

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

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

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

**JOINT OPENING COMMENTS OF THE SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY, SAN FRANCISCO INTERNATIONAL AIRPORT, AND
SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY ON THE PROPOSED
DECISION REQUIRING TRANSPORTATION NETWORK COMPANIES TO SUBMIT
THEIR ANNUAL REPORTS FOR THE YEARS 2014-2019 TO THE COMMISSION WITH
LIMITED REDACTIONS**

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Dated: October 20, 2022

Pursuant to California Public Utilities Commission Rule of Practice and Procedure 14.3(a), the San Francisco Municipal Transportation Agency and the San Francisco International Airport, (collectively “the City”), and the San Francisco County Transportation Authority (together, the “City and County”) submit these Joint Opening Comments on the Proposed Decision Requiring Transportation Network Companies to Submit Their Annual Reports for the Years 2014-2019 to the Commission with Limited Redactions (the “Proposed Decision”) filed by the California Public Utilities Commission (the “Commission” or “CPUC”) on September 30, 2022.

I. INTRODUCTION

The City and County support the Proposed Decision and reserve the right to respond to the opening comments submitted by other parties in this proceeding. The Proposed Decision follows what is becoming a long line of decisions and rulings in this proceeding which have found that the Transportation Network Companies (“TNCs”) have failed to carry their burden of proving that the balance of trip data at issue in the Annual Reports is exempt from disclosure and which have upheld the public’s right to access the data in the Annual Reports.¹ The City and County applauds this newest addition to the line of decisions and rulings upholding the people’s right of access and support the consistency with which the Commission has addressed the arguments repeatedly advanced by the TNCs to shield the data in the Annual Reports from disclosure. The City and County urge the Commission to adopt the Proposed Decision and to adopt the minor recommended changes discussed below.

¹ Proposed Decision, at 16-22, 105-107; Ruling on Uber Technologies, Inc.’s and Lyft’s Motion for Confidential Treatment of Certain Information in their 2020 Annual Reports, issued on December 21, 2020 (“2020 Confidentiality Ruling”); Ruling on the Motions of Uber Technologies, Inc., Lyft, Inc., HopSkipDrive, Inc., and Nomad Transit, LLC for Confidential Treatment of Portions of their 2021 Annual Transportation Network Company Reports, issued on November 24, 2021 (“2021 Confidentiality Ruling”); Decision Denying Appeal of Lyft, Inc. Re: Ruling Denying, In Part, Motions by Uber Technologies, Inc. and Lyft, Inc. for Confidential Treatment of Certain Information in their 2020 Annual Reports, issued on May 6, 2022 (“Decision Denying Appeal of Lyft”).

II. DISCUSSION

A. **The Proposed Decision Should be Amended to Reverse the Order in which the 2014-2019 Annual Reports are Submitted by the TNCs.**

The City and County appreciate the schedule for disclosure that the Proposed Decision provides for the submission of the 2014-2019 Annual Reports.² However, we would recommend reversing the order in which the retroactive reports are submitted, so that the public receives the more recent year's report first.³ More recent reports are of greater public interest and policy relevance, and can be used to evaluate recent trends. In total it will be 18 months after the decision is adopted for all of the reports to be released. This will create a gap in the record during that interim period unless the order in which the reports are required to be submitted is reversed. For this reason, the City and County respectfully request that the order in which the 2014-2019 Annual Reports are submitted by the TNCs to the Commission be reversed, with the schedule starting with the 2019 Annual Reports.

B. **The Proposed Decision Should Clarify that the Annual Reports Should Be Made Available to the Public on the Commission Website.**

The City and County encourage all efforts and mechanisms that support the prompt and efficient release of the Annual Reports. To this end, the City and County recommend that the Commission clarify that the public versions of TNC Annual Reports can be made directly available on the Commission website. Uploading the Annual Reports to Commission website instead of requiring the public to submit duplicative public records requests would increase the efficiency with which the public receive the Annual Reports and would reduce administrative burden for Commission staff. Further, making the Annual Reports publicly available on the Commission website is consistent with how the Commission provides required reporting data to the public in this proceeding and in related proceedings. For instance, required Autonomous Vehicle ("AV") quarterly reporting data is available directly on the Commission website.⁴ As is the data submitted by TNCs in support of their advice

² Proposed Decision, at 107.

