

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking on Regulations
Relating to Passenger Carriers, Ridesharing,
And New Online Enabled Transportation
Services

R.12-12-011
(Filed December 20, 2012)

**RESPONSE OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY, SAN
FRANCISCO CITY ATTORNEY'S OFFICE, SAN FRANCISCO INTERNATIONAL
AIRPORT, AND SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY TO THE
APPLICATIONS FOR REHEARING OF DECISION 20-03-014**

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I. RESPONSE

Pursuant to Rule 16.1(d) of the Commission Rules of Practice and Procedure, the San Francisco Municipal Transportation Agency, the San Francisco City Attorney’s Office, and the San Francisco International Airport, (collectively “the City”), and the San Francisco County Transportation Authority (together, the “City and County”) submit this Response to the Applications for Rehearing of Decision 20-03-014 filed by Lyft and Uber on April 15, 2020.

After years of deliberation, multiple scoping memos, and numerous comments from parties on whether and how TNC data should be shared with the public, the Commission issued Decision 20-03-014 (the “Decision”) on March 16, 2020. The Decision brought the Commission’s treatment of TNC data in conformity with the mandates of the California Constitution, the California Public Records Act (“CPRA”), and the Commission’s own General Order 66-D. Although parties disagreed on the policy that might be served by sharing the TNC data, the law is clear – regulatory reports should be considered public documents, unless there is an applicable narrowly construed exemption under the CPRA. The City and County has consistently urged the Commission to comply with the foundational concepts of open government, and was pleased to see that result in the Decision.

Rule 16.1(c) of the Commission’s Rules of Practice and Procedure requires that any application for rehearing to state the grounds on which the applicant considers a decision to be unlawful or erroneous. The application must include specific references to the record and law. The purpose of an application for rehearing “is to alert the Commission of any legal error so that the Commission may correct it.”¹

Here, both TNCs have failed to meet that burden because the arguments presented by Lyft and Uber do not identify any legal error that warrants granting their application for rehearing. At best, their arguments amount to unsupported assertions of legal error, disagreement over policy, implementation of that policy, and speculation.

For example, Lyft asserts that the Decision “unexpectedly adopts a ‘new protocol’” without sufficient notice.² This cannot be further from the truth. Since at least 2017, the Commission has

¹ Rule 16.1(c) of the Commission’s Rule of Practice and Procedure.

² Lyft Application for Rehearing at p. 4.

sought comment on how the Commission might make TNC data public, and the most recent Assigned Commissioner Scoping Ruling from October 25, 2019, specifically asked how General Order 66-D might be applied to TNC data.

Similarly, both TNCs oppose the requirement to file a motion for confidential treatment 90 days before the annual reports are due.³ The TNCs describe difficulties in submitting the motion before the reports are actually due. While there may be issues related to implementation, these are not legal errors.

Lastly, both TNCs also argue that the Decision misapplies the analysis of what constitutes private personal information or trade secret.⁴ This is pure conjecture on the part of the TNCs. A determination as to whether a report contains confidential information will be made once the TNCs submit the accompanying motion. A determination prior to that time is premature. As the Decision states:

The Commission rejects each of Uber's arguments. Whether or not the TNC annual reports contain confidential personal information and/or trade secret information are issues that the Commission will address once Uber (and every other TNC that wishes to shield all or portions of its annual reports from public review) files the requisite motion for treatment of confidentiality in the manner adopted by this decision.

Put simply, the TNCs have failed to carry their burden of showing any actionable basis for granting an application for rehearing.

³ Lyft Application for Rehearing at p. 9; Uber Application for Rehearing at p. 12.

⁴ Lyft Application for Rehearing at p. 18; Uber Application for Rehearing at p. 7.

II. CONCLUSION

The only legal error would be to allow the TNCs to continue to file their annual reports confidentially without complying with the mandates of the Constitution, California Public Records Act, and the Commission's own General Order 66-D.

Dated: April 30, 2020

Respectfully submitted,

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By: _____ /s/
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On behalf of:
THE, SAN FRANCISCO MUNICIPAL
TRANSPORTATION AUTHORITY, SAN
FRANCISCO CITY ATTORNEY'S OFFICE,
SAN FRANCISCO INTERNATIONAL AIRPORT,
AND SAN FRANCISCO COUNTY
TRANSPORTATION AUTHORITY