

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



**FILED**  
8-21-15  
04:59 PM

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

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

**COMMENTS OF  
THE TECHNOLOGY NETWORK (“TECHNET”);  
ENGINE;  
CALINNOVATES;  
APPLICATION DEVELOPERS ALLIANCE; AND  
INTERNET ASSOCIATION**

Evan Engstrom  
Policy Director  
Engine  
414 Brannan St.  
San Francisco, CA 94107  
Tel: (646) 856-9449  
Email: [evan@engine.is](mailto:evan@engine.is)

Andrea Deveau  
Executive Director, California  
TechNet  
1001 K Street, 6th Floor  
Sacramento, CA 95814  
Tel: (916) 594-7987  
Email: [adeveau@technet.org](mailto:adeveau@technet.org)

Kish Rajan  
Chief Evangelist  
CALinnovates  
548 Market St., Suite 28585  
San Francisco, CA 94104  
Tel: (415) 570-9303  
Email: [kish@calinnovates.com](mailto:kish@calinnovates.com)

Jon Potter  
President and Co-Founder  
Application Developers Alliance  
1015 7th Street NW, 2nd Floor,  
Washington DC, 20001  
Email: [jon@appdevelopersalliance.org](mailto:jon@appdevelopersalliance.org)

Robert Callahan  
Executive Director, California  
Internet Association  
1115 11th St.  
Sacramento, CA 95814  
Tel: (916) 498-3316  
Email: [callahan@internetassociation.org](mailto:callahan@internetassociation.org)

Dated: August 21, 2015

**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)

**COMMENTS OF  
THE TECHNOLOGY NETWORK (“TECHNET”);  
ENGINE;  
CALINNOVATES;  
APPLICATION DEVELOPERS ALLIANCE; AND  
INTERNET ASSOCIATION**

**I. INTRODUCTION AND PROCEDURAL HISTORY.**

Pursuant to D 13-09-045 in Rulemaking 12-12-011, the Commission established a regulatory framework for ride services provided by transportation network companies like Uber, Lyft and Sidecar (“TNCs”). In September 2014, the Commission notified transportation network companies that their carpooled ridesharing services (“ridesharing” or “shared rides”) could violate §5401 of the Public Utilities Code, which states in part that

“no charter-party carrier of passengers shall, directly or through an agent or otherwise, nor shall any broker, contract, agree, or arrange to charge, or demand or receive compensation, for the transportation offered or afforded that shall be computed, charged, or assessed on an individual-fare basis...”

D-13-09-045 provided that the Commission would review its rulemaking in a second phase, and on April 28, 2015, the Commission issued the *Assigned Commissioner and Administrative Law Judge’s Ruling Amending the Scoping Memo and Ruling for Phase II of Proceeding* establishing the second phase of this proceeding. On August 6, 2015, Commissioner Randolph, again in connection with R-12-12-011, issued a *Ruling Instructing Comment on the Impact of Public Utility Code §5401 on Ridesharing Features Offered by Transportation Network Companies*, (“Ruling”) inviting interested persons (as defined by Rule 8.1(d) of the Commission’s Rules of

Practice and Procedure) to comment on whether the Commission should act to limit shared ride services offered by Transportation Network Companies like Lyft, Uber and Sidecar. TechNet filed for party status in this proceeding, R-12-12-011, on Tuesday, May 19, 2015 and meets the definition of an “interested person” under Rule 8.1(d)(1). Engine, CALinnovates, Application Developers Alliance and Internet Association, are each a “formally organized...business, ... trade or similar association...”, though not parties, and meet the definition of an “interested person” under Rule 8.1(d)(3). Pursuant to this Ruling, our organizations are pleased to offer comments on these issues on behalf of California’s technology sector.

The Technology Network (“TechNet”), [www.technet.org](http://www.technet.org), represents the nation’s leading technology companies in support of policies to strengthen the nation’s innovation-driven global competitiveness and encompasses sectors such as information technology, clean energy, software, hardware, mobile applications and the sharing economy.

Engine, [www.engine.is](http://www.engine.is), is a technology policy, research, and advocacy organization that bridges the gap between policymakers and startups, working with government and a community of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Engine creates an environment where technological innovation and entrepreneurship thrive by providing knowledge about the startup economy and constructing smarter public policy. To that end, Engine conducts research, organizes events, and spearheads campaigns to educate elected officials, the entrepreneur community, and the general public on issues vital to fostering technological innovation. Engine has worked with the White House, Congress, federal agencies, and state and local governments to discuss policy issues, write legislation, and introduce the tech community to key leaders.

