

Decision _____

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)

**DECISION GRANTING JOINT MOTION OF THE CALIFORNIA PUBLIC
UTILITIES COMMISSION'S SAFETY AND ENFORCEMENT DIVISION AND
LYFT, INC. FOR APPROVAL OF SETTLEMENT AGREEMENT**

Summary

This decision grants the Joint Motion of the California Public Utilities Commission's Safety and Enforcement Division and Lyft, Inc. (Lyft) for approval of the settlement agreement (Settlement). Pursuant to the Settlement, Lyft agrees to make a \$30,000 payment to the Commission. The Settlement fully resolves all disputed issues in the Order to Show Cause phase of this proceeding regarding Lyft's compliance with the reporting requirements of Decision 13-09-045.

The Order to Show Cause phase of this proceeding with respect to Lyft, Inc., is closed. This rulemaking proceeding remains open.

1. Background**1.1. The Rulemaking**

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.

1.2. Decision 13-09-045 and the Reporting Requirements

On September 19, 2013, the Commission, in Decision (D.) 13-09-045 (Decision), created a new category of charter party carrier called Transportation Network Companies (TNCs). The Decision sets forth the various requirements that TNCs must comply with in order to operate in California. Among other regulatory requirements, the Decision requires TNCs to submit annual reports containing certain specified information:

- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division (SED) a report detailing the number and percentage of their customers who requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles.¹
- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report detailing the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates; and the number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates. The verified report provided by TNCs must contain the above ride information in electronic Excel or other spreadsheet format with information, separated by columns, of the date, time, and zip code of each request and the concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted. In addition, for each ride that was requested and accepted, the information must also contain a column that displays the zip code of where the ride began, a column where the ride ended, the miles travelled, and the amount paid/donated. Also, each report must contain information aggregated by zip code and a statewide total of the number of

¹ D.13-09-045 at 30-31.

rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers.²

- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report in electronic Excel or other spreadsheet format detailing the number of drivers that were found to have committed a violation and/or suspended, including a list of zero tolerance complaints and the outcome of the investigation into those complaints. Each TNC shall also provide a verified report, in electronic Excel or other spreadsheet format, of each accident or other incident that involved a TNC driver and was reported to the TNC, the cause of the incident, and the amount paid, if any, for compensation to any party in each incident. The verified report will contain information of the date of the incident, the time of the incident, and the amount that was paid by the driver's insurance, the TNC's insurance, or any other source. Also, the report will provide the total number of incidents during the year.³
- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report detailing the average and mean number of hours and miles each TNC driver spent driving for the TNC.⁴
- TNCs shall establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer service. This program must be filed with the Commission within 45 days of the adoption of this decision. TNCs must report to the Commission on an annual basis the number of drivers that became eligible and completed the course.⁵

² *Id.* at 31-32.

³ *Id.* at 32.

⁴ *Id.* at 32-22.

⁵ *Id.* at 27.

1.3. Lyft, Inc.'s Report was Incomplete

On September 19, 2014, Lyft, Inc. (Lyft or Respondent) submitted its annual report information to the Commission's Safety Enforcement Division (SED). After reviewing the information submitted, SED alleged that Respondent failed to comply with the reporting requirements set forth in D.13-09-045 by failing to provide all of the required information in its annual reports.

Specifically, SED alleged that Respondent failed to provide the following:

1. The number of rides requested and accepted by TNC drivers within each zip code where the TNC operates;
2. The number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates;
3. The date, time, and zip code of each ride request;
4. The concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted;
5. Columns that displays the zip code of where each ride that was requested and accepted began, ended, the miles travelled, and the amount paid/donated;
6. Information aggregated by zip code and a statewide total of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers;
7. For the report on issues with drivers, the time of each incident reported; and
8. For each incident reported, the insurance amount paid, if any, by any party other than the TNC's insurance.⁶

Since Respondent's incomplete annual reports were submitted on September 19, 2014, SED has worked to obtain complete information as required by the

⁶ See SED Staff Report at 4-5.

Commission. As discussed in SED's Staff Report, SED has issued follow-up data requests to Respondent seeking a complete response to the annual reporting requirements.

1.4. The Order to Show Cause

On November 7, 2014, the then-assigned Commissioner, Michael Peevey, issued a Ruling amending the scope of this proceeding to include an Order to Show Cause (OSC) against Lyft and UberX (later clarified as Rasier-CA).

On November 14, 2014, the assigned Administrative Law Judge (ALJ) issued a ruling ordering Lyft to appear for hearing and to show cause as to why it should not be found in contempt, why penalties should not be imposed, and why Lyft's license to operate should not be revoked or suspended for its failure to comply with D.13-09-045.

