

**London N. Breed**  
Mayor

**Nicole Bohn**  
Mayor's Office  
on Disability

**Jeffrey P. Tumlin**  
Director of  
Transportation



**Tilly Chang**  
Executive Director

May 5, 2021

Via E-Mail  
TNCaccess@cpuc.ca.gov

California Public Utilities Commission  
Consumer Protection and Protection Division  
Transportation Licensing and Analysis Branch  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: Protest to Lyft Advice Letter 7, Q1 of 2021, Rulemaking R. 19-02-012, Decision (D.) 20-03-007

Pursuant to General Order 96-B, Section 7.4, the San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority, and San Francisco Mayor's Office on Disability (collectively "San Francisco"), submit this protest against Lyft Technologies Inc.'s ("Lyft") Advice Letter 7 requesting offsets in the TNC Access for All rulemaking, R. 19-02-012, including attachments ("Advice Letter").

## **I. Introduction**

In accordance with General Order 96-B, Section 7.4.2(6), San Francisco protests Lyft's Advice Letter on the grounds that the relief requested is unjust as Lyft's reported response times in both San Francisco and Los Angeles are self-evidently erroneous and the Commission must reject any offset requests based on these erroneous data. In addition, the offset request amounts are unreasonable given the service provided. Lyft is requesting offsets of over \$414 per single completed trip in Los Angeles County, and over \$938 per single completed trip in San Francisco. Almost 40% of Lyft's costs are associated with "Other" costs (including \$127,400 for "Paid an agreed upon fee for vehicle consulting" to Hertz for San Francisco County services), "Consultants/Legal" and "Wages, Salaries and Benefits (non-maintenance personnel)" Note these categories exclude the actual Transportation Service Partner Fees. In contrast, for this same quarter, only 2% of Uber's costs are associated with these same expense categories, and the remaining 98% of costs appear to be directly associated with transportation service provision. Given the record, CPED cannot reasonably find that Lyft has met the required statutory burden.

## **II. Lyft's Advice Letter Contains Material Errors and Does Not Meet The Requirements for Award of Public Funds.**

The California Legislature adopted the TNC Access for All Act ("Act") with the stated intent that wheelchair users who need WAVs "have prompt access to TNC services." (D. 1906033, Track 1 Issues Transportation Network Company Trip Fee and Geographic Areas ("Track 1 Decision"), p. 16.) The Act required the Commission to open a rulemaking, which it did in R. 19-02-012, and also establish the Access Fund to pay for the increased service. The Track 1 Decision held that the TNCs would gather funds by charging their customers a per-trip fee and remitting it into the Access Fund. (*Id.*, p. 10.) As relevant here, the Act requires the Commission to "authorize a TNC to offset against the amounts due...for a particular quarter the amounts spent by the TNC during that quarter to improve WAV service...for each geographic area" thereby reducing the amount of Access Funds. (Pub. Util. Code § 5440.5(a)(1)(B)(ii).)

The Act requires the Commission to reduce the amount of money a TNC is required to remit to the Access Fund if a TNC meets the following requirements: (1) presence and availability of drivers with WAVs, (2) improved level of service, including reasonable response times, (3) efforts to promote the service to the disability community, and (4) a full accounting of funds expended. (Pub. Util. Code § 5440.5(a)(1)(B)(ii).) Pursuant to the Track 2 Decision, to request an offset a TNC must submit an advice letter for review by the Industry Division, here CPED, demonstrating it has met the established requirements. Based on the information submitted in this Advice Letter, Lyft failed to meet the minimum requirements, as set forth below, and the offset requests should be rejected.

### **A. Lyft's Reported Offset Response Times are Erroneous**

The Offset Response Time reporting template includes information on "Period A (Requested to Accepted)", "Period B (Accepted to Arrival)", and "Total Response Time (Requested to Arrival)." While the offset time standard evaluation is relative to the Total Response Time, the Total Response Time is the sum of, and dependent upon, the Period A and Period B response times.

