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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

**PHASE III. C. SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER**

Summary

This Scoping Memo and Ruling (Scoping Memo) sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding pursuant to Pub. Util. Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.¹

1. Background

Commencing with Decision 13-09-045, the Commission adopted rules and regulations to protect public safety while allowing Transportation Network Companies (TNC) to provide transportation services in California.² As more information about the TNC industry and their business models became known, the Commission has issued additional decisions to maintain the appropriate regulatory oversight necessary to promote public safety but without stifling an

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

² The Commission's assertion of authority over TNCs has been confirmed by the Legislature with the enactment of Pub. Util. Code § 5430 *et seq*, particularly §§ 5440 and 5441. (See Ch. 389, Sec. 1 (AB 2293, Effective January 1, 2015).)

industry offering a mode of transportation that has gained widespread public support in California.

In accordance with Ordering Paragraph 19 of Decision 16-04-041, the Scoping Memo and Ruling dated October 26, 2016 opened a Phase III in this proceeding, and Phase III was broken down into two sub phases: III. A. and III. B. While many of the scoped issues from Phases III. A. and B. have been resolved, there are still some issues that require further Commission analysis and investigation before final decisions can be issued.

As a result, this Scoping Memo opens Phase III. C. in order to address issues not yet resolved from Phase III. B., as well as any new issues that have come to the Commission's attention while performing its duty to ensure that the TNCs operate in a manner consistent with the authority that the Commission has granted them.

2. Scope of the Issues

2.1. Accessibility (Previously Identified as Track 5)

The Commission intends to open a new rulemaking that will address accessibility issues across all types of passenger carriers subject to the Commission's regulatory jurisdiction.

2.2. Transportation of Minors (Previously Identified as Track 6)

- Should TNC apps be required to verify age and prohibit minors from utilizing the app under any or all circumstances?
- Should legal guardians of minors be allowed to authorize the transportation of minors by drivers of TNCs that do not primarily market to children?
- Should TNCs that don't primarily transport minors be required to allow only drivers who have been

certified by Trustline to transport minors when authorized by legal guardians?

- Should the TNCs be required to compile information on minors transported on their platforms or reports of trip cancellations due to suspicion of minors utilizing the app without proper authorization?
- Should TNCs be required to provide drivers with the opportunity to expunge low ratings given in response to trips cancelled due to suspicion or confirmation of a minor passenger?

2.3. Catch-All Safety Category (Previously Identified as Track 7)

- Should insurance levels, or coverage requirements, for TNCs be revisited in light of the findings of the report composed pursuant to Pub. Util. Code § 918.2?
- Should TNCs be required to provide and prominently display a customer service number with texting capabilities and/or e-mail address?
- Should TNC apps be barred from collecting user data when the user is not using the app?³
- Should TNC apps – even when open – be barred from collecting certain types of user data, or be required to offer users the choice to not have certain types of data be collected?
- For collected user data, should TNC apps be required to more clearly or specifically inform users of the types of data that will be collected, how the data may be used, and how user privacy will be maintained?

³ Uber's app on iPhones collects user data all the time rather than only when the app is on.

- Should TNC apps always display driver name/photo, license plate number, vehicle make/model, and vehicle color?
- Should there be a system (e.g. TNC app or third-party data base) to track driver hours across multiple TNC platforms?
- Should there be a system to receive TNC driver attestations on their hours logged on to multiple TNC platforms?
- Should the Commission impose requirements on TNCs to address safety recalls for vehicles used in TNC service?

2.4. Autonomous Vehicles (Previously Identified as Track 8)

- How should the Commission define what constitutes an “autonomous vehicle” (AV) used in prearranged passenger transportation service for-hire?
- How should the Commission define what constitutes a “remote operator” of an AV used in prearranged passenger transportation service for-hire?
- What requirements under the Charter-Party Carriers Act and all applicable Commission decisions, rules, and orders which apply to drivers physically present in vehicles should the Commission also adopt for “remote operators” of AVs used in prearranged passenger transportation service?
- What amount of insurance coverage (*i.e.* evidence of ability to respond to judgments for personal injury, death, or property damage) should the Commission require of a person or entity to provide prearranged passenger transportation service using AVs?
- Should the Commission require that certain information, such as how to contact the person or entity authorized to provide prearranged passenger transportation service using AVs, be made available

to passengers inside an AV operated without a driver in the vehicle?

