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**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)

**COMMENTS OF GENERAL MOTORS LLC AND MAVEN DRIVE LLC IN
RESPONSE TO ASSIGNED COMMISSIONER'S RULING INVITING PARTIES'
COMMENTS ON THE CONCEPT OF PERSONAL VEHICLES**

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July 11, 2016

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General Motors LLC and Maven Drive LLC (GM/Maven) submit these comments pursuant to the Assigned Commissioner's Ruling Inviting Parties' Comments on the Concept of Personal Vehicles, issued on June 6, 2016 (ACR), and the extension of time granted in Administrative Law Judge Mason's June 23, 2016 email.

I. EXECUTIVE SUMMARY

GM/Maven appreciate the opportunity to provide these comments to inform the Commission's definition of "personal vehicle" in the context of Transportation Network Company (TNC) regulation. The need to define "personal vehicle" arises from Decision (D.) 13-09-045, in which the Commission defined "Transportation Network Company" as:

*an organization whether a corporation, partnership, sole proprietor, or other form, operating in California that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their **personal vehicles**.*¹

¹ Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry, D.13-09-045 at 1 (emphasis supplied).

Neither the Public Utilities Code nor prior Commission decisions define “personal vehicle.” Although definitions of terms in other areas of California law could be woven together to develop a definition, they are not controlling. The Commission’s definition is constrained only by relevant policy goals.

The definition of “personal vehicle” should be designed to serve three policy goals. The primary aim should be “to ensure that public safety is not compromised by the operation of this new transportation business,”² as the Commission declared in D.13-09-045. To the extent safety is not compromised, the definition of “personal vehicle” should also:

- ✓ Avoid economic discrimination among potential TNC drivers; and
- ✓ Enable deployment of electric vehicles (EVs) and other advanced vehicle technologies to advance California’s climate goals.

Definitions considered or adopted in other jurisdictions may provide guidance.

With these goals in mind, GM/Maven recommend defining “personal vehicle” as follows

“Personal Vehicle” means a vehicle that is used by a Transportation Network Company Driver in connection with providing a Prearranged Ride and is owned, leased or otherwise authorized by the Transportation Network Company and the vehicle’s legal owner for use by the Transportation Network Company Driver.

This definition would permit drivers to lease or rent vehicles, for any term, to provide TNC services. Providing flexibility in lease or rental term would avoid economic discrimination and promote the state’s clean vehicle policies without impairing safety. All drivers and their personal vehicles, whether owned, leased

² D.13-09-045 at 2.

or otherwise authorized for use, would be required equally to meet all safety regulations adopted by the Commission.

II. THE DEFINITION OF “PERSONAL VEHICLE” SHOULD PROMOTE SAFETY AND OTHER ANCILLARY POLICY GOALS

A. No Statutes Control the Definition of “Personal Vehicle.”

Nothing in the Public Utilities Code or any other statutes governing TNCs defines “Personal Vehicle.” While other statutes could be woven together to define the term, the Commission is not bound by any existing legal definitions. If the Commission nonetheless requires a statutory foundation for its adopted definition, it need look no further than Public Utilities Code §5362.

Section 5362 defines “owner” in the context of Transportation Charter Party (TCP) carriers:

“[O]wner” means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

This definition is substantially similar to the definition of “Personal Vehicle” provided in the “TNC Insurance Compromise Model Bill” (Model Bill) and adopted by numerous states.³ The Model Bill, however, goes one step further. Rather than simply having “a legal right to possession,” the vehicle must be “authorized for use” by the TNC driver. Notably, the PU Code definition, like the Model Bill and GM/Maven’s proposal, has no temporal limitation on leases or rental agreements.

Section 5362, along with relevant policy goals discussed below, provides a reasonable basis for the adoption of GM/Maven’s proposed definition.

³ The Model Bill is discussed further in Section III below.

B. The Definition Should Promote Public Safety.

Safety is paramount in the design of the TNC regulatory framework. The Commission adopted several measures in D.13-09-045 to advance this goal:

*to obtain a permit from the California Public Utilities Commission (Commission), require criminal background checks for each driver, establish a driver training program, implement a zero-tolerance policy on drugs and alcohol, and require insurance coverage....*⁴

The Commission augmented its safety regulations in D.16-04-041 addressing among other issues vehicle inspections and insurance requirements and intends to further develop its safety regulations in Phase III of this proceeding.⁵

All of the Commission's safety regulations will apply *equally* to all TNC drivers, "[n]o matter what personal vehicle arrangement a Transportation Network Company (TNC) driver chooses...."⁶ A definition of "personal vehicle" that permits full application and enforcement of all adopted safety regulations for all drivers and vehicles thus should fulfill this policy objective.