As San Francisco has pointed out in prior protests, Lyft's reported response times are self-evidently erroneous. Specifically, Lyft's report includes negative response times for Period A. This would mean that trips are accepted before they are even requested. This is not possible. Furthermore, Total Response Times are clearly intended to represent the sum of Period A and Period B, as demonstrated by the Commission's "Sample: ALAMEDA" row in the data template. However, in Lyft's data, in 100% of the counties and percentile bins reported, the Total Response Time is less than sum of Period A and Period B. In fact, in all cases the Total Response Time (Requested to Arrival) is less than the Period B (Accepted to Arrival). Again, this is impossible.

We note also that in the Track 2 Decision, the Commission adopted Interim WAV Response Times necessary for TNCs to receive offsets. In San Francisco, the adopted response times are 15 minutes for Level 1 or 30 minutes for Level 2. (Track 2 Decision, pp. 18-19.) However, in the Advice Letter, in the tab "Offset Response Time," Lyft erroneously reports the required standards for San Francisco as 30 minutes for Level 1 and 60 minutes for Level 2.

The Commission must reject any offset request based on these clearly erroneous response times.

**B. Lyft’s Accounting of Funds Does Not Demonstrate Improvements Due to Investments in WAV Service.**

The Act allows TNCs to offset the amounts spent by the TNC during a quarter to *improve* WAV service (emphasis added). Under the fourth element required to be awarded an offset, a TNC must provide a “full accounting of funds,” as well as demonstrate that an improved level of service, including reasonable response times, is due to *investments for WAV service* compared to the previous quarter. (Track 2 Decision, pp. 25-26 (emph. added).).

Almost 40% of Lyft’s reported costs are associated with “Other” costs (including \$127,400 for “Paid an agreed upon fee for vehicle consulting” to Hertz for San Francisco County services), “Consultants/Legal” and “Wages, Salaries and Benefits (non-maintenance personnel).” These categories exclude the actual Transportation Service Partner Fees paid to the entities providing WAV transportation services. In contrast, for this same quarter, only 2% of Uber’s costs are associated with these same expense categories, and the remaining 98% of costs appear to be directly associated with WAV transportation service provision.

Offsets are payments of monies collected from all TNC trips in each county to TNCs for improving WAV service in that county. Table 2 shows that a basic metric of the cost-effectiveness of TNC efforts to improve WAV service, which is the average offset request per completed TNC trip. This table shows that Lyft is requesting that it be paid from public monies over \$414 per completed WAV trip in Los Angeles County and \$938 per completed WAV trip in San Francisco. Lyft’s accounting of funds raises concerns about cost-effectiveness and whether the reported investments are in fact improving WAV service.

**Table 2. Average offset request per COMPLETED TNC trip for the Offset Request Counties**

	COMPLETED	OFFSET REQUEST	OFFSET REQUEST PER TRIP
LOS ANGELES	1442	\$643,052.10	\$414.34
SAN FRANCISCO	142	\$133,198.00	\$938.01

**III. Conclusion**

In sum, the Commission should reject Lyft’s offset requests because Lyft’s Offset Response Times reported are clearly erroneous, and quite literally impossible. In addition, Lyft reported incorrect Interim WAV Response Time standards for San Francisco and the company’s accounting of funds does not demonstrate improvements due to investments in WAV service. Almost 40% of Lyft’s reported costs do not appear to be directly related to providing or improving WAV transportation services. Ultimately, offsets are payments of public monies, and Lyft has not demonstrated that it is using these public monies cost-effectively, with an average offset request of over \$414 per completed WAV trip in Los Angeles County and \$938 per completed WAV trip in San Francisco.

For the reasons stated herein, San Francisco requests that the Advice Letter be rejected as CPED cannot reasonably find that Lyft has met the required statutory burden.

Sincerely,

By:           /s/                                    
Tilly Chang  
Executive Director  
San Francisco County Transportation Authority  
tilly.chang@sfcta.org

By:           /s/                                    
Jeffrey Tumlin  
Director of Transportation  
San Francisco Municipal Transportation Agency  
Jeffrey.Tumlin@sfmta.com

By:           /s/                                    
Nicole Bohn  
Director  
San Francisco Mayor's Office on Disability  
nicole.bohn@sfgov.org

cc: Annette Tran, atran@lyft.com