm-70-billion-valuation/>; <http://www.bloomberg.com/news/articles/2015-05-19/icahn-says-lyft-worth-more-than-2-billion-based-on-uber-value>.

<sup>10</sup> Proposed Decision, pp. 54-55 ("Acceptable forms of trade dress include, but are not limited to, symbols or signs on vehicle *doors*, roofs, or grills, or placed in the front and rear windshield." (Emphasis added).")

HyreCar is on (sic) online marketplace where car owners set their own price. Currently in our marketplace, owners have shared cars ranging from \$35-\$65 per day. Some owners give weekly rental deals where cars are available for around \$200-\$250 weekly.<sup>15</sup>

Similarly, the opening page of the Breeze website encourages readers to “[g]et a flexible, week-to-week lease with Breeze so you can drive for services like Uber and Lyft.”<sup>16</sup>

Confusingly, the Breeze website states “You must have your car for at least 4 weeks before putting in your 2 weeks' notice. You can return the car at any time after 4 weeks with just 2 weeks' notice.”<sup>17</sup> Also, Uber evidently has an arrangement with Enterprise Rent-A-Car where a weekly vehicle lease amount is deducted from the driver's Uber check. The lease term is a minimum of one week and a maximum of 28-days. If the driver wants a longer term, he/she simply renews the agreement.<sup>18</sup>

The Proposed Decision states that a vehicle obtained pursuant to a lease agreement that complies with Vehicle Code Sections 370, 371 and 460 may be a “personal vehicle.” Therefore, vehicles leased or rented through the Uber/Enterprise 28-day program or HyreCar's daily and weekly rental program would not, presumably, constitute “personal vehicles.” And with all of these rental options – daily, weekly, monthly – it is difficult to understand whether and how a TNC is able to comply with the CPUC's existing or proposed vehicle inspection requirements. It is also unclear how a TNC passenger would be able to locate lost property from a vehicle that the TNC driver rented for a day through HyreCar.

For all of these reasons, and because the Proposed Decision's discussion of the issue is very unclear, the City respectfully suggests that the CPUC should consider in greater depth the question of what constitutes a “personal vehicle.” The City recommends that the CPUC issue a separate ruling posing questions to the parties and inviting them to comment on this matter. Among the inquiries the CPUC should make are: (1) whether any TNCs allow drivers to use short term rental vehicles from services such as HyreCar and, if so, how they ensure the vehicle

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<sup>15</sup> See <https://driver.hyrekar.com/> and Appendix B.

<sup>16</sup> See Appendix C.

<sup>17</sup> *Ibid.*

<sup>18</sup> See <https://get.uber.com/cl/enterprise/> and Appendix D.