The definition proposed by GM/Maven meets the Commission's safety objectives, as demonstrated by Maven's current rental program. Leasing or renting will not degrade vehicle quality in any way; in fact, the GM/Maven model will improve overall vehicle safety, quality, and reliability. First, all vehicles must meet the Commission's safety requirements. GM/Maven will inspect each vehicle after completion of each rental and adhere to factory maintenance schedules by GM-certified dealers using GM-certified parts. In addition, all GM vehicles are equipped with OnStar, which includes emergency assistance.

⁴ *Id.* at 3.

⁵ *Decision on Phase II Issues and Reserving Additional Issues for Resolution in Phase III*, D.16-04-041 at 3, as corrected by D.16-05-027.

⁶ D.16-04-041, Ordering ¶ 10 at 57.

Collectively, programs and systems are in place for Maven to ensure the integrity and safety of the GM vehicles it rents likely *beyond* the typical vehicle care and maintenance.

C. The Definition Should Avoid Economic Discrimination Among Potential Drivers.

Full ownership and operation of a vehicle can be costly, requiring a material upfront commitment, financial investment and ongoing maintenance costs and responsibilities. Potential drivers with the greatest need for TNC job opportunities to support themselves and their families may not have the resources to acquire a vehicle suitable for the provision of TNC services. Car rental and car sharing bridge this gap, enabling the driver to use a well-maintained, contemporary vehicle while avoiding upfront financial commitments and direct responsibility for insurance, ongoing maintenance and inspection obligations.

It is difficult to predict in the nascent TNC market how potential drivers will secure vehicles through car rentals and car sharing. Some drivers may opt to rent for extended periods, while others may want the flexibility of short-term rentals. Some drivers may use the rented vehicle for both personal and TNC purposes, while others may use the vehicles solely to provide TNC services. Therefore, the definition of “personal vehicle” should accommodate potential future rental and car sharing opportunities to the extent consistent with safety goals. It should thus avoid limiting “personal vehicle” to predefined types of rental arrangements or establishing a minimum rental period.

D. The Definition Should Create Opportunities for Environmental Benefits and Innovation.

The Commission has demonstrated leadership in increasing EV penetration in California's transportation market since the early 1990s. The Commission's most recent concentrated effort began with a rulemaking issued in 2013 to explore how utility tariffs could "encourage the expansion of electric vehicle infrastructure and the widespread deployment and use of plug-in electric vehicles."⁷ Other initiatives have grown from that docket to ensure that the utility network fosters the growth of electric vehicles (EVs). The Commission's efforts have been bolstered by AB 32, the Governor's efforts to reduce petroleum use for transportation,⁸ the Air Resources Board's numerous low emission vehicle initiatives⁹ and the Energy Commission's alternate fuel and renewable vehicle programs.¹⁰

The Commission has the opportunity to further the state's clean transportation objectives by defining "personal vehicle" as flexibly as possible to allow drivers to lease or rent vehicles. Rental and car-sharing companies are able to make a range of vehicle models available to TNC drivers with a variety of business models, including advanced vehicle technologies such as plug-in electric vehicles. Increased use of such vehicles will both reduce transportation emissions arising from the TNC market and exponentially introduce the technology to drivers and riders who may be in the market to acquire a vehicle.

⁷ *Phase 1 Decision Establishing Policy to Expand the Utilities' Role in Development of Electric Vehicle Infrastructure*, D.14-12-079 at 1.

⁸ See, e.g., Governor's Climate Change Pillars
<http://www.arb.ca.gov/cc/pillars/pillars.htm>.

⁹ <http://www.arb.ca.gov/cc/ghgsectors/ghgsectors.htm#transportation>.

¹⁰ <http://energy.ca.gov/altfuels/>.

III. OTHER MODELS SUPPORT GM/MAVEN’S PROPOSED DEFINITION

GM/Maven’s proposed “personal vehicle” definition aligns with the Model Bill developed by some of the leading auto insurance companies and TNCs in early 2015. Developments in other jurisdictions also support this definition.

The Model Bill defines “Personal Vehicle” in a way that encompasses vehicle rental:

“Personal Vehicle” means a vehicle that is used by a Transportation Network Company Driver in connection with providing a Prearranged Ride and is:

- i. Owned, leased or **otherwise authorized for use** by the Transportation Network Company Driver; and*
- ii. Not a [TAXICAB, LIMOUSINE, OR FOR-HIRE VEHICLE].*

Rental vehicles are incorporated implicitly as a vehicle that can be “otherwise authorized for use” by the driver. The Model Bill’s definition places no requirements on term length for any lease or rental.

