

**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 PROPOSED DECISION ON TRACK
4 ISSUES**

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Dated: OCTOBER 26, 2021

I. Introduction

In accordance with Rule 14.3 of the Commission’s Rules of Practice and Procedure, the San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority, and San Francisco Mayor’s Office on Disability (collectively “San Francisco” or “SF”) submit Reply Comments on parties’ Comments on Track 4 Proposed Decision (“Proposed Decision” or “PD”) related to the TNC Access for All Act (“Act”). San Francisco’s comments herein primarily focus on TNC Offset and Exemption Requirements and Access Fund Disbursements, as these areas of the Proposed Decision contain the most significant legal errors.

II. Discussion

1. Transportation Network Company (TNC) Offset Requirements

Uber’s argument that TNCs should not be required to subtract revenues from an offset request is a legal error and defies the basic logic of an offset, which is intended to defray the cost of providing WAV service and not to enable TNCs to effectively get paid twice.¹ The Proposed Decision’s statement that “total qualifying offset expenses shall be net of fare revenues collected from WAV service delivery in the quarter for which a TNC requests an offset” should stand.²

2. TNC Exemption Requirements

San Francisco strongly supports the Disability Advocates’ (DA) analysis that “[u]nder the plain language of the statute, if more than 20% of the requested WAV trips on a TNC’s platform do not ‘have a response time...within a time established by the commission,’ then the Commission may not exempt that TNC from collecting the required per trip fee. The exemption standard found in the Track 4 PD therefore falls below the floor set in the statute and must be revised.”³ San Francisco and DA agree that the current standards constitute a legal error and must be changed to reflect the plain language of the statute.

¹ Uber Comments on Proposed Track 4 Decision, p. 4-5

² PD, p. 28

³ DA Comments on Proposed Track 4 Decision, p. A-7

Accordingly, Uber’s request to lower service standards beyond the levels in the Proposed Decision is not grounded in any legal argument and should be dismissed.⁴

Additionally, San Francisco supports the DA’s recommendation that the Commission remove the following sentences from the Proposed Decision:

~~“These requirements are referred to as the Exemption Standard. The Exemption Standard requirements are effective beginning in the 2nd Quarter of 2022. For exemption eligibility for the 1st Quarter 2022 and prior quarters, the previously adopted ETS and TCS shall apply. For Exemption Requests that are based on four quarters that straddle the previous requirements and the newly adopted Exemption Standard, each quarter shall be evaluated based on the applicable standard for that quarter.”⁵~~

3. Access Fund Disbursements

San Francisco agrees with the San Francisco Taxi Workers Alliance’s (SFTWA) support of the Proposed Decision’s provisions regarding non-permitted transportation carriers.⁶ San Francisco also supports SFTWA’s objection to the Proposed Decision’s stipulation that a TNC may “apply as an Access Provider in a geographic area where it does not offer any WAV services.”⁷ As SFTWA describes, the purpose of the Act is “first to prompt TNCs to provide the service wheelchair users are entitled to by law, and secondly to incentivize others to provide such service if TNCs can’t or won’t.”⁸ Allowing TNCs to elude the offset and eligibility requirements of the Act and yet still receive funds by becoming Access Providers “subverts the intention of the Act and constitutes a *disservice* to WAV users.”⁹

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⁴ Uber Comments on Proposed Track 4 Decision, p. 2-4

⁵ DA Comments on Proposed Track 4 Decision, p. A-2

⁶ SFTWA Comments on Proposed Track 4 Decision, p. 3

⁷ SFTWA Comments on Proposed Track 4 Decision, p. 3-4

⁸ SFTWA Comments on Proposed Track 4 Decision, p. 4

⁹ SFTWA Comments on Proposed Track 4 Decision, p. 4

4. Yearly Benchmarks

San Francisco supports the comments of DA on the Yearly Benchmarks, including their proposal that a draft report of the community WAV demand analysis be provided to the service list for comment prior to submission to the legislature^[FL(1)].¹⁰ San Francisco also shares the DAs' concerns about the proposed delay in reporting. As DA notes, “[I]f the Commission waits until preparation of the 2024 Report before it establishes that yearly benchmark [of community WAV demand], it will not have acted in time to achieve the goal of ‘ensur[ing] WAV users receive continuously improved, reliable, and available service’ prior to the sunset of the TNC Access for All Act on January 1, 2026.”¹¹

5. Additional Accessibility Issues

San Francisco wholeheartedly supports DA's Additional Accessibility Issues section' and SFTWA's comments in their Additional disability issue section.¹² The Commission must address broader TNC accessibility issues within the current proceeding to fulfil the intent of the Act and ensure continued participation by the disability community. As DA clearly explains, “[t]he Commission cannot establish an effective ‘program relating to accessibility for persons with disabilities’ without addressing other accessibility issues. Nor can it establish an effective program without meaningful participation from the community directly impacted by those accessibility barriers.”¹³

¹⁰ DA Comments on Proposed Track 4 Decision, p. A-9 – A-10

¹¹ DA Comments on Proposed Track 4 Decision, p. A-9

¹² DA Comments on Proposed Track 4 Decision, p. A-9 – A-12; SFTWA Comments on Proposed Track 4 Decision, p. 5

¹³ DA Comments on Proposed Track 4 Decision, p. A-12

Dated: October 26, 2021

Respectfully submitted,

By: _____ /s/ _____

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