CALinnovates, [www.calinnovates.org](http://www.calinnovates.org), is a non-partisan technology business advocacy coalition with members that include companies from the sharing economy. CALinnovates’ mission is to elevate public awareness and inform public policymakers about the criticality of advancing a more modern economy, one that creates new companies and jobs and leverages technology to address our biggest public challenges.

The Application Developers Alliance, [www.appdevelopersalliance.org](http://www.appdevelopersalliance.org), was founded in January 2012 to support app developers as entrepreneurs, innovators, and creators. Alliance membership includes nearly 200 companies and nearly 36,000 individuals. Emerging technologies, like ride-sharing services, are providing consumers with more options, often at a lower cost than ever before. The Alliance works to prevent prescriptive legislation and regulation that hinder the growth of emerging industries.

Internet Association, [www.InternetAssociation.org](http://www.InternetAssociation.org), is the unified voice of the Internet economy and represents the interests of the America's leading Internet companies. The Internet Association is dedicated to advancing public policy solutions to strengthen and protect Internet freedom, foster innovation and economic growth, and empower users.

Collectively, the above-listed organizations (“Technology Coalition”) represent the leading technology companies, investors and entrepreneurs in California and across the country, accounting for a significant portion of California’s one million-plus technology sector jobs. Our organizations are committed to public policies that advance innovation. The central issue in this proceeding is whether California policies will continue to foster innovation in technology-enabled carpooling ridesharing services that show enormous promise in helping California achieve critical public policy goals, including enhanced public safety, reduced air pollution and greenhouse gas emissions, and reduced traffic congestion. Progress on critical public policy challenges such as transportation access and affordability will be put at risk if outdated statutory requirements are applied to the nascent ridesharing industry.

## **II. TNC RIDESHARING IS PERMISSIBLE UNDER PUBLIC UTILITIES CODE §5401, AS LONG AS TRANSPORTATION CHARGES ARE BASED ON MILEAGE AND/OR TIME OF USE**

California has emerged as a worldwide technology leader where it has generally embraced innovation and resisted the pleas of market incumbents (such as taxicabs and limousine services) for special protection. In its rulemaking establishing regulation of TNCs, and essentially restated in its Phase II order, the Commission articulated the goal of striking the “proper balance between safety and innovation, so that regulation provides a safety net that the public can rely on for its

protection while new businesses innovate and use technology to better the lives of Californians.”<sup>1</sup> This framework has been successful in enabling innovation and the development of new technology-enabled transportation services that have proven enormously popular with the public, has brought much needed innovation to the personal transportation industry, and offer the state the opportunity to address a host of long-standing policy problems. The Commission must now wield the broad authority it cited in establishing TNC regulation to preserve these important gains and opportunities.

Among the most popular of these innovations developed subsequent to D 13-09-045 have been services such as Lyft’s “Lyft Line”, Uber’s “UberPool” and Sidecar’s “Shared Rides” that allow multiple unrelated passengers traveling on similar routes to dynamically share a single vehicle. By aggregating passengers into fewer vehicles, those shared ride services increase vehicle occupancy while achieving substantial reductions in vehicle miles traveled relative to traditional TNC service. It is becoming abundantly clear that pooled ridematching services offer enormous potential efficiencies and consumer value, enabling reduced fares and thereby making TNC services accessible to passengers with lower incomes.

This innovation and the low fares it has enabled have proven enormously popular with consumers. In the space of less than a year, for example, use of “Lyft Line” has soared – and now accounts for more than half of rides provided on that platform in San Francisco.<sup>2</sup> In December 2014, Shared Rides was 40% of all Sidecar rides nationally, and at one point in December 2014, 77% of Chicago rides were shared.<sup>2</sup> The tremendous popularity of shared rides is spurring the mainstream adoption of carpooling, which -- despite billions of dollars of state investment in HOV lanes and mandated employer carpool programs – has been in steady decline in recent decades.

---

<sup>1</sup>D 13-09-045, California Public Utilities Commission, April 28, 2015, p. 62.

<sup>2</sup> Sidecar Blog, dated December 22, 2014 <http://www.side.cr/1-for-shared-rides/>

<sup>2</sup> Ellen Huet, *The Case for Carpooling: Inside Lyft and Uber’s Quest to Squeeze More People In The Backseat*, *Forbes*, August 18, 2015.

Affordable point-to-point technology-enabled shared rides offer enormous potential to fill gaps in the existing transportation system and improve mobility access for communities historically underserved by transit. Further, the growth of the industry is providing new economic opportunity to hundreds of thousands of Californians. Many retirees, students, teachers, seasonal workers, unemployed and self-employed individuals now use ridesharing platforms to earn supplemental income at times of their choosing.