³ The City and County's recommended changes to the Proposed Decision are attached in Appendix A.

⁴ Quarterly AV Deployed and Pilot Reports are available at: <https://www.cpuc.ca.gov/regulatory-services/licensing/transportation-licensing-and-analysis-branch/autonomous-vehicle-programs/quarterly-reporting>.

letters in the Access for All proceeding, R-19-02-012.⁵ The City and County strongly recommend that release of the Annual Reports follow the practice in the aforementioned contexts, and that the Proposed Decision be modified to clarify that the Consumer Protection and Enforcement Division staff should post the Annual Reports on the Commission’s website.

III. CONCLUSION

As stated above, prior rulings issued in this proceeding, notably the 2020 and 2021 Confidentiality Rulings, have found the TNC’s confidentiality arguments largely unavailing, and have upheld the public disclosure of the reports under D.20-03-014, subject to limited redactions. Yet, due to the continued pressing of claims⁶ which have been comprehensively considered and repeatedly rejected by the assigned Administrative Law Judge and the Commission,⁷ the public has yet to gain access to all of the Annual Report data which the Commission has ruled the public entitled.⁸ In order to serve the legitimate public interests which have been well-documented in this proceeding,⁹ the City and County urge the Commission adopt the Proposed Decision with the City and County’s recommended changes and to deal swiftly with any appeals or other efforts which seek to block the decision’s effect.

⁵ TNC Access for All Advice Letter Data is available at: <https://www.cpuc.ca.gov/regulatory-services/licensing/transportation-licensing-and-analysis-branch/transportation-network-companies/tnc-accessibility-for-persons-with-disabilities-program/tnc---access-advice-letter-status>

⁶ See Appeal of Lyft, Inc. Re: 2020 Confidentiality Ruling, filed on March 28, 2021; Lyft, Inc.’s Application for Rehearing of Decision Denying Appeal of Lyft, filed on May 6, 2022; Lyft, Inc.’s Emergency Motion for Stay of Decision Denying Appeal of Lyft, filed on May 6, 2022; Appeal of Lyft Inc. Re: 2021 Confidentiality Ruling, filed on July 7, 2022.

⁷ See Decision on Data Confidentiality Issues Track 3, issued on March 16, 2020 (“D.20-03-014”); 2020 Confidentiality Ruling; 2021 Confidentiality Ruling; Decision Denying Appeal of Lyft

⁸ Three of the four TNC Annual Reports released to the San Francisco County Transportation Agency by the Commission pursuant to Public Records Act Requests were substantially incomplete. Lyft’s 2020 and 2021 Annual Reports and Uber’s 2021 Annual Report are missing critical trip and public safety incident information including time and location; vehicle make, model, and year; fare paid; and miles driven. Lyft’s 2020 “Requests Accepted” report, for example, contains only 26% of the fields identified in the 2020 Confidentiality Ruling as required public fields.

⁹ See, e.g., Proposed Decision, at 21-22.

Dated: October 20, 2022

Respectfully submitted,

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On behalf of: THE, SAN FRANCISCO MUNICIPAL
TRANSPORTATION AUTHORITY, SAN
FRANCISCO INTERNATIONAL AIRPORT, AND
SAN FRANCISCO COUNTY TRANSPORTATION
AUTHORITY

Appendix A

The City and County's recommends the following changes to the Proposed Decision.

Additions are in red, and deletions are struck through.

Replace the table on page 103 and the table on page 107, ordering paragraph 1 as follows:

Document	Year	Due Date for Submission to the Commission
TNC Annual Report	2014 2019	90 days after issuance of this decision
TNC Annual Report	2015 2018	90 days after submittal of the 2014 2019 Annual Reports
TNC Annual Report	2016 2017	90 days after submittal of the 2015 2018 Annual Reports
TNC Annual Report	2017 2016	90 days after submittal of the 2016 2017 Annual Reports
TNC Annual Report	2018 2015	90 days after submittal of the 2017 2016 Annual Reports
TNC Annual Report	2019 2014	90 days after submittal of the 2018 2015 Annual Reports

Add the following to page 109, ordering paragraph 5:

5. The public versions of the Annual Reports shall be posted by the Consumer Protection and Enforcement Division on the Commission's website.