



**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

**PREHEARING CONFERENCE STATEMENT
FILED ON BEHALF
OF THE
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY**

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The San Francisco Municipal Transportation Agency (SFMTA) submits this Prehearing Conference Statement in accordance with Administrative Law Judge Robert M. Mason III's February 4, 2013 Ruling Setting a Prehearing Conference in Rulemaking 12-12-011.

1. Identification of the specific factual and legal issues that the Commission needs to decide in this case.

The Commission posed two primary questions in its Order Instituting Rulemaking: 1) How should the Commission exercise its existing jurisdiction over transportation services like Uber, Lyft and SideCar? and 2) Are any changes to state statutes or regulations necessary to ensure appropriate regulation of such businesses? (See OIR, p.6.) The SFMTA respectfully suggests that the Commission consider the following legal and factual issues in order to answer these two primary questions:

- a. Is the distinction in state law between taxicabs and charter-party carriers acting as limousines still useful in light of the development of smartphone applications for electronic hailing?
- b. Should the California Legislature amend state law to create a more useful distinction between charter-party limousine service and taxicab service? If so, what is the appropriate distinction and how should the regulation of these services differ?
- c. Are GPS-enabled iPhone and Android mobile devices used to calculate fares for passenger transportation "taxi meters" within the meaning of CPUC General Order 157-4, §3.03?
- d. Are services like Uber, Lyft, SideCar and Tickengo accessible to people who use wheelchairs and to other people with disabilities?
- e. Do the passenger rating systems used by transportation providers like Lyft and SideCar allow drivers to discriminate against potential passengers on the basis of political beliefs, age, race, tipping practices, ethnic origin, neighborhood of residence or disability?
- f. Does the proliferation of unregulated "ridesharing" services like Lyft, SideCar and Tickengo contribute to or reduce traffic congestion in light of other transportation alternatives available to the public?

g. Does the use of "ridesharing" services like Lyft, SideCar and Tickengo contribute to an increase or a decrease in greenhouse gas emissions when compared to the available transportation alternatives?

h. Do municipalities have a legitimate interest in regulating services like SideCar, Lyft and Tickengo to ensure that the proliferation of vehicles employed by these services does not frustrate local or regional traffic management and environmental goals?

i. Do unregulated transportation services like Lyft, SideCar and Tickengo have an unfair competitive advantage over regulated taxicab services such that the unregulated services could destroy local taxi service? If so, does it matter?

j. Will a personal automobile liability policy provide coverage for passenger injuries of property damage when the insured gets into an accident while driving for Lyft, SideCar or Tickengo?

k. Will an excess liability policy like the one purchased by Zimride for its Lyft service provide coverage if the insured driver's personal automobile insurer denies coverage for any reason, including for the reason that the vehicle was being used to transport passengers for a fee?

l. Is the voluntary compliance with self-imposed insurance, driver screening and vehicle safety standards on the part of transportation services like Lyft, SideCar and Tickengo sufficient to protect the public safety? If so, is there a reason that charter party limousine service and taxi service should continue to be subject to safety regulations?

m. Is the rationale for excluding ridesharing from the definition of charter-party carrier consistent with limiting the exclusion to situations in which the ridesharing is incidental to another purpose of the driver? Does the Commission have authority to exempt from regulation as ridesharing services like Lyft SideCar and Tickengo without regard to whether the service is incidental to a driver's planned trip?

n. Is Public Utilities Code §5353(h)'s use of and definition of the term "profit" limited to vanpool vehicles because carpooling to work in smaller vehicles is generally done in a vehicle owned by a member of the carpool, while vanpool vehicles, which carry in excess of 15 passengers, may be purchased by the employer or a public entity who charges for transportation in order to recoup the cost of the vehicle?

o. Would Commission regulation of services like Uber, SideCar, Lyft and Tickengo conflict with federal and state policies prohibiting federal or state regulation of information service providers?

To the extent that the Commission deems any of the questions listed above to be outside of the parameters of the preliminary scoping memo contained in the Order Instituting Rulemaking, the SFMTA requests that they be included in the final scoping memo.

2. *What material facts are in dispute?*

Not applicable in the context of this semi-legislative proceeding.

3. *The status of settlement discussions, if any.*

Not applicable in the context of this semi-legislative proceeding.

4. *Whether mediation conducted by a neutral Administrative Law Judge (ALJ), other than the assigned ALJ, would be helpful in resolving the disputed issues.*

Not applicable in the context of this semi-legislative proceeding.

5. *Whether any discovery is needed and the anticipated date that discovery will be completed.*

The SFMTA recommends that the Commission require Lyft, SideCar and Tickengo to provide the Commission with the following information to assist the Commission in answering the questions set forth in paragraph 1, above:

- a. The number of trips for which passengers have paid the suggested donation, less than the suggested donation, nothing, or more than the suggested donation.
- b. The number of passengers whose eligibility for service has been limited after the passenger declined to pay a suggested donation or other fare, or paid less than the suggested amount.
- c. The number of police reports filed by passengers with respect to any incidents that occurred during transportation provided by a driver affiliated with your service.
- d. The number of vehicles deployed by your service during the month of January, 2013.
- e. The number of rides provided by your service during the month of January, 2013.

f. The number of electronic hails for which no service was provided during the month of January, 2013.

g. The number of potential passengers registered with your communication platform during the month of January, 2013.

h. The number of times that an insurance carrier has denied coverage for an accident or other incident that occurred while a driver was providing transportation provided through your communication platform.

i. Your complete terms of service for passengers and drivers.

j. All language used in advertising your services to drivers or passengers in any format.

k. Your complete driver training materials.

l. A copy of any excess liability policy or guarantee that provides liability coverage to passengers, drivers or other members of the public that are injured or whose property is damaged during an accident or other injury that occurs while a driver affiliated with your service is providing transportation arranged through your service.

m. A copy of all passenger or potential passenger complaints you received during the month of January, 2013.

n. Any evidence of vehicle inspections conducted by you or your contractor or by your drivers.

6. *Whether hearings are needed.*

Although this Rulemaking is a quasi-legislative rather than a quasi-judicial proceeding, the SFMTA recommends that the ALJ conduct a hearing to allow the parties and other members of the public to present testimony.

7. *If the parties believe that a hearing is needed, the estimated number of days required, and the number of witnesses that each side plans to present at the hearing.*

The SFMTA recommends that the ALJ conduct two to three days of hearings.

8. *A proposed schedule for this case, including dates for completing discovery, filing prepared written testimony, and for hearing.*

The SFMTA requests that the ALJ include in the schedule for this Rulemaking proceeding an opportunity for all parties to file final comments after all workshops, hearings or other proceedings have been conducted and all discovery or data requests have been answered.

Dated: February 13, 2013

Respectfully submitted,

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