

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

Order Instituting Rulemaking on Regulations  
Relating to Passenger Carriers, Ridesharing, And  
New On-Line-Enabled Transportation Services

R.12-12-011  
(Filed December 20, 2012)

**JOINT REPLY COMMENTS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION  
AGENCY, SAN FRANCISCO INTERNATIONAL AIRPORT, AND SAN FRANCISCO  
COUNTY TRANSPORTATION AUTHORITY ON THE PROPOSED DECISION  
REQUIRING TRANSPORTATION NETWORK COMPANIES TO SUBMIT THEIR  
ANNUAL REPORTS FOR THE YEARS 2014-2019 TO THE COMMISSION WITH LIMITED  
REDACTIONS**

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Dated: October 25, 2022

Pursuant to California Public Utilities Commission Rule of Practice and Procedure 14.3(d), the San Francisco Municipal Transportation Agency and the San Francisco International Airport (collectively “the City”), and the San Francisco County Transportation Authority (together, the “City and County”) submit these Joint Reply Comments to the opening comments filed by Lyft, Inc. (“Lyft”) on the Proposed Decision Requiring Transportation Network Companies to Submit their Annual Reports for the Years 2014-2019 to the Commission with Limited Redactions (the “Proposed Decision” or “PD”) filed by the California Public Utilities Commission (the “Commission”) on September 30, 2022.

## I. INTRODUCTION

In their Comments to the Proposed Decision, Lyft once again reargues legal issues that the Administrative Law Judge and the Commission have already addressed.<sup>1</sup> Consistent with the prior decisions and rulings issued in this proceeding, the City and County urge the Commission to reject these arguments and to adopt the Proposed Decision with the minor modifications suggested by the City and County in our Joint Opening Comments.<sup>2</sup> The City and County also strongly urge the Commission to reject Lyft’s request that the Proposed Decision be withdrawn pending a decision on Lyft’s Application for Rehearing of Decision (“D”) 22-05-003 and to adopt the Proposed Decision so that the 2014-2019 Annual Reports can be released to the public as soon as possible.

Given the duplicative nature of the bulk of Lyft’s arguments, the City and County will not reiterate point for point the many counterarguments that have been made in response to Lyft’s

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<sup>1</sup> See generally Proposed Decision; Ruling on Uber Technologies, Inc.’s (“Uber’s”) and Lyft’s Motion for Confidential Treatment of Certain Information in Their 2020 Annual Reports, issued on December 21, 2020 (“2020 Confidentiality Ruling”); Ruling on the Motions of Uber, Lyft, HopSkipDrive, Inc. (“HopSkipDrive”), and Nomad Transit, LLC (“Nomad”) for Confidential Treatment of Portions of Their 2021 Annual Transportation Network Company (“TNC”) Reports, issued on November 24, 2021 (“2021 Confidentiality Ruling”); Decision Denying Appeal of Lyft Re: Ruling Denying, In Part, Motions by Uber and Lyft for Confidential Treatment of Certain Information in Their 2020 Annual Reports, issued on May 6, 2022.

<sup>2</sup> Joint Opening Comments of the City and County on the Proposed Decision, filed on October 20, 2022, at 3-4, Appendix A.

arguments.<sup>3</sup> The City and County instead incorporates these arguments here by reference.<sup>4</sup>

## II. DISCUSSION

### A. **The Proposed Decision in No Way Identifies D.20-03-014’s Discussion of TNC Competition as the “Lynchpin” of the Decision to Require Public Release of the 2014-2019 Annual Reports.**

Lyft mischaracterizes the Proposed Decision’s reference to the discussion surrounding competition in D.20-03-014 as the “lynchpin” of the Proposed Decision requiring public release of the 2014-2019 Annual Reports.<sup>5</sup> It’s true that in D.21-06-023 the Commission modified certain findings in D.20-03-014 related to competition (or lack thereof) within the TNC industry in response to applications for rehearing filed by Lyft and Uber.<sup>6</sup> While the Proposed Decision does make reference to D.20-03-014’s original discussion regarding competition, this discussion is in no way presented by the Proposed Decision as the “lynchpin” of the Proposed Decision’s holding. Instead, lack of competition in the TNC industry is mentioned alongside both “the heightened public interest in obtaining unredacted TNC Annual Reports” and “the Commission’s adoption of stricter standards for establishing a claim of confidentiality” as reasons for ending the presumption of confidentiality retroactively for the 2014-2019 Annual Reports.<sup>7</sup>

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<sup>3</sup> Response of the City and County to Motions of Uber, Lyft, and for Leave to File Confidential Information Under Seal, filed on July 2, 2022; Response of the City and County to Motions of Uber, Lyft, and HopSkipDrive for Leave to File Confidential Information Under Seal, filed on July 1, 2021; Opening Comments of the City and County Regarding Release of 2014 to 2019 Annual TNC Reports, filed on February 11, 2022; Reply Comments of the City and County Regarding Release of 2014-2019 Annual TNC Reports, filed on February 25, 2022; Opening Comments of the City and County on the Proposed Decision Denying Lyft’s Appeal of the Ruling on Confidential Treatment of Certain Information in Lyft and Uber’s 2020 Annual Reports, filed on April 21, 2022; Reply Comments of the City and County Regarding the Proposed Decision Denying Lyft’s Appeal of the Ruling on Confidential Treatment of Certain Information in Lyft and Uber’s 2020 Annual Reports, filed on April 26, 2022; Response of the City and County to Motions of Uber, Lyft, Nomad, and HopSkipDrive, for Confidential Treatment of Certain Data in their 2022 Annual Reports, filed on April 1, 2022.