The rise of inexpensive point-to-point shared ride service complements and strengthens public transit operations by solving the “last-mile” problem, connecting riders to rail stations and other transit hubs without contributing to parking congestion at these locations. Many commuters use public transit for the bulk of their daily mileage but can easily, reliably and quickly obtain a shared ride from the station to their homes or businesses. According to Lyft, 20% of its South Bay Area rides begin or end at a Caltrain or BART station. More fundamentally, the broad adoption of ridesharing will result not only in fewer vehicle miles travelled in the short term but will change long-term consumer attitudes about the necessity of driving or purchasing their own vehicles. In a recent survey, nearly half (46%) of the ride-sharing users felt less of a need to own a vehicle due to the availability of ride-sharing and 60 percent reported using their personal vehicle less.

Ridesharing is emerging as a potentially important – and low cost -- tool in the state’s effort to reduce greenhouse gas emissions and combat persistent air pollution problems that kills thousands of Californians annually. Because transitioning the state’s 30,000,000 personal vehicles to zero emission models will take decades, the state must harness other promising approaches to achieve near-term reductions; making more efficient use of the existing fleet must be part of the interim strategy over the next decade to accelerate emissions reductions needed to address California’s climate and air pollution challenges. As the growth of ridesharing makes it less necessary for consumers to own their own cars, it is likely that ridesharing will contribute significantly to achievement of both the greenhouse gas reduction and sustainable communities goals set forth in legislation such as California’s Senate Bill 375.

Ridesharing by TNCs also saves consumers by offering discounted fares. For example, Sidecar's Shared Ride service saves the passenger 30%-50% on the fare. TNCs reduce the cost of a point-to-point ride by a taxi cab, and TNC rideshare reduces it even further, bringing TNC service within the financial grasp of low income users.

For these reasons, support for ridesharing services is overwhelming. Drivers, environmental organizations, transit agencies, regional planning organizations, smart growth advocacy groups, business groups and underrepresented communities have all come together in support of legislation to clarify that §5401 does not apply to ridesharing services when transportation charges are based on mileage and/or time of use.

**III. A COMMISSION DETERMINATION THAT TRANSPORTATION NETWORK COMPANIES' RIDESHARING OPERATIONS ARE NOT SUBJECT TO §5401 WHEN APPLIED TO TRANSPORTATION CHARGES BASED ON MILEAGE AND/OR TIME OF USE WILL NOT COMPROMISE PUBLIC SAFETY OR ANY OTHER PUBLIC POLICY OBJECTIVES.**

While some transportation market participants seeking to protect their economic position may be concerned about losing market share, the Technology Coalition does not believe that any legitimate public policy objectives will be compromised by a Commission determination that TNCs are not subject to §5401 when applied to transportation charges based on mileage and/or time of use.

TNCs have developed a host of new features to ensure that ridesharing is safe and that both drivers and passengers are accountable. Transportation apps employ photo identification of both rider and driver, in-app vehicle photos and license plate verification, global-positioning system vehicle tracking, trip summaries sent via email and anonymized voice and text connections between driver and passenger while matched to ensure privacy. Cashless payments also reduce the likelihood of any theft. Apps include two-way ratings for both passengers and drivers, with disqualification of drivers who receive low ratings. In addition, ridesharing companies have embraced requirements set forth in D. 13-09-045<sup>3</sup> including zero-tolerance drug and alcohol

---

<sup>3</sup> Id., pp. 26-33.

requirements, vehicle inspections, insurance requirements, and criminal background and driving record checks.

All of these protections exist for shared rides provided by TNCs. If §5401 were applied to limit or end shared rides based on mileage and/or time of use, a likely result may be to lead more people to use ad-hoc unregulated ride arrangements, or others means that that offer fewer protections. And for millions of middle and lower-income Californians for whom affordability is a barrier to transportation access, the limitation or end of low-cost shared rides would impair both mobility and economic opportunity. . For these reasons, the application of §5401 to TNCs' fares not considered individual, flat fares would likely be to reduce public safety and to increase emissions, traffic congestion, economic inequality, and other problems that this Commission and other state agencies are working hard to solve.

#### **IV. CONCLUSION.**

For the reasons stated herein, the Technology Coalition urges the Commission to continue to refrain from application of §5401 to shared rides when fares are based on mileage and/or time of use.

Dated: August 21, 2015

Respectfully submitted,



---

Andrea Deveau  
Executive Director, California  
TechNet



---

Evan Engstrom  
Policy Director  
Engine



---

Kish Rajan  
Chief Evangelist  
CALinnovates



---

Jon Potter  
President and Co-Founder  
Application Developers Alliance



---

Robert Callahan  
Executive Director, California  
Internet Association