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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

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

**OPENING COMMENTS OF RASIER-CA, LLC
ON PHASE III.B. SCOPING MEMO AND RULING OF ASSIGNED
COMMISSIONER TRACK III (TNC DATA)**

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I. INTRODUCTION

Under the California Constitution and Public Utilities Code, this Commission—not cities and counties—is responsible for regulating transportation network company (“TNC”) services. Nonetheless, local governments have requested access to the Commission’s TNC data on a wholesale basis—data submitted to the Commission solely because of the regulatory authority granted to the Commission over TNCs. It appears that this request is part of a broader effort by cities and counties to usurp the Commission’s regulatory authority and responsibilities. For example, when requesting TNC data, the City and County of San Francisco stated that it intends to use the data to determine whether TNCs are complying with state law. Under the regulatory system in California, that is the Commission’s job—not San Francisco’s. Therefore, the Commission should not provide TNC regulatory data to local governments any more than it should cede its authority.

Under the right circumstances, Rasier-CA, LLC (“Rasier-CA”) recognizes that certain data may be useful to local governments, researchers, and the public. To help facilitate this,

Rasier-CA, in coordination with its parent entity, has developed an online platform called Uber Movement that provides a graphic visualization of TNC data. In its current form, which is still under development, Uber Movement provides information and data about travel times between zones in cities around the world. However, we chose this initial dataset after carefully weighing the significant risks to personal privacy (even supposedly anonymized data can be cross-referenced with other information to identify individuals) and the need to protect information that has been recognized as a trade secret in judicial proceedings.

It is our view that collaborative data sharing through platforms like Uber Movement is the best path forward, rather than a unilateral release by the Commission of confidential TNC data subject to trade secret protections. By working collaboratively with the industry, the Commission can prevent undue risks to personal privacy and corporate intellectual property.

II. RESPONSES TO SCOPING RULING

1. What is the public and/or research value of a website, database, or other publicly accessible means to host data about transportation for hire that is under the Commission's jurisdiction?

Highly detailed TNC data, like information about when and where TNC trips start and end could be useful to researchers and urban planners. It would also align with our own mission to improve urban mobility. However, the public or research value of data about transportation under the Commission's jurisdiction needs to be counterbalanced against the interests of individuals to protect their personal privacy and TNCs to protect data that has been recognized as a trade secret.

It is not possible to provide anonymized trip-by-trip TNC data to the public without revealing information about particular individuals that they have a reasonable expectation in

keeping private. As an example, in 2014, an analyst used Freedom of Information laws to obtain all NYC taxi records for the previous year, including pickup and dropoff GPS and other data.¹ Even though the dataset was supposedly “anonymized” and no specific rider or driver identifiers were shared, researchers were able to identify the patrons of a strip club by cross referencing the taxi records against other publicly available information, like property and court records.

Similarly, it is also not possible to disclose other TNC data without divulging company trade secrets. Companies also have an interest in protecting information about their business that could be used by competitors to gain an unfair advantage. In 2016, the City of Seattle received a public records request for the quarterly reports it requires Rasier-CA and other TNCs to submit. The quarterly reports are required to include data about the date, time, and pickup and dropoff zip code for each trip. After a trial, a court found that the data showing the pickup and dropoff zip code for each trip is a trade secret that should not be disclosed to the public. *Rasier, LLC v. City of Seattle*, NO. 16-2-03420-9 SEA (King County Sup. Ct. 2016). The court reasoned that the zip code data is valuable trade secret because if divulged it would reveal to competitors where and when Rasier customers start and end their trips. *Id.* at 6-7, 17-18. The court explained that if other companies were able to get ahold of this information, it would unfairly allow them to make strategic decisions about their marketing and operations that would harm Rasier. *Id.* at 6-7, 17-18.

While the Commission needs to protect individual privacy and company trade secrets, Rasier-CA continues to develop a website hosting data to help researchers and urban planners

¹ Chris Gayomali, *NYC Taxi Data Blunder REveals Which Celebs Don't Tip - And Who Frequents Stripe Clubs*, Oct. 2, 2014 (available at <https://www.fastcompany.com/3036573/nyc-taxi-data-blunder-reveals-which-celebs-dont-tip-and-who-frequents-stripe-clubs>) (last accessed Jul. 17, 2017).

improve transportation in California cities. One dataset that serves this need well is data that we are working towards making available through the Movement platform: information about transit times. In its current form, Movement provides a visualization showing the average travel times throughout a city, and the underlying datasets are also available for download. Researchers and governments can use this information, and the other information that they have access to, in determining where to invest infrastructure and transportation resources. The type of data and insights provided through the Movement platform represent the most practical and useful way for researchers to derive value from data about TNC trips, while also balancing the need to protect individual privacy and company trade secrets.

2. What has been the effectiveness of third-party hosted websites that provide data about Commission programs?

Rasier-CA is not aware of other third-party hosted websites that have provided data about Commission programs, but reserves the right to provide reply comments on this topic should other parties raise additional issues for which Rasier-CA can share insights and information with the Commission.