<sup>4</sup> *Id.*

<sup>5</sup> Opening Comments of Lyft on Proposed Decision, (“Lyft Opening Comments”), filed on October 20, 2022, at 2.

<sup>6</sup> Order Modifying D.20-03-014 and Denying Rehearing of Decision, as modified, issued on June 4, 2021 (“Order Modifying D.20-03-014”).

<sup>7</sup> Proposed Decision, at 17. In fact, the Order Modifying D.20-03-014 made very clear that the discussion and findings of fact related to competition in the TNC industry were “simply not necessary to uphold [the] determinations in the Decision,” and that the Commission had “ample authority” to remove the confidentiality presumption without discussion of competition or market concentration. *See* Order Modifying D.20-03-014, at 23, 20.

**B. The Redacted Portions of the Annual Reports Adequately Protect Personally Identifiable Information.**

In line with the 2020 and 2021 Confidentiality Rulings, the Proposed Decision adequately protects the personally identifiable information of TNC customers and drivers by holding certain information, such as trip latitude and longitude and the names of parties involved in incidents and accidents, subject to redaction. The Proposed Decision correctly identifies that the trip data at issue, namely census block and zip code information, do not raise the privacy and reidentification concerns continually pressed by Lyft.<sup>8</sup>

The Commission should not be swayed by Lyft's citation to *County of Los Angeles v. Superior Ct.*, 65 Cal.App.5th 621 (2021). In *County of Los Angeles*, the court held that a discovery order ordering the County of Los Angeles to provide a data expert with the *identified* personal medical records and substance abuse treatment records of thousands of patients, in order for the data expert to deidentify the records and make them cross-referenceable with multiple other large datasets amounted to an invasion of those patients' constitutional privacy rights.<sup>9</sup> While the court in *County of Los Angeles* did discuss the reidentification risks associated when data sets are made cross-referenceable with other data sets, those risks do not exist here.<sup>10</sup> In *County of Los Angeles* the defendants, Johnson & Johnson, were seeking to have the data expert make the deidentified patient data set cross-referenceable with "over a dozen other [anonymized] databases containing tens of millions of records from government agencies, private insurers, and the People in th[e] case."<sup>11</sup> Here, Lyft again engages in hyperbole to argue that the trip data at issue can be combined with other publicly available information to reidentify individuals, but continues to fail to show how that's the case.<sup>12</sup> Lyft identifies no other publicly available information that could pose a reidentification risk in combination with the trip data. Instead, Lyft poses a dubious scenario involving the personal observations of

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<sup>8</sup> Proposed Decision, at 41.

<sup>9</sup> *County of Los Angeles*, at 645-653.

<sup>10</sup> *Id.* at 651.

<sup>11</sup> *Id.* at 652.

<sup>12</sup> Lyft Opening Comments, at 6.

imaginary neighbors.<sup>13</sup> This hypothetical in no way raises the concerns underlying the decision in *County of Los Angeles* and should not disturb the Proposed Decision.

**C. The Interest of Local Agencies in the Trip Data does Constitute the Public Interest.**

The public interest to be served by the release of the TNC's Annual Reports, including the 2014-2019 Annual Reports, is well established in this proceeding.<sup>14</sup> Yet, Lyft continues to argue that local agencies are somehow seeking access to the Annual Reports for purely private, academic reasons entirely divorced from the public interest.<sup>15</sup> Access to the trip data in the Annual Reports will allow local agencies to measure the impact of TNCs on the municipalities that those local agencies serve and to develop appropriate policy interventions that benefit the welfare of the people of those municipalities, i.e., *the public*. Indeed, that the interests of government, including local agencies, cannot be divorced from the interests of the public is a main precept of our state Constitution, which states: "All political power is inherent in the people [and] Government is instituted for their protection, security, and benefit...."<sup>16</sup> Further, Lyft asserts that the Proposed Decision does not address how release of the Annual Reports would shed light on the Commission's regulation of TNCs, but the Proposed Decision expressly addresses this issue in Section 3.4.2.<sup>17</sup>

**III. CONCLUSION**

Under Commission Rule of Practice and Procedure 14.3(c), comments to a proposed decision must "focus on factual, legal or technical errors in the proposed or alternate decision." Lyft once again has stretched their opportunity to comment before the Commission, holding up almost every portion of the Proposed Decision contrary to their position as an error. The City and County urge the

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<sup>13</sup> *Id.*

<sup>14</sup> *See, e.g.*, Proposed Decision, at 95.

<sup>15</sup> Lyft Opening Comments, at 10.

<sup>16</sup> Cal. Const., art. II, § 1.

<sup>17</sup> *See, e.g.*, Proposed Decision, at 94 ("In the case of the Commission, regulatory transparency is essential to the public's understanding of how the Commission performs its responsibility of regulating entities under its jurisdiction. Additionally, transparency instills confidence in the public that the Commission is ensuring that entities under the Commission's control are providing services to Californians in a safe, reliable, and nondiscriminatory manner."); *Id.* at 95 (heading entitled "The benefits of the public's understanding of how the government functions").

Commission to reject these arguments (once again) and to adopt the Proposed Decision with the minor modification suggested by the City and County in our Opening Comments.

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Respectfully submitted,

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