

**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)

**COMMENTS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY,
SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY, AND SAN FRANCISCO
MAYOR'S OFFICE ON DISABILITY ON WAIT AND SAVE SERVICE**

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Dated: September 30, 2022

INTRODUCTION

Pursuant to the Administrative Law Judge’s September 13, 2022 Ruling Requesting Proposals and Comments on Wait & Save Service, 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 Comments on Wait & Save Service related to the TNC Access for All Act (the “Act”). In its Ruling seeking comments, the Commission recognizes “a need to appropriately incentivize transportation network companies (TNCs) to offer features like the Wait & Save option” and is therefore “considering alternate proposals to measure Wait & Save WAV trip response times for purposes of offset and exemption calculations.”¹ The ruling further states that if an alternative calculation cannot be adopted in the forthcoming proposed decision, the Commission would defer the incorporation of Wait & Save trips into the TNC Access for All program.²

San Francisco does not support any alternative methods of calculating WAV (“wheelchair accessible vehicle”) trip response times for on-demand rides based on fare product, and we also do not support excluding Lyft Inc.’s (“Lyft’s”) “Wait & Save” trips from consideration for the purposes of offsets or exemptions on an interim or permanent basis. While San Francisco appreciates the Commission’s interest in ensuring TNC discounts are afforded to all customers equally, developing new standards for “Wait & Save” trips sets a dangerous precedent. If the Commission adopts an alternative calculation or defers incorporation of the trips, it could allow TNCs to circumvent regulations intended to achieve equivalent response times and would not achieve the Act’s intent to ensure wheelchair users receive *prompt* access to TNC services.

DISCUSSION

A. Additional proposals for and comments on calculating Wait & Save WAV trip response times for purposes of offsets and exemptions.

San Francisco maintains that Wait & Save trips are on-demand trips and should be measured according to on-demand metrics.³ New metrics were necessary for prescheduled trips because they are not “on-demand” as originally contemplated by the Act, and were used inappropriately by Lyft to

¹Administrative Law Judge’s Ruling Requesting Proposals and Comments on Wait & Save Service, at 3.

²*Id.*, at 4.

³Comments of San Francisco on Additional Track 5A Proposals, at 11-12.

claim *negative* response times in order to give the appearance that they were meeting on-demand standards. This is not the case with Lyft’s “Wait & Save” trips. Wait & Save trips are on-demand trips, just as trips subject to surge pricing during high demand are on-demand trips. It would be impractical and cause significant delay to the program to develop entirely new standards any time a TNC introduces a new fare product. Developing new standards for Wait & Save trips would also set a precedent that TNCs could draw out the rulemaking and circumvent regulations simply by introducing new fare products that are only slightly different from their existing products. San Francisco urges the Commission to exercise discretion in adapting the TNC Access for All program to these new products. Further, all response time metrics should be determined based on the level of service the public receives for equivalent standard TNC services and not based on arbitrary pricing models subject to frequent changes. TNCs may offer special prices and products to their riders and should afford the same discounts to WAV riders as they do for standard riders. However, the record lacks any evidence to support that each additional fare product invented by a TNC should be individually evaluated and held to different response time standards. The Act requires that TNCs must provide an improved level of service to wheelchair users to receive offsets and be accessible to wheelchair users to be exempt.⁴ Inconsistent response time metrics based on a rider’s ability or willingness to pay and result in longer wait times would therefore be antithetical to the Act and not meet its intent “that wheelchair users who need WAVs have prompt access to TNC services.”⁵ For these reasons, San Francisco does not consider the Ruling’s proposed calculation⁶ a reasonable alternative and urges the Commission not to adopt any new methodology for calculating response times based on fare products.

⁴ Pub. Util. Code § 5440.5(a)(1)(B)(ii).

⁵ Pub. Util. Code § 5440(j).

⁶ Administrative Law Judge’s Ruling Requesting Proposals and Comments On Wait & Save Service, at 3-4: “For instance, could the response time for a Wait & Save WAV trip be calculated by subtracting Time X from Time Y, where Time X = a TNC’s estimated wait time for a “non-Wait & Save” WAV arrival, and Time Y = actual time from when the WAV trip was requested to when the vehicle arrived?”

B. If Wait & Save WAV trips are excluded from consideration for the purposes of offsets or exemptions on an interim basis, how should Access Fund awards be calculated when determining monies approved for an offset or exemption?

San Francisco does not support excluding “Wait & Save” trips from consideration for the purposes of offsets or exemptions on an interim or permanent basis. Excluding “Wait & Save” trips from analysis would skew the completion rates and response times and not accurately reflect the experiences of WAV riders. Without these data, the Commission would not be able to determine if TNCs are providing an improved level of service or if they are truly accessible to wheelchair users, as is required by the Act for offsets and exemptions, respectively.⁷ Based on our position that “Wait & Save” trips should be included in consideration of program performance, we do not believe it is worth the parties’ efforts to develop a formula for extricating the costs of providing “Wait & Save” trips from the general costs of providing WAV services.

C. Are there any other issues the Commission should consider with respect to deferring the incorporation of Wait & Save WAV trips into the TNC Access for All Program on an interim basis? For example:

1. What should the Commission monitor with respect to Wait & Save WAV trips, if anything, while deferring consideration?

The Commission should not defer incorporation of “Wait & Save” WAV trips. As it does not make sense to consider only a subset of the service a TNC provides in a geographic area, San Francisco does not support excluding Wait & Save trips from consideration for the purposes of offsets or exemptions. However, just as the Commission should be monitoring fares charged to wheelchair users to confirm that they mirror fares charged to non-wheelchair users, we recommend that the Commission monitor the results of “Wait & Save” fare pricing for both the general public and WAV riders to ensure non-discrimination.

2. What data regarding Wait & Save WAV trips should be reported to the Commission?

San Francisco does not presently have a proposal on this topic but reserves the opportunity to comment based on additional information entered into the record.

⁷ Pub. Util. Code § 5440.5(a)(1)(B)(ii).

3. What are the consequences of delaying incorporation of Wait & Save WAV trips into the offset and exemption calculations?

One of the consequences of delaying incorporation of “Wait & Save” WAV trips into the offset and exemption calculations is that TNCs would only need to meet standards for a subset of the WAV service they are providing. This is not within the spirit of the Act and defeats the purpose of the standards which have already been set. Another consequence is that TNCs are currently not required to report trip data unless they are seeking an offset or exemption. San Francisco maintains it is imperative that all WAV trips provided by TNCs be tracked and reported. The Commission is currently considering proposals that address which data TNCs should report – however, under current reporting requirements, the exclusion of “Wait & Save” trips from consideration for offsets and exemptions would result in their exclusion from general data collection. Other potential consequences include a degradation of overall service experienced by WAV users during the delay and additional administrative burden that will unnecessarily prolong the rulemaking.

CONCLUSION

San Francisco appreciates the opportunity to comment on “Wait & Save” trips. We reiterate our appreciation of the Commission’s interest in ensuring all TNC customers are charged fairly. While we support monitoring the types of fares charged to WAV riders, developing new offset and exemption response time standards for Wait & Save trips would set a precedent that would undermine both the intent and the effectiveness of the TNC Access for All program. We urge the Commission not to adopt any alternative “Wait & Save” response time calculation and not to exclude these trips from consideration for offsets and exemptions.

Dated: September 30, 2022

Respectfully submitted,

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