BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ride Sharing, and New Online-Enabled Transportation Services	R. 12-12-011 (Filed December 20, 2012)

FINAL OPENING COMMENTS OF ERIDESHARE INC. ON THE PROPOSED DECISION OF COMMISSIONER PEEVEY ADOPTING RULES AND REGULATIONS TO PROTECT PUBLIC SAFETY WHILE ALLOWING NEW ENTRANTS TO THE TRANSPORTATION INDUSTRY

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Introduction

Because of the overbroad definition of TNCs, the proposed ruling threatens online-enabled facilitation of exempt ridesharing.

Incompatibility of TNC Definition with Rideshare Exemption

According to the proposed ruling, "TNCs are not just Lyft, SideCar, InstantCab, and UberX. A TNC is defined as a company or organization, operating in California that provides transportation services using an online-enabled platform to connect passengers with drivers using their personal, non-commercial, vehicles."

Elsewhere, it states, "Section 5353(h) provides two opportunities to qualify for the rideshare exemption: either the transportation must have a common work-related purpose; or the transportation must be incidental to another purpose of the driver. TNCs fail to satisfy either of these requirements."

These statements are incompatible.

eRideShare.com has operated in California since 1999 (and has about **50,000 members in California**). eRideShare provides "an online-enabled platform to connect passengers with drivers using their personal, non-commercial, vehicles." However, eRideShare has been dedicated since 1999 to providing a transportation platform for "work-related purposes" and for travel "incidental to another purpose of the driver" through our commuter and travel rideshare matching services. **It is simply not true that TNCs as defined must fail to satisfy either of these requirements.** In fact eRideShare.com, and the forthcoming eRideShare mobile app, do provide matching services for exempt transportation. It is very troubling that according to the letter of this ruling, **eRideShare.com** may be forced to discontinue service in California (where it **is the leading statewide provider of commuter carpool matching**), because we are not in a position to comply with the stringent requirements of this proposed ruling: "require criminal background checks for each driver, establish a

driver training program, implement a zero-tolerance policy on drugs and alcohol, and require an insurance policy that is more stringent than our current requirement for limousines", plus vehicle inspections, etc. **eRideShare is clearly an exempt provider** according to Section 5353(h), yet according to the language of this proposed ruling, would be prevented from providing its valuable and publicly beneficial services.

The proposed ruling includes this statement: "In our review of the filings and supporting documents, there is no evidence that TNC drivers have a common work-related or incidental purpose with their passengers. Instead, drivers transport passengers entirely at the convenience of the passenger."

It is not true that there have been no assertions of common work-related or incidental purpose for TNC drivers. It is only true with regard to Lyft, SideCar, and Uber, et al.

eRideShare's reply comments, filed February 13, 2013, read in part, "Lyft and Sidecar are not ridesharing services. Ridesharing is the sharing of rides, i.e. shared transportation of people who are going in the same direction anyway. If that function were easily measured, the court's judgment would be easily rendered and everyone could go home. However, most ridesharing arrangements involve some compromise or concession to the needs of the rider. Park and ride lots, for example, are not located at anyone's home and may not be in a direct line between home and work, but they represent a compromise that obviously has been found to be in the public interest. Carpools commonly may either take turns driving and picking up riders at their homes, or else have a regular driver who collects payments from the other members of the carpool. Cross-country travel boards, of the kind that have proliferated for decades on college campuses and are now offered by Craigslist, Zimride, and eRideShare, commonly transport passengers for trips that may be somewhat out of the way for the driver, but defray the cost of the trip for the driver. Any proposed regulation of ridesharing should acknowledge these realities."

The current collision of regulation and new technology requires the CPUC to distinguish between providers that are exempt and providers that are not exempt. This is not what the proposed ruling does. Instead it uses a broad brush to tar all organizations that use technology to match rider and driver as non-exempt. This ruling is deeply hostile to exempt ridesharing. **Indeed, how are exempt ridesharers to connect except through online-enabled platforms?** Is the ruling to ban the ridesharing connections that form through Twitter, Facebook, Craigslist, etc., and thus only permit people to form carpools through Post-Its on bulletin boards in lunchrooms and grocery stores? **Why is the medium being regulated instead of the activity?**

The proposed ruling is intended to regulate **Lyft, Uber, SideCar** etc. as charter party passenger carriers. This is entirely reasonable because they **are charter party passenger carriers, providing rides on demand**. However, by only taking note of non-exempt services, and then considering them to represent the entire class of online-enabled transportation platforms, the proposed ruling starts with the conclusion and works backwards. But **eRideShare is also a party to this proceeding. eRideShare is not a charter party passenger carrier, but due to the overbroad definition of the proposed ruling, will be regulated as such and may be driven out of California.**

Removing cars from the roads by sharing rides serves a wide variety of public interests, including:

- reduced traffic, with faster rush-hour travel as a result
- reduced need for road construction and parking spaces
- reduced pollution
- reduced greenhouse gas emissions. The United States contributes 25% of the world's greenhouse gas emissions from fossil fuels with 5% of the population, and transportation constitutes about 33% of US greenhouse gas emissions from fossil fuels.

- reduced dependence on imported oil. The United States imported about $453.5bn of oil in 2011.
- reduced travel expenses. Transportation is a much larger share of the budgets of lower income people. Ridesharing is a low-income mitigation system. Reduced expense allows for greater mobility.

Conclusion

The proposed ruling of the CPUC deeply threatens the important activities of online-enabled ridesharing and commuter carpool matching, services which are provided by eRideShare, Zimride, and Craigslist, among others, which have nothing to do with what Lyft, SideCar, and Uber are doing. We hope the Commission will reconsider its overbroad proposed ruling, and instead seek a ruling that regulates activities rather than media, to preserve the rideshare exemption for online-enabled transportation service providers.

Executed in New York, New York on August 19, 2013.

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