

**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 April 3, 2019)

**OPENING COMMENTS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION  
AGENCY, SAN FRANCISCO TRANSPORTATION AUTHORITY, AND SAN FRANCISCO  
MAYOR'S OFFICE ON DISABILITY TO ORDER INSTITUTING RULEMAKING 19-02-012**

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## INTRODUCTION

In accordance with Rule 6.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the San Francisco Municipal Transportation Agency (“SFMTA”), the San Francisco Transportation Authority (“SFTA”), and the Mayor’s Office on Disability (“MOD”), collectively “San Francisco,” submits comments to the Order Instituting Rulemaking 19-02-012 (“Rulemaking”). San Francisco understands that the Commission is only seeking comments regarding Items 1 and 2 set forth on pages 8 through 12 of the Commission’s Order issued on March 4, 2019 at the present time.

## QUESTIONS PRESENTED

1. Establishment of Access Fund

a. Amount

- i. What are the appropriate per-trip fee amount(s) to be collected from each TNC for trips completed using the TNC’s online-enabled application or platform?

The CPUC should initially collect a minimum fee of \$0.15 for every trip originating in the State of California. If a non-accessible trip (meaning not provided in a wheelchair accessible vehicle to a wheelchair user) occurs anywhere in California, then a fee should be collected to fund equivalent service for wheelchair users in the same area. For guidance, the Commission can look to three cities (Seattle, Chicago, and Portland) that use fees collected for TNC trips to support wheelchair accessible service. Seattle, Washington charges \$0.24 per trip, \$0.10 of which goes to the Wheelchair Accessible Services fund. Chicago, Illinois charges \$0.67 per trip, \$0.10 of which goes to a vehicle accessibility fund. Portland, Oregon charges \$0.50 per trip, some of which pays for enforcement and the remaining budget goes to pay incentives to companies and drivers to operate wheelchair accessible vehicles. Each of these cities are dense urban environments where it may take fewer resources to provide wheelchair accessible service. Since the Commission is implementing statewide legislation, it may require more resources to provide equivalent service in urban, suburban, and rural settings where TNC service is provided. Therefore, the Commission should authorize a surcharge not less than \$0.15.

- ii. Should the Commission initially authorize the minimum 0.05 dollars (\$0.05) fee?

Based on our experience administering incentives for wheelchair accessible vehicles, we recommend the Commission should initially

authorize a fee higher than the minimum to support start-up costs. Based on similar fees collected in the United States, we recommend a minimum initial fee of \$0.15 per trip.

- iii. Should the fee be collected for all types of passenger charter-party carrier service trips, including trips provided by transportation charter-party (TCP) carriers (e.g. UberBLACK), available on TNC apps?

Yes, a fee should be collected for any type of trip provided by a TCP carrier available on TNC apps because the intent of the legislation is for all TNC services to be accessible to wheelchair users. To be exempt from a fee, a service will need to meet the WAV service level requirement established by the Commission.

- iv. How should the fee be presented to customers?

We recommend the fee should be presented similar to how other fees are currently presented to the consumer. Existing fees are included in a customer's bill under Tolls, Charges and Fee. The carrier should provide a description of the fee on its website along with the description of other fees. The fee should be presented in a way that is not stigmatizing to persons with disabilities.

- v. Should the Commission consider different program requirements (or different fee levels) for TNCs according to the number of trips they provide?

No, the Commission should not consider different program requirements or different fee levels for TNCs according to the number of trips they provide. The fee schedule should only be eliminated if a carrier is providing equivalent service (see 2b). All carriers can apply for the use of these funds.

- vi. On what dates should the quarterly fees collected from TNCs and deposited into the Access Fund be due to the Commission?

We recommend the fees be collected promptly, due by the 10<sup>th</sup> day of the month following the end of the quarter.

- vii. What are the steps required to implement the fee no later than July 1, 2019, as required by Pub. Util. Code § 5440(a)(1)(B)(i)?

By July 1, 2019, the Commission should develop a description of the program for the public that does not stigmatize persons with disabilities. This description should be shared with TNCs, including information on how consumers can provide feedback to the Commission during the program. By July 1, 2019, TNCs will also need to modify their fee structure and billing to reflect the fee determined by the Commission.

b. Geographic Area.

- i. Within what geographic area(s) where TNC trips originate should per-trip fees be charged to customers? For example, should the geographic area be set at the level of each county where a TNC offers service, or another area? Should all areas of the State be included in the geographic area?