- Should the Commission require certain unique identifying information be made available on each AV, operated without a driver in prearranged passenger transportation service, to enable passengers to easily identify the exact AV offered for that trip?
- Should the Commission require that a two-way communication link, between passengers and the person or entity authorized to provide prearranged passenger transportation service using AVs, be available and maintained at all times in each AV operated without a driver in the vehicle?
- Should the Commission designate a new regulatory category, such as Autonomous Vehicle Carrier (AVC), to authorize a person or entity to provide prearranged passenger transportation service using AVs operated without a driver in the vehicle?
- In a new regulatory category, what requirements of TCP or TNC permit-holders under the Charter-Party Carriers Act and all applicable Commission decisions, rules, and orders should the Commission also adopt in order to authorize a person or entity to provide prearranged passenger transportation service using AVs operated without a driver in the vehicle?
- In a new regulatory category, what information should the Commission require to be reported by a person or entity authorized to provide prearranged passenger transportation service using AVs operated without a driver in the vehicle to the Commission; how often (*e.g.* monthly, annually, per trip, *etc.*) should this information have to be reported to the Commission; and under what conditions, if any, should this information be made available to the public?

- Should the Commission prohibit or impose any requirements on prearranged passenger transportation service to, from, or within airports using AVs operated without a driver in the vehicle?
- Should the Commission prohibit or impose any requirements on prearranged passenger transportation for unaccompanied minors in AVs operated without a driver in the vehicle?
- Should the Commission impose any requirements to ensure the safety of all passengers on the chartering by more than one party (*i.e.* fare-splitting) of AVs operated without a driver in the vehicle?
- Should the Commission modify D.13-09-045 to allow TNCs to own AVs or allow AVs leased or rented by TNCs from partnering entities on their online-enabled applications or platforms?
- Should the Commission modify D.16-04-041 to allow inspections of AVs performed by the manufacturers of AVs to fulfill the inspection requirements for vehicles used to provide prearranged passenger transportation service using online-enabled applications or platforms?
- Should the Commission modify the definition of “personal vehicle” pursuant to D.16-12-037 to include AVs used to provide prearranged passenger transportation service using online-enabled applications or platforms?

2.5. Zero Emission Vehicles

In view of currently pending legislation on Zero Emission Vehicles (ZEVs), I intend to hold a workshop on ZEVs and TNCs after the legislative session ends.

2.6. Data Portal and Sharing Trip Data (Previously Identified as Track 3)

The Commission anticipates issuing a decision in July, 2018.

3. Scheduling

Either myself or one of the assigned Administrative Law Judge (ALJs) will issue a subsequent ruling that sets a schedule for briefing of issues as well as for workshops.

4. Categorization

In the Order Instituting Rulemaking, issued on December 20, 2012, the Commission preliminarily determined that the category of the proceeding was quasi-legislative. The Scoping Memo and Ruling from Phase I of this proceeding, issued on April 2, 2013, confirmed that categorization.

5. Need for Hearing

The Commission in the Order Instituting Rulemaking also preliminarily determined that hearings are not required. This Scoping Memo determines that hearings are not needed.

6. Ex Parte Communications

In a quasi-legislative proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors, and the ALJs are permitted without restriction or reporting as described at Pub. Util. Code § 1701.4(b) and Article 8 of the Rules.⁴

But with respect to communications with the ALJs, any party wishing to communicate with the ALJs, even as to a procedural matter, shall be by e-mail only, with the e-mail sent simultaneously to the proceeding service list.

An e-mail sent only to the ALJs will not receive a response.

⁴ Interested persons are advised that, to the extent that the requirements of Rule 8.1 *et seq.* deviate from Pub. Util. Code §§ 1701.1 and 1701.4 as amended by Senate Bill 215, effective January 1, 2017, the statutory provisions govern.

Telephone calls to the ALJs will not be answered.

Telephone voice mail messages left with the ALJs will not be returned.

7. Assigned Commissioner and Assigned ALJs

Liane M. Randolph is the assigned Commissioner. Robert M. Mason III and Anthony W. Colbert are the assigned ALJs.

8. Filing, Service, and Service List

Rule 1.10 sets out the general rules for service and filing of documents at the Commission. Parties must adhere to the following rules for this proceeding unless specifically instructed differently:

- When serving documents on my office, parties must only provide electronic service. Parties must NOT send hard copies of documents to me or my advisors unless specifically instructed to do so.
- As required by Rule 1.10, when serving document on the assigned ALJ(s), parties must provide both an electronic copy and a hard copy.

The official service list has been created and 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. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. 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.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f). Discovery

9. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Commission’s Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the ALJ. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

10. 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 is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the Commission’s Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

11. Schedule for Completion

It is the Commission’s intent to complete this proceeding within 18 months of the date this Scoping Memo is filed. This deadline may be extended by order of the Commission pursuant to Pub. Util. Code § 1701.5(a).

IT IS RULED that:

1. The category of this proceeding continues to be quasi-legislative.

2. The scope of the issues for Phase III. C. of this proceeding is as stated in Section 2 of this Scoping Memo.

3. Hearings are not necessary.

4. *Ex parte* communications are permitted without restriction or reporting as described at Public Utilities Code Section 1701.4(b) and Article 8 of the Commission's Rules of Practice and Procedure.

Dated April 27, 2018, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph
Assigned Commissioner