The Parties submitted their respective testimony and the evidentiary hearing was held on December 18, 2014. The following documents were received into evidence:

Exhibit No.	Identification
12 ⁷	Report on the Failure of Lyft, Inc. to Comply with the Requirements of Decision (D.) 13-09-045 – PUBLIC VERSION
13	Report on the Failure of Lyft, Inc. to Comply with the Requirements of Decision (D.) 13-09-045 – CONFIDENTIAL VERSION
14	Safety and Enforcement Division's Reply to the Verified Response of Lyft, Inc. to the Rulings Expanding the Scope of the Proceedings and Ordering Lyft, Inc. to Show Cause
15	Verified Response of Lyft to the Rulings Expanding the Scope of the Proceedings and Ordering Lyft to Show Cause

⁷ Exhibit numbers 1-11 were identified in the OSC hearing earlier in the day involving Rasier-CA, LLC. Since some of these earlier exhibits were used in the OSC hearing as to Lyft, it did not make sense to place different exhibit numbers on the same exhibits.

1.5. SED and Lyft Reach a Settlement and File a Joint Motion for Approval of the Settlement

Following the evidentiary hearing, SED and Lyft (jointly referred to as Settling Parties) entered into settlement discussions and on January 30, 2015, filed a Joint Motion for Commission Approval of the Settlement Agreement (Settlement or Agreement). Some of the Agreement terms are set forth below:

1. The Settling Parties agree that all alleged violations and unsatisfactory conditions alleged in the November 14, 2014 ALJ Ruling have been fully and finally resolved.
2. Lyft shall make a payment of \$30,000, payable to the Commission, within 10 days of the Commission's acceptance of the Settlement Agreement.
3. The Settling Parties agree that the Agreement is subject to approval by the Commission. The Settling Parties will furnish such additional information, documents, and/or testimony as the Commission may require in order to support the Motion and adopt the Settlement Agreement as a final settlement of disputes under the November 14, 2014 ALJ Ruling.
4. Lyft agrees to meet with SED at least thirty days prior to the due date of the annual reports required by D.13-09-045, for purposes of confirming that Lyft has full understanding of the reporting requirements as specified in D.13-09-045. In the event that the Commission modifies the reporting requirements as specified in D.13-09-045, this provision shall also pertain to any ruling or decision of the Commission that approves any modifications to the reporting requirements as specified in D.13-09-045.

A complete copy of the Settlement is attached to this decision as Attachment A.

2. Standard of Review for Settlements

Rule 12.1(d) of the Commission's Rules of Practice and Procedure provides that the "Commission will not approve settlements, whether contested or

uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.” The proponents of a settlement have the burden of demonstrating that the settlement satisfies Rule 12.1(d).

The Commission favors the settlement of disputes. (D.11-05-018; D.07-05-060; and D.88-12-083 at 30.) This policy supports many goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results. As long as a settlement is reasonable in light of the whole record, consistent with the law, and in the public interest, it should normally be adopted without alteration. (D.06-06-014; and D.90-08-068.)

Finally, if the moving parties assert that the Settlement is supported by all parties, then the Commission must confirm:

- that the Settlement commands the unanimous sponsorship of all active parties to the instant proceeding;
- that the sponsoring parties are fairly reflective of the affected interests;
- that no term of the settlement contravenes statutory provision or prior Commission decisions; and that the settlement conveys to the Commission sufficient information to permit us to discharge our future regulatory obligations with respect of the parties and their interests.⁸

⁸ D.92-12-019; and D.90-08-068 at 37.

3. Application of the Standard of Review to the Settlement

3.1. The Settlement is Reasonable in Light of the Whole Record

The Settling Parties' evaluation of the issues leading to the Settlement is based on the OSC, SED's Report on Lyft's failure to comply with D.13-09-045's reporting requirements, the negotiations between the Settling Parties prior to the evidentiary hearing, the testimony at the evidentiary hearing, and the negotiations between the Settling Parties after the evidentiary hearings. Therefore, the settlement is reasonable in light of the whole record.

As the following table shows, Lyft eventually provided all the reporting data required by D.13-09-045 that was within its possession, *albeit* in some instances after the September 13, 2014 deadline had expired:

Reporting Category	Date Lyft Produced the Information or Explained why the Information Could not be Provided
The number of rides requested and accepted by TNC drivers within each zip code where the TNC operates.	October 21, 2014 (Reporter's Transcript [RT] at 434:12-20.)
The number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates.	September 19, 2014 (RT at 432:19-27.)
The date, time, and zip code of each ride request.	November 11, 2014 or November 12, 2014, confirmed on November 13, 2014 (RT at 435:1-13.)
The concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted.	November 19, 2014 (RT at 437:16-438:1; 440:21-24.)

