



**BEFORE THE PUBLIC UTILITIES COMMISSION OF  
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**

**SAN FRANCISCO INTERNATIONAL AIRPORT'S COMMENTS ON  
PROPOSED DECISION ADOPTING RULES AND REGULATIONS TO PROTECT PUBLIC  
SAFETY WHILE ALLOWING NEW ENTRANTS TO THE TRANSPORTATION INDUSTRY**

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## **Introduction**

The San Francisco International Airport (“Airport” or “SFO”) is pleased that in his Proposed Decision, Commissioner Peevey recognizes Transportation Network Companies (“TNCs”) as charter party carriers subject to the jurisdiction of the California Public Utilities Commission (“CPUC”), and that public safety demands the need to re-visit existing limousine regulations in a second phase of these proceedings. However, like the San Francisco Municipal Transportation Authority (“SFMTA”), the Airport believes the Proposed Decision does not adequately address insurance and other public safety issues such as vehicle inspections, driver background checks and trade dress. The Airport also believes that TNC regulation should include provisions for clean air vehicles.

The Airport is particularly concerned that the Proposed Decision – while rigorous in the scope of business practices it finds in need of regulation – effectively allows TNCs to self-police their own compliance. This approach will result in uneven compliance and, consequently, a threat to public safety. SFO believes that TNC regulation must require independent third-party compliance monitoring.

The Airport submits comments separate from SFMTA to highlight these concerns.

## **TNCs Must Carry Commercial Automobile Insurance Coverage**

An excess liability policy will not protect public safety. According to the Personal Insurance Federation of California (“PIFC”), whose members collectively write a majority of the personal lines auto insurance in California, “... the industry standard for personal auto insurance policy contracts is to exempt from insurance coverage claims involving vehicles used for transporting passengers for a charge.” (*See* January 28, 2013 Comments from Personal Insurance Federations of CA, at 1.) The PIFIC surveyed its members and concluded that using a private passenger vehicle to transport passengers for a charge “... is clearly not covered under a standard policy; if an accident occurs, coverage would not exist.” (*Id.* at 2.)

The Commission should give its full attention to the PIFIC’s conclusion.

The Proposed Decision finds that TNCs are “providing passenger transportation for hire” (Finding of Fact #10); and they “...do not fulfill the rideshare exemption and actually are for-hire

transportation services.” (Conclusion of Law #9.) Insurance carriers would surely use these findings to deny coverage under a standard personal automobile policy.

Of additional concern is the secrecy currently allowed by the CPUC regarding TNC excess liability policies. If the Commission allows these policies remain under seal, it will be impossible for potential passengers, members of the public and public agencies to assess the risk of this new transportation model. Further, unless the secret policies unambiguously state they cover damages for *all* incidents arising from the use of TNCs – regardless of any exclusions in the driver’s personal automobile policy, or even where a policy has expired or never existed – it really does not matter whether the TNCs have any insurance at all.<sup>1</sup>

Finally, SFO is particularly concerned about the narrow definition of covered incidents, defined as “incidents involving TNC vehicles and drivers in transit to or during a TNC trip.” (Proposed Decision at 46.) Under this definition, policies would not cover an accident on an Airport roadway when a TNC does not have a passenger. Such an exclusion could leave injured parties without recourse and public entities vulnerable to lawsuits.

For all of these reasons, the Commission is urged to require TNCs to carry commercial automobile liability insurance.

#### **TNC Vehicles Must be Inspected Annually by Independent, Licensed Technicians**

The Proposed Decision requires a 19-point inspection of all TNC vehicles, which inspections are to be undertaken by the TNCs themselves, with no requirement that inspections be performed on a regular schedule. The Airport does not support this self-regulation.

The Commission should require that all TNC vehicles be inspected on an annual basis. If the Commission and/or the California Highway Patrol lack the resources to perform this regulatory function, the regulations should require vehicle inspections to be performed by automotive technicians licensed by the California Bureau of Automotive Repair.

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<sup>1</sup> Notably, the terms of service for Lyft, SideCar and others include repeated disclaimers of all imaginable forms of liability. The effect of these disclaimers is unknown, even if the secret policies are viable insurance products.

In the interest of public safety, the Commission should not trust TNCs to comply with this important regulation unchecked by an independent and professionally trained third party.

**Drivers Should be Fingerprinted and Background Checks Should be Conducted by Recognized Agencies**

The Proposed Decision lists a number of criminal convictions that would disqualify a driver from performing TNC transportation services, but leaves the background investigation to the TNCs themselves with no guidance regarding where or how the investigations must be conducted. (Proposed Decision at 23.) The Commission should require TNC drivers to undergo California Department of Justice (“DOJ”) background checks. The DOJ’s website (*see* <http://oag.ca.gov/fingerprints>) provides as follows:

The California Department of Justice provides an automated service for criminal history background checks that may be required as a condition of employment, licensing, certification, foreign adoptions or VISA/Immigration clearances.

... All applicant fingerprint submissions must be transmitted electronically. Live Scan digital submissions provide the quickest way to submit and process background checks.

Live Scan technology allows digitally scanned fingerprints and related information to be submitted electronically to the Department of Justice within a matter of minutes and allows criminal background checks to be processed usually within 72 hours.

In California, fingerprinting must be done by a certified fingerprint roller or qualified law enforcement personnel.

To the extent the DOJ background check does not include a search of FBI files, TNC driver fingerprints should also be submitted to the FBI or a certified investigative service to search for federal database information on criminal convictions.

**Trade Dress Should be Permanent**

The requirement that TNC vehicles display trade dress when in service (Proposed Decision at 26) is critical. The Airport, law enforcement and other government authorities charged with ensuring public safety would be stymied if TNCs lack any readily apparent insignia. Similarly, members of the public must be able to identify TNC vehicles when they are involved in an accident. But allowing