Numerous states have adopted “personal vehicle” definitions based on the Model Bill including vehicles “otherwise authorized for use” by the driver.¹¹ California Assembly Bill 2673 also focuses on authorization to use a vehicle for TNC services. Its inclusion of rental vehicles is more

¹¹ See, e.g., Alabama Act 2016-409; Ariz. Rev. Stat. § 28-9551; Ark. Code §23-13-701(2); Colo. Rev. Stat. §40-10.1-602(4); D.C. Official Code §50-303 *et seq.*; Ga. Code Ann. §33-1-24; Idaho Code Ann., Ch. 25, §41-2518(3); Ind. Code Ann. §8-2.1-19.1; Kan. Stat. Ann. §2702; NE Code §75-323(7); Nev. Rev. Stat. §706A.040; LA Rev. Stat. §45:201.4(3); Minn. Stat. §75-323(7); New Mexico Transportation Network Company Services Act, §2.B.; Ohio Rev. Code §3942.01; S.C. Code Ann., Ch. 23, §58-23-1610(2); Tenn. Code Ann., §55-12-141(a)(2)(A); Tex. Ins. Code §1954.001; Utah Code Ann. §13-51-102(5); Wis. Stat. §440.445. Ride-hailing statutes or regulations have been adopted in 37 states to date. <http://www.pciaa.net/industry-issues/transportation-network-companies>

explicit, however, defining “personal vehicle” to include vehicles “owned, leased, rented or otherwise authorized for use for any period of time.”¹²

Adoption of GM/Maven’s proposed definition would support what appears to be a growing consensus around the Model Bill’s “personal vehicle” definition. Consistency of the definition among jurisdictions streamlines compliance for TNCs and rental companies operating throughout the United States.

IV. RESPONSES TO ACR QUESTIONS

- 1. Are there any safety or other public-policy concerns that would arise if a TNC driver were allowed to lease or rent a vehicle to provide TNC services? If so:**
 - (a) describe these safety or other public-policy concerns with specificity and with reference to any applicable Commission decision, ruling, general order, state statute, state decisional law, federal decisional law, federal statute, or research that supports each of your concerns; and**

Safety requirements, such as driver training, insurance, inspection and trade dress, are independent of ownership and can be met for any vehicle, regardless of vehicle ownership. For example, if liability insurance is provided by the TNC while the driver is using a vehicle to provide TNC services, the underlying vehicle ownership is irrelevant. Likewise, a rental company can ensure that rented vehicles are subjected to the same, if not more stringent, inspections that are required for vehicles owned by a driver. Defining “personal vehicle” to include leased or rented vehicles of any term thus does not raise safety issues unique to those vehicles.

¹² AB 2763, §5431(b).

(b) How can the Commission best address these safety or other public-policy concerns?

No unique safety considerations arise with leased or rented vehicles of any term that do not also arise with vehicles owned by drivers. Other public policy concerns are addressed in Section II above.

2. Should there be a minimum time period in order for a leased or rented vehicle to be driven by a TNC driver to qualify as a “personal vehicle”? If so, what are the applicable statutes or decisional law that support your response?

No. Because there are no unique safety issues, the Commission may promote additional policy goals, such as avoiding economic discrimination and promoting clean vehicles. Providing flexibility in the term of a lease or rental best serves these goals.

3. Should the definition of a “personal vehicle” not be tied to a time period but instead be defined by authorized uses? For example, should one requirement of a “personal vehicle” be the explicit authorization of using the vehicle for TNC service in any rental or lease contract?

Yes. “Personal vehicle” should include vehicles authorized, by both the TNC and the vehicle owner, for use in providing TNC services. The drivers’ agreement with the TNC should specify the types of vehicles that may be used to provide TNC services, and the driver’s lease or rental agreement should expressly authorize use of the vehicle to provide TNC services.

4. Where alternative definitions are proposed in answer to questions 2 and 3, how will a proposed definition of personal vehicle ensure adherence to the Commission’s

existing safety rules regarding vehicle inspections and insurance?

GM/Maven propose the following definition: *"Personal Vehicle" means a vehicle that is used by a Transportation Network Company Driver in connection with providing a prearranged ride and is owned, leased or otherwise authorized, by the Transportation Network Company and the vehicle's legal owner, for use by the Transportation Network Company driver.* As observed in response to question 1(a), safety requirements, including insurance and inspections, extend to all vehicles equally, regardless of ownership.

Liability requirements should not vary by ownership, nor are they affected by ownership. If the TNC provides liability insurance for periods when the driver is On-App, it should provide the insurance equally to all drivers and vehicles, regardless of ownership. If the TNC instead requires drivers to provide proof of adequate liability insurance, it should require the same documentation regardless of vehicle ownership. Other types of insurance, including Off-App liability insurance, will be provided by the driver, lessor or rental company. The key is ensuring that all insurance regulations apply in all circumstances.

