

# CALIFORNIA LEGISLATURE

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

March 1, 2018

The Honorable Bob Wieckowski  
Chair, Senate Budget Subcommittee 2  
California State Senate  
Sacramento, CA 95814

The Honorable Richard Bloom  
Chair, Assembly Budget Subcommittee 3  
California State Assembly  
Sacramento, CA 95814

## **RE: Funding for Disability Access Prioritization within the Public Utilities Commission**

Chairs Wieckowski and Bloom,

We ask for augmentation to the 2017-2018 California Public Utilities Commission (CPUC) budget to include approximately \$200,000 – or a value deemed appropriate – to fund two (2) analysts to evaluate disability access concerns in transportation services under CPUC jurisdiction. Currently the CPUC assesses fees on myriad transport operators – railroads, Transportation Network Companies (TNCs), air operators, and pipeline corporations, to name a few – and houses those fees within the PUC Transportation Reimbursement Account (PUCTRA, 0461). The PUCTRA has seen large growth in recent years, principally from the explosion in the TNC sector. Currently, the PUCTRA balance is projected to exceed \$20.2 million in revenue in 2017-2018 *above* its current operating expenditures.<sup>1</sup> This fund imbalance led the CPUC to adjust the fee levied on TNCs earlier this month,<sup>2</sup> while still providing for a surplus in the PUCTRA.

We request an appropriation from the PUCTRA to be used to fund two analysts to evaluate disability access issues within the sectors under CPUC's transportation authority. The CPUC's transportation enforcement branch (TEB) includes a total of 50 authorized positions<sup>3</sup> over three sections: Licensing and Analysis, and two Enforcement sections. According to a recent TEB budget request, the "Analysis Unit writes decisions to approve certificates that require a Commission vote, conducts technical research, and

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<sup>1</sup> See Appendix A in CPUC Resolution M-4831; February 8, 2018;  
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M209/K884/209884603.PDF>

<sup>2</sup> *Ibid.*

<sup>3</sup> Attachment 2; 8660-136-BCP-2017-MR;  
[http://web1a.esd.dof.ca.gov/Documents/bcp/1718/FY1718\\_ORG8660\\_BCP1569.pdf](http://web1a.esd.dof.ca.gov/Documents/bcp/1718/FY1718_ORG8660_BCP1569.pdf)

advises the PUC on transportation policy.”<sup>4</sup>

The CPUC was created as a transportation regulatory body,<sup>5</sup> and most recently established its regulatory oversight of TNCs in 2013<sup>6</sup> via an ongoing rulemaking. In the initial decision adopting the first rules on TNCs, disability access was highlighted as a central issue to consider, with the CPUC noting the need “to ensure that TNCs are accessible to, and do not discriminate against, persons with disabilities.”<sup>7</sup> Further in that decision, the CPUC notes that “it currently has few provisions or protections to ensure equal access for passengers with disabilities under its current TCP [charter party carrier] regulations. Updating any regulations in this area, as found to be needed, may also be something the Commission should consider...”<sup>8</sup>

These two statements seem to suggest the TNC rulemaking brought to the CPUC’s attention disability access issues more broadly, as TNCs are a subset of common carriers. As outlined within the Americans with Disabilities Act (ADA)<sup>9</sup> and §54.1 of the California Civil Code: “individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to ...privileges of all common carriers ...or any other public conveyances or modes of transportation.”<sup>10</sup> The ADA was passed in 1990. The CPUC had previously opened a rulemaking in 1988<sup>11</sup> to examine disability access issues; their decision on that proceeding<sup>12</sup> simply ordered all carriers to comply with the ADA. Twenty-six years later, it is unclear to what level the CPUC has evaluated disability access across their transportation authority. Although CPUC staff note ADA compliance is verified during vehicle licensure, the disabled access requirements for TNCs are unclear.