Columns that display the zip code of where each ride that was requested and accepted began, ended, the miles travelled, and the amount paid/donated.	November 11, 2014 or November 12, 2014, confirmed on November 13, 2014 (RT at 440:26-441:6.)
Information aggregated by zip code and a statewide total of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers.	Partly on September 19, 2014 and partly on October 21, 2014 (RT at 441:7-16.)
For the report on issues with drivers, the time of each incident reported.	RT, <i>passim</i> .
For each incident reported, the insurance amount paid, if any, by any party other than the TNC's insurance.	Lyft does not have access to this information. (Lyft's Verified Response at 4.)

3.2. The Settlement is Consistent With the Law

In an e-mail dated April 24, 2015, the assigned ALJ instructed the parties to supplement their Joint Motion with additional information as to how the \$30,000 was determined, and to identify similar decisions where the Commission approved a comparable settlement.

In response, SED suggested that in calculating the penalty, the Commission should be guided by Pub. Util. Code §§ 5378 (a)⁹ and 5378 (b)¹⁰

⁹ Pub. Util. Code § 5378(a) provides in part:

- (a) The commission may cancel, revoke, or suspend any operating permit or certificate issued pursuant to this chapter upon any of the following grounds:
 (1) The violation of any of the provisions of this chapter, or of any operating permit or certificate issued thereunder. (2) The violation of any order, decision, rule,

Footnote continued on next page

which, when read together, provides that the Commission may issue a civil penalty up to \$7,500 for violations of “any order, decision, rule, regulation, direction, demand, or requirement established by the Commission pursuant to this chapter.”¹¹ In addition, SED referred to Pub. Util. Code § 5415 which provides that every violation of a Commission order, decision, rule decree, direction, demand, and requirement is a separate and distinct offense, and in the case of a continuing violation, each day’s continuance is a separate and distinct offense.¹² SED arrived at a fine amount of \$2,000 a day for 60 days or \$120,000.¹³

But as the parties negotiated this settlement, SED gave great weight to the fact that Lyft eventually provided the missing information, along with the number and scope of violations, degree and nature of wrongdoing, and the actions Lyft undertook to remedy the violations. In so doing, SED determined that a settlement in the amount of \$30,000 was consistent with the above statutory guidelines.¹⁴

regulation, direction, demand, or requirement established by the commission pursuant to this chapter.

¹⁰ Pub. Util. Code § 5378(b) provides:

(b) The commission may levy a civil penalty of up to seven thousand five hundred dollars (\$7,500) upon the holder of an operating permit or certificate issued pursuant to this chapter, for any of the grounds specified in subdivision (a), as an alternative to canceling, revoking, or suspending the permit or certificate. The commission may also levy interest upon the civil penalty, which shall be calculated as of the date on which the civil penalty is unpaid and delinquent. The commission shall deposit at least monthly all civil penalties and interest collected pursuant to this section into the General Fund.

¹¹ E-mail from SED dated May 6, 2014.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

Lyft reviewed prior cases where the Commission penalized entities for failing to report information to the Commission in a timely manner.¹⁵ Lyft also identified the following cases where TCPs violated their statutory obligations and General Order 157-D, and the TCP was either penalized or a settlement was reached:

Resolution or Decision Number	Name	Amount
Resolution ALJ-297	Kesabian, dba One Dream Limo	\$3,000
Resolution ALJ-286	SB Sedan and Limo Corporation	\$10,000
Resolution ALJ-278	Vasquez	\$7,000
Resolution ALJ 0 285	Cabrera	\$1,500
Decision 04-12-037	Andy's Ultimate Limousines	\$20,000

Lyft also considered the Commission's policy of measuring a penalty against the scope of the violator's efforts to correct the violation, the level of self-reporting, cooperation with staff, and the adoption of corrective measures.

When all of these factors and precedents are collectively considered, the Commission concludes that the payment of \$30,000 is reasonable.

3.3. The Settlement is in the Public Interest

The Commission has acknowledged that there "is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation."¹⁶ The Settlement has put an end to the dispute between SED and Lyft with respect to Lyft's compliance with D.13-09-045's reporting requirements, thus allowing both sides to avoid the cost of further proceedings as to this issue, the result of

¹⁵ E-mail from Lyft dated May 6, 2015.

¹⁶ D.88-12-083, 30 CPUC 2d 189, 221.

which is an uncertainty for the Settling Parties. As such, the Settlement furthers California's public interest in resolving disputes.

3.4. The Settlement has the Unanimous Sponsorship of SED and Lyft

While there are many parties involved in the proceeding, only SED and Lyft are the parties to this OSC portion of the proceeding. We believe that Settling Parties agreement to this Settlement is fairly reflective of their affected interests.

3.5. The Settlement Conveys Sufficient Information to Allow the Commission to Discharge its Regulatory Obligations with Respect to the Settling Parties and Their Interests

The Settlement, when combined with the testimony and exhibits accepted into evidence, has sufficient factual information to allow this Commission to discharge its regulatory obligations. D.13-09-045 stated that the Commission would open a Phase II after the workshop had been held, and after the reporting had been completed, so that the Commission could determine what changes, if any, were needed to the adopted