



FILED
11-26-14
12:25 PM

MP1/RIM/ek4 11/26/2014

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.

Rulemaking 12-12-011
(Filed December 20, 2012)

**ASSIGNED COMMISSIONER AND ASSIGNED
ADMINISTRATIVE LAW JUDGE'S SCOPING MEMO AND
RULING FOR PHASE II OF PROCEEDING**

Summary

This Scoping Ruling expands the scope of the above-captioned proceeding in order to identify the issues for resolution in Phase II of this proceeding.

1. Background

On December 20, 2012, the Commission opened Rulemaking (R.) 12-12-011 to address new-online enabled forms of transportation. A Scoping Ruling was issued on April 2, 2013, which set the scope of the proceeding.

On September 19, 2013, the Commission adopted Decision (D.) 13-09-045 which created a new category of charter party carrier (TCP) of passengers called Transportation Network Companies (TNCs). D.13-09-045 set forth the various requirements that TNCs must comply with in order to operate in California.

D. 13-09-045, at Ordering Paragraph (OP) 9, also provided that there would be a Phase II in this proceeding:

This decision orders a second phase to this proceeding to review the Commission's existing regulations over limousines and other charter party carriers in order to ensure that these

rules have kept pace with the needs of today's transportation market, and that the public safety rules are up to date. In addition, the second phase will consider the potential impact of any legislative changes that could affect our ability to regulate the Transportation Network Company industry.

With a Phase II, the Commission intended to consider whether TCP regulations, rules, and general orders should be modified so that the Commission achieves, where appropriate, consistency between the operational requirements for TNCs and TCPs.

2. Scope of Phase II of the Proceeding

This Scoping Ruling sets the scope of Phase II of this proceeding. Phase II will be divided into two sub phases: Phase II A, which will examine the existing TCP regulations, rules, and general orders to determine if any changes should be made; and Phase II B, which will focus on the TNC industry. The issues that have been identified as part of the scope for Phase II A and Phase II B are as follows:

2.1. Phase II A (TCPs) Issues

- A. Should some or all of the regulations that the Commission adopted for TNC vehicle car inspections apply to TCP vehicles?
- B. Should the Commission's staff be delegated authority to suspend a permit/certificate when either a TCP (a) is no longer enrolled in the Department of Motor Vehicles Employer Pull Notice Program; (b) is no longer enrolled in a Controlled Substances and Alcohol Testing Program; or (c) fails to respond to requests for information?
- C. Should General Order 157-D be updated to remove the livery plate requirement and to

adjust the table of contents for electronic waybills?

- D. Should the regulations that the Commission adopted for TNC driver criminal background checks apply to TCP drivers?
- E. Are there ways to improve the TCP application process?
- F. Should the Commission impose any accessibility requirements (both geographical and physical) on TCPs?
- G. Are there any other TCP regulations, rules, and general orders that should be revised?

2.2. Phase II B Issues

- A. Does Pub. Util. Code § 5401 apply to TNC ride sharing operations?
- B. What regulations should be adopted to assure that the disabled community has access to TNC services?
- C. Are TNCs serving all neighborhoods? If not, what regulations should the Commission adopt to assure equal geographic access to TNC services?
- D. Should Uber Technologies, Inc., or any of its related entities, be considered a TCP?

3. Scheduling for Phase II A

Within forty-five days from the issuance of this Scoping Ruling, SED shall file and serve a report regarding its recommendations for revising any existing TCP regulations, rules, and general orders, consistent with Section 2.1 of this Scoping Ruling.

Within thirty days after service of SED's report, the parties may file and serve their opening comments on both SED's report and on the issues that have identified above as being part of the scope of Phase II A.

Within thirty days after service and filing of their opening comments, the parties and SED may file and serve reply comments.

The assigned Commissioner and assigned Administrative Law Judge (ALJ) will determine in a subsequent ruling, after receiving input from the parties, if any workshops, *en banc* hearings, or public participation hearings will be scheduled.

4. Scheduling for Phase II B

After the Commission has issued a decision on the Phase II A issues, the assigned Commissioner and assigned ALJ will issue a ruling setting the schedule for resolution of Phase II B issues.

5. Discovery/Law and Motion Matters

Discovery will be conducted pursuant to the provisions of Article 10 of the Commission's Rules of Practice and Procedure and Rule 11.3. Rule 11.3 requires parties to meet and confer before bringing a formal motion. Parties are expected to engage in timely discovery well before deadlines and are expected to raise discovery issues in a timely fashion to avoid adverse impacts on the schedule.

6. Filing, Service, and Service List

The official service list is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's web site meets that definition.

Electronic service is now the standard under Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded that, when serving copies of documents, the

document format must be consistent with the requirements set forth in Rule 1.10(a).

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. We will follow the electronic service protocols adopted by the Commission in Rule 1.10, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by United States mail. Additionally, parties shall serve paper copies of all filings on the presiding officer and assigned Commissioner.

7. Categorization and Need for Hearings

This Scoping Ruling confirms the prior Scoping Ruling that this proceeding is quasi-legislative. This Scoping Ruling also confirms that evidentiary hearings are not necessary.

8. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

9. Assigned ALJ and Presiding Officer

Pursuant to Pub. Util. Code § 1701.3 and Rule 13.2, ALJ Robert M. Mason III is designated as the assigned ALJ and the Presiding Officer.

IT IS RULED that:

1. The scope of Phase II A of this proceeding is as set forth above.
2. The schedule for Phase II A of this proceeding is as set forth above.
3. This proceeding is categorized as quasi-legislative.
4. The Commission's determination that evidentiary hearings are not necessary is confirmed.
5. The issues to be resolved in this proceeding are listed in Section 2 of this Scoping Memo and Ruling (Scoping Ruling). The assigned Commissioner reserves the right to supplement this Scoping Ruling with additional issues for resolution.
6. Robert M. Mason III is the assigned Administrative Law Judge and Presiding Officer.

Dated November 26, 2014, at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner

/s/ ROBERT M. MASON III
Robert M. Mason III
Administrative Law Judge