Maven's program today provides all forms of insurance not covered by the TNC. Maven insures for vehicle damage for both On-App and Off-App uses. Its program also provides liability insurance for Off-App miles. On-App liability insurance is currently provided by Lyft. All insurance products provided under Maven meet state required minimums for vehicle, bodily injury, property damage and uninsured motorist.

A lessor or rental company can ensure that rented vehicles are subjected to the same, if not more stringent, inspection requirements as those imposed on vehicles owned by a driver. As the owner of the vehicle, and the holder of the associated liability, a lessor or rental company has a strong interest in ensuring the integrity of this expensive asset. Today, for example, Maven's rental vehicles are reconditioned into retail condition, complete mechanical checks performed as well as all requisite repairs (such as brake/tire/suspension wear and battery condition). The vehicle is then inspected after each rental period and the factory maintenance schedule is adhered to throughout the rental by GM-certified dealers using GM-certified parts. Inspections may be more thorough and more frequent than required for vehicles owned by individual drivers.

5. Where a non-TNC company offers vehicles for TNC drivers to use, what specific documentation and processes should be required of that company and/or of the TNC so that the Commission can ensure that rules regarding vehicle inspections, trade dress, and insurance are met?

The TNC must ensure that all of its drivers and vehicles, regardless of ownership, meet safety requirements. Documentation provided by a lessor or rental company should reinforce these obligations; it should expressly authorize the vehicle for TNC service use and reiterate the driver's obligation to meet all applicable safety regulations when the vehicle is used for these purposes.

6. Should the Commission distinguish vehicle inspection and insurance rules depending on the source of the vehicle offered on a short-term basis to TNC drivers, such as rental fleets or fleets offering peer-to-peer vehicle transactions as contrasted with individual peer-to-peer transactions?

No. If the Commission has determined that its vehicle inspection and insurance rules ensure safety when individual drivers use their owned vehicles, the same standard should apply to vehicles offered by lessors and rental companies. In all cases, the TNC will ensure adequate documentation, regardless of vehicle ownership, to demonstrate that a driver and vehicle meet all required safety regulations. To enable verification for leased or rented vehicles, the lessor or rental company should be required to provide to the driver documentation demonstrating that the vehicle has met the Commission's 19-point inspection requirements and specifying insurance coverage.

7. What insurance products exist that cover, for a single vehicle, multiple drivers driving the vehicle for periods of less than 24 hours for personal use and for a TNC? Does the insurance attach to the vehicle or to the individual driver? Does the insurance product meet California's legal requirements?

Insurance products meeting California legal requirements for vehicle damage, bodily injury, property damage and uninsured motorists are available to cover a vehicle with multiple drivers for periods of less than 24 hours. The coverage applies to both On-App and Off-App uses, except to the extent On-App liability insurance is provided by the TNC. The insurance attaches to the vehicle.

- 8. How much time is needed for a TNC to update its inspection, mileage, or other records on a vehicle being used by one or more drivers: (a) for periods of less than 24 hours; (b) on a weekly basis; or (c) on a monthly basis?**

No response.

- 9. How many times a day is it feasible for a TNC to update its vehicle records where a car may be driven by several drivers in a 24-hour period?**

No response.

- 10. What procedures are taken by a TNC to ensure that drivers have current vehicle information in the TNC's records?**

No response.

- 11. What procedures are taken by a TNC when it finds that a driver has not notified the TNC that s/he is driving a vehicle other than the one originally registered by the driver?**

No response.

- 12. How should the Commission ensure that each TNC company and/or company offering leased cars to TNC drivers maintains a proportion of vehicles that are accessible to disabled riders?**

The lessor or rental company should not be responsible to maintain a proportion of vehicles that are accessible to disabled riders. The lessor or rental company cannot require that a TNC driver lease or rent a particular vehicle. In addition, the lessor or rental company will not know the extent to which the accessibility requirement has otherwise been met by the TNC. The TNC is best positioned to ensure these obligations are met.

V. CONCLUSION

For the foregoing reasons, GM/Maven recommend adoption of a “personal vehicle” definition that permits drivers to lease or rent vehicles for any term.

There are no safety issues unique to lease or rental arrangements as compared with direct ownership by the driver. Providing flexibility in the term for lease or rental avoids economic discrimination and promotes the Commission’s clean vehicle goals without sacrificing safety.

Respectfully submitted,

A handwritten signature in black ink that reads "Evelyn Kahl". The signature is written in a cursive style with a large initial 'E' and 'K'.

Evelyn Kahl

Counsel to General Motors LLC and
Maven Drive LLC

July 11, 2016