3. What concerns, if any, are there about the ability of a Commission-sponsored website to protect customer privacy and market sensitive data?

As explained above, even disclosing anonymized TNC trip data can still end up inadvertently making public information about individual people who are taking TNC trips because TNC data can be cross-referenced against other information to identify individual people. The Commission should not underestimate the ability and sophistication of the potential users of TNC trip data. Instead, the Commission should make every effort to ensure that all

TNC data is protected and under no circumstances can be combined with other information to identify particular users and their TNC rides habits.

Similarly, the Commission should also make every effort to ensure that it does not inadvertently disclose trade secrets and other commercially sensitive data. As discussed above, a court in Seattle, Washington found that even zip code level data about pickup and dropoff is a trade secret in the TNC industry. As a result, the Commission should work with regulated companies to discuss any specific proposals before providing any TNC data so as to prevent the inadvertent release of private customer information or trade secrets.

4. What characteristics or design specifications are needed to ensure that a Commission sponsored website would be flexible enough to adjust to future legislative action including, but not limited to: new background check standards that are germane to the Commission's jurisdiction over TNCs?

It is not clear what TNC data the Commission is proposing to include on a Commission-sponsored website, or how that relates to driver background check standards. If the Commission is able to provide more specific information about what is being contemplated, Rasier-CA will be able to provide concrete feedback. To the extent the Commission is considering releasing the results of driver background check results on a Commission-sponsored website, that would constitute an unreasonable invasion of drivers' personal privacy.

5. Should the Commission share TNC trip data with interested California governmental entities?

The Commission should not share TNC data with interested California governmental entities. It is important to keep in mind the Commission's role relative to the role of cities, counties, and other local governmental agencies. Under the California Constitution and Public Utilities Code, the Commission is responsible for regulating TNC services. Cal. Pub. Util. Code

§ 5381; Cal. Const. Art. XII. While other types of transportation are regulated by cities and counties (for example, taxicabs), the responsibility to regulate TNCs rests solely with the Commission. Cal. Pub. Util. Code § 5353(g). As a result, cities and counties do not have a regulatory need to access the Commission's TNC data.

6. What factors should the Commission take into account in determining if TNC trip data should be shared with interested California governmental entities?

In determining if TNC trip data should be shared with interested California governmental entities, the Commission should take into account the exclusive jurisdiction granted to the Commission to regulate TNCs and the fact that the data in the Commission's possession is a direct result of its regulatory authority. As a result, other state and local government entities do not have a valid regulatory need to access the Commission's data.

In making its decision, the Commission should take into account the fact that TNCs provided their data to the Commission with the expectation that it would be kept confidential. For example, in past proceedings where the Commission's Safety and Enforcement Division ("SED") have made use of TNC data, the SED has submitted both a public version of this information and a confidential version, in recognition of TNC claims of confidentiality. Reinforcing this, Section 583 of the Public Utilities Code provides that information furnished to the commission by regulated entities should not be disclosed unless required by law or on order of the Commission.

The Commission should also take into account that the TNC trip data that the Commission collects may be poorly suited for assisting other state and local government entities in performing the functions they are assigned under California law. Local governments in California are responsible for infrastructure, transportation planning, and other related services.

The TNC trip data that the Commission collects may not be the best suited for this task and there may be other more probative datasets. By their nature, TNC trip data reflect TNC trips, not overall traffic volumes or transit usage. These other statistics, which the Commission and TNCs do not have, are likely to be much more useful for transportation planning than the Commission's TNC data.

Lastly, the Commission should again consider that TNC data has been recognized as a trade secret. As discussed above, a Washington court found after a trial that TNC trip data broken down by zip code is a trade secret. The Commission should not disclose TNC trade secrets to third parties, including local governments—particularly where TNC data is not well suited to meeting local governments' needs and there are other more probative data sources available.

7. What steps should the Commission consider implementing to protect the market sensitivity of trip data?

The Commission should review any specific data-sharing proposals with industry before implementing them. Even overall TNC data that is not specific to a particular company can be reverse engineered to discover company-specific trade secret information. Rasier-CA can provide more specific commentary on this topic if the Commission advances a more specific, concrete proposal for sharing certain TNC data with the public, researchers, or local governments.

III. CONCLUSION

Disclosing TNC data in the form and manner submitted to the Commission by TNCs for regulatory purposes would not provide enough benefits to the public or local governments to offset the risks of unwarranted invasions of personal privacy and inadvertent disclosures of

company trade secrets. The data submitted by TNCs in their annual reports are intended to ensure that the Commission has sufficient information necessary to maintain appropriate regulatory oversight. This data is too risky to release to the public in its current form and would compromise individual privacy or TNC trade secrets. We have already begun creating a portal to assist the local governments in obtaining the information they need to achieve their goals, but which balances the need for access to information with the need to protect personal privacy and company trade secrets.

Respectfully submitted on this 17th day of July, 2017 in San Francisco, California.

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