In the 2013 decision on TNCs,<sup>13</sup> the CPUC adopted accessibility reporting requirements and added transportation access to its list of issues to be considered in subsequent phases of the rulemaking. The question posed – “what regulations should be adopted to assure that the disabled community has access to TNC services?” – has subsequently swung on and off the CPUC rulemaking list throughout the four years of the proceeding’s history.<sup>14</sup> This leaves the impression the CPUC has not prioritized this issue, and lacks the necessary staff to see it through. We ask for an appropriation to ensure the necessary skill is available at the CPUC to expeditiously consider these concerns. Analysts within TEB are tasked with conducting technical research and advising on transportation policy. The issue of ADA compliance as it applies to TNCs, and any necessary changes to other transportation carriers’ ADA compliance, should be within the capability of TEB analysts. We believe two positions are appropriate to evaluate this issue, as ADA compliance impacts all sectors under TEB’s authority.

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<sup>4</sup> Pg. 2; *Ibid.*

<sup>5</sup> The California Railroad Commission in 1911.

<sup>6</sup> R.12-12-011, D. 13-09-045

<sup>7</sup> pg. 54 *Ibid.*

<sup>8</sup> pg. 55, *Ibid.*

<sup>9</sup> Code of Federal Regulations, Title 49, Subtitle A, Part 37

<sup>10</sup> CIV §54.1 (a)

<sup>11</sup> R. 88-03-012

<sup>12</sup> D. 92-12-065

<sup>13</sup> *Supra* 6

<sup>14</sup> Originally listed on the first Scoping Memo on 11-26-2014

(<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M143/K311/143311123.PDF>); removed on the Scoping Memos in 04-28-2015 and 10-26-2016; returned on the 04-07-2017 Scoping Memo, and subsequently bumped to an unknown timeline in the most recent Scoping of 06-12-2017 (<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M190/K174/190174048.PDF> ; pgs. 8-10)

The fact remains that throughout the CPUC's TNC rulemaking, the TNCs continue to operate within California; an operation available to able-bodied Californians, but potentially lacking for disabled Californians. In the past months, our offices have heard numerous complaints from disability advocates claiming services are unavailable or delayed to the point of uselessness.<sup>15</sup> Moreover, the growth in the TNC sector has displaced taxi services in some localities which can directly impact disabled transit. For example, in San Francisco taxis incur a surcharge to supplement paratransit options. The reduction in taxi revenue results in a concomitant loss in overall disabled transit options, over-and-above the on-demand transit inequity.

Disability access to TNCs should be of the highest priority; an equity issue the CPUC and the Legislature cannot ignore. The CPUC has excess – and ongoing – funds collected from the transit sector it oversees. We ask you to appropriate a small percentage of those funds for this urgent purpose, not to predetermine the outcome of the CPUC rulemaking but to ensure the CPUC has the necessary staff to even consider this issue. Such an appropriation is in line with budget requests approved last year for six additional transportation enforcement staff at the CPUC<sup>16</sup> to “strengthen ...and begin a series of changes to rebuild the TEB program.”<sup>17</sup>

Last year the Legislature also moved some CPUC transportation authority to other agencies,<sup>18</sup> in an effort to streamline CPUC transportation duties. The Legislature elected to keep TNCs within CPUC jurisdiction. We ask you to view our request in light of these changes in the CPUC's transportation oversight. Now is the time to prioritize equity issues while the CPUC is rebuilding its program.

We thank you for your consideration of our request.

Sincerely,



Jerry Hill  
Senator, 13th District



Jim Beall  
Senator, 15th District

Cc: Liane Randolph, CPUC Commissioner  
Nick Zanjani, Director, CPUC Consumer Protection and Enforcement Division

<sup>15</sup> A quick check by staff during a peak time showed a disabled vehicle available on a TNC service would take 2 hours to arrive, assuming it showed up at all.

<sup>16</sup> Page 2-40 of Senate Committee on Budget and Fiscal Review 2017 Budget Act Summary;  
<http://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/CompleteReportFinalAction%20ReportASummaryofthe2017BudgetAct.pdf>

<sup>17</sup> Pg. 4 *supra* 3

<sup>18</sup> SB 19 (Hill, Chapter 421, Statutes of 2017)