A fee should be collected for every non-accessible trip (a trip not provided in a wheelchair accessible vehicle with a lift or ramp to accommodate wheelchair users) that originates in the State of California. It is important that the fee be collected in all areas of the state, without excluding any areas where non-accessible service is currently being offered or will potentially be provided in the future. The purpose of SB 1376 (Hill), as well as the Americans with Disabilities Act (ADA), is to make sure that people with disabilities have the same rights and opportunities as everyone else. Not collecting funds in all areas of the state would exclude persons with disabilities who could otherwise benefit from access to TNCs or equivalent demand responsive service provided by “access providers.”

For collection and accounting purposes, geographic areas should be divided to reflect boundaries and response times that make sense to consumers. For example, a consumer in San Francisco that requests a TNC will expect a response in the amount of time typical for the City and not what is typical of response times in more suburban areas. For this reason, as a default, we believe the geographic areas should be set at the county level.

- ii. What geographic area(s) should be included in the on-demand transportation programs or partnerships to be funded by the Access Fund? For example, should the moneys in the Access Fund be available to programs or partnerships in all areas of the state, or should the moneys be available only in targeted areas?

The Access Fund should provide funds to programs or partnerships anywhere where TNC service is available but not accessible on an equivalent level by passengers who use wheelchairs. We recommend the Commission not exclude any areas of the state, either where non-accessible service is currently being offered or where it may be provided in the future, as this would exclude persons with disabilities who could otherwise benefit from access to TNCs. The purpose of SB 1376 (Hill), as well as the Americans with Disabilities Act (ADA), is to make sure that people with disabilities have the same rights and opportunities as everyone else. Not distributing funds in all areas of the state where funds have accrued would exclude persons with disabilities who could otherwise benefit from access to TNCs or equivalent demand responsive service provided by “access providers.”

Metropolitan Planning Organizations (MPOs) and Regional Transportation Planning Areas (RTPAs) represent all geographic areas of California. Each of these entities has established planning activities concerning transportation and have developed criteria and policies to prioritize grant applications from agencies providing transportation services with public funding. The Commission can look to this experience to implement and administer the Access for All Fund in each geographic area.

- iii. What publicly available quantitative information can be used to determine WAV supply and demand in specific geographic areas? What additional data needs exist to determine WAV supply and demand? Should programs or partnerships be required to submit and/or track data regarding supply and demand as part of their funding applications to the Access Fund?

The Commission collects data on all TNC trips in California. While not all data provided by TNCs to the Commission is available to the public, the Commission does have access to these data to help consider demand in specific geographic areas, specifically general availability and response times. As transit agencies and Uber have acknowledged in the initial workshops hosted by the Commission, demand for WAV service will reflect the demand for TNCs demonstrated by the general public, both geographically and temporally. Therefore, understanding the current usage of TNCs will best inform our understanding of WAV supply and demand.

We understand that this question may be directed towards the TNCs, but we ask the Commission to recognize that ridership will increase because of latent demand and additional data that identifies the demand for WAV services will become more apparent throughout the life of the program. TNC services originally entered the market without fully understanding demand, which has increased over time. This same pattern would also be expected for wheelchair users and others needing wheelchair accessible service. Latent demand exists because this type of service is not available in most of the state. As a result, potential customers have not been able to demonstrate their demand. A much clearer picture will emerge once services are operational and reliable and data on actual TNC trips, accessible or not, will help to paint this picture. This is why we strongly urge the Commission to adopt and implement the recommendations made by the San Francisco County Transportation Authority (SFCTA) in their opening comments on the Proposed Data Reporting Requirements for TNCs (R.12-12-011). Analysis by the SFCTA (in Table 2 of their comments) shows that of the 17 data items required to implement Senate Bill 1376, only 4 could be derived from the data in the CPUC's proposed data reporting requirements, and thus the proposed requirements are insufficient to implement Senate Bill 1376. The Commission should accept and make available to planning agencies detailed data similar to the requirements proposed by the San Francisco County Transportation Authority in their opening comments:

- **Trip records.** This should include a unique vehicle identification number, detailed origin and destination information; timestamps and locations of the beginning and end of phases I, II, and III; vehicle miles traveled in phases I, II, and III; fare; party size; whether the vehicle is wheelchair accessible, whether the passenger has a wheelchair, and vehicle type (zero-emissions, non-zero-emissions)
- **Telemetry records.** This should include a unique vehicle identification number, vehicle type (zero-emissions, non-zero-emissions), location (lat/lon), timestamp, acceleration, status (phase I, II, III), and number of passengers at 1-second resolution
- **Cancelled or declined trip records.** This should include a driver identification number, timestamp, driver location, requested pick-up location, requested drop-off location, wheelchair requirements of the requestor
- **Driver information.** This should include insurance status, background check status, and safety/accident data.

Yes, data should be collected to understand how well the industry is providing equivalent service to wheelchair users. The Commission should accept and make available to planning agencies the same data identified in the response to 1.iii.b.

2) Offsets or Exemptions from Remittances to Access Fund

a. TNC Investment Offsets. Pub. Util. Code § 5440.5(a)(1)(B)(ii) allows for offsets against quarterly Access Fund payments for “amounts spent by the TNC during that quarter to improve WAV service on its online-enabled application or platform for each geographic area and thereby reduce the amount required to be remitted to the commission.” In order to obtain an offset, a TNC, at a minimum, shall “demonstrate, in the geographic area, the presence and availability of drivers with WAVs on its online-enabled application or platform, improved level of service, including reasonable response times, due to those investments for WAV service compared to the previous quarter, efforts undertaken to publicize and promote available WAV services to disability communities, and a full accounting of funds expended.”

i. What should be the process and schedule for developing rules regarding offsets, consistent with the statute’s requirement that the TNC demonstrate that the above conditions are present?

The Commission should develop rules regarding the offsets within the first year of the program - by June 30, 2020. Consistent with the legislation, we believe the working group and workshops are essential to the process for developing the rules. We recommend that proposals should first be developed by the working group and then reviewed and discussed in public workshops before the Commission issues a decision.

The process should result in clear and measurable benchmarks that are verifiable by the Commission and transparent to the public and accurately reflect the TNCs’ performance. For example, response time benchmarks should be reflected in percentiles rather than averages. The process should also include establishing an ongoing working group or advisory body that represents and responds to consumers and the community. The CPUC should track WAV complaints and make it easy for consumers to provide feedback, including setting up a telephone hotline and email address where complaints can be submitted.

ii. What types of investments by TNCs can be counted for purposes of offsetting the amounts due to the Access Fund?

We recommend that TNCs may offset the amounts due to the Access Fund any cost of providing wheelchair accessible service in excess of providing the same trip in a non-accessible vehicle. These costs may include vehicle purchases, driver and vehicle incentive payments, driver and dispatcher training costs, and contract fees with a third-party provider beyond the net fare paid to the driver partner.

iii. Should offsets be allowed effective July 1, 2019, or should offsets be deferred until program implementation? If the former, discuss how it is possible for TNCs to make the required showing in time for such action.

Offsets should be deferred until program implementation. If TNCs are providing wheelchair accessible service on July 1, 2019, they should be

eligible to apply for retroactive payments once fees are collected, offset requirements have been determined, and the TNC has demonstrated a track record of meeting preliminary benchmarks that indicate they are providing the appropriate level of service during the first year of the program (July 1, 2019 – June 30, 2020).

- iv. How should offset requests be presented to the Commission and parties? For example, should each TNC requesting an offset be required to submit a letter to Commission staff, or other method?

Every TNC requesting an offset should submit publicly available reports based on the criteria developed in 2.a.i. and 2.a.ii. These reports should be supported by publicly available quantifiable data that can verify whether a TNC has met developed benchmarks or criteria, including:

- **Trip records.** This should include a unique vehicle identification number, detailed origin and destination information; timestamps and locations of the beginning and end of phases I, II, and III; vehicle miles traveled in phases I, II, and III; fare; party size; whether the vehicle is wheelchair accessible, whether the passenger has a wheelchair, and vehicle type (zero-emissions, non-zero-emissions)
- **Telemetry records.** This should include a unique vehicle identification number, vehicle type (zero-emissions, non-zero-emissions), location (lat/lon), timestamp, acceleration, status (phase I, II, III), and number of passengers at 1-second resolution
- **Cancelled or declined trip records.** This should include a driver identification number, timestamp, driver location, requested pick-up location, requested drop-off location, wheelchair requirements of the requestor
- **Driver information.** This should include insurance status, background check status, and safety/accident data.

Reports should be submitted by geographic area and should demonstrate, at a minimum, the presence and availability of drivers with WAVs on its online-enabled application or platform, an improved level of service, including reasonable response times that progressively move towards the level required for an exemption (see response to 2.b.i. for examples of phased benchmarks that demonstrate progressive improvement), and a full accounting of funds expended. These reports should be provided in a standard template that lists each benchmark developed as part of 2.a.i. and 2.a.ii. The report's benchmarks should be clear, measurable, verifiable by planning agencies experienced in evaluating accessible operations, and transparent to the public in a way that accurately reflect the TNCs' performance. For example, response time benchmarks should be reflected in percentiles rather than averages.

This report can be accompanied by a narrative that describes each TNC's efforts, including efforts undertaken to publicize and promote available WAV services to disability communities and how the reported expenses and investments in WAV service compared improved the level of wheelchair accessible service compared to the previous quarter.

b. Exemptions.

i. What WAV service level requirements should be established?

Service level requirements should reflect an equivalent level of service to what is currently provided to riders who do not require wheelchair accessible vehicles.

1. What quantitative and publicly available source(s) of data should the Commission use to set a standard for WAV service levels? Can the available sources be used to set a standard even if they are not specific to a geographic area in California?

To determine the equivalent levels of service, the Commission should utilize the data it currently collects from TNCs to establish percentiles that reflect typical response times in each geographic area. To aid the working group and workshops in their discussion without sharing trip level data, the Commission could provide a heatmap that displays the selected geographic areas and the 80<sup>th</sup> percentile of response times for each TNC in each area. As an example, the legend would identify areas with 80% of response times under 5 minutes (green), 5 minutes - under 15 minutes (yellow), 15 minutes - under 30 minutes (orange), 30 minutes – under 60 minutes (red), and 60 minutes or over (purple).

The Commission should consider WAV service level requirements established by other programs, which include phased levels of compliance dependent on how mature the program is. One example is New York City, which requires the following:

June 2019: Serve 60% of trips in 15 minutes or less and 90% of trips in 30 minutes or less

June 2020: Serve 80% of trips in 15 minutes or less and 90% of trips in 30 minutes or less

June 2021: Serve 80% of trips in 10 minutes or less and 90% of trips in 15 minutes or less

Additionally, all WAV drivers should be required to undergo training in wheelchair securement and disability sensitivity (knowledge of serving persons with various disability types).

ii. What is the response time for 80 percent of WAV trips requested via the TNC's online-enabled application or platform that the Commission should establish?

Percentiles define the maximum value for a percentage of the overall measurements. If the 80th percentile for the TNC response time in San Francisco is ten minutes, this means that 80% of all WAV response times should be less than or equal to ten minutes. As mentioned in the response to 2.b.i., TNCs could gradually reach this goal to demonstrate progress and eligibility for offsets.

iii. Should a uniform response time be applied statewide, or should appropriate response times differ by geographic location?



Response times should differ by geographic locations and be based upon existing response times for the general public.

- iv. Should TNCs be required to meet all the WAV service level requirements for a specific amount of time to receive exemption from payment of fees?

Yes, TNCs should be required to demonstrate their service is stable and sustainable. TNCs should meet the 80% WAV service level requirements established for a minimum of four consistent quarters (twelve months) before being considered for an exemption. For example, in an area with a service goal of 80% of response times less than or equal to ten minutes, this should be true or better (over 80%) for response times each quarter for one year.

- v. Should TNCs be required to meet the WAV service level requirement for a certain period of time before receiving any exemption?

Yes, TNCs should be required to demonstrate their service is stable and sustainable. TNCs should meet the 80% WAV service level requirements established for a minimum of four consistent quarters (twelve months) before being considered for an exemption. For example, in an area with a service goal of 80% of response times less than or equal to ten minutes, this should be true or better (over 80%) for response times each quarter for one year.

- vi. In what form should TNCs submit their reports about performance compared to the service level standard over a certain period of time? Should the reports be public?

We recommend that TNC reports be provided in a uniform Excel template. Uniformity will ensure that all TNCs are held to the same standards.

Reports should be made public to ensure accountability to the stakeholders who rely on this service and to the consumers who will pay the fee.

Reporting requirements, including benchmarks should be clear and simple to guarantee transparency of the program. Transparency to the public, who is funding this program, should be non-negotiable.

## CONCLUSION

For the reasons set forth herein, we strongly urge the Commission to consider San Francisco's and other public entities responses to Items 1 and 2 set forth on pages 8 through 12 of the Commission's Order issued on March 4, 2019.

Dated: April 3, 2019

Respectfully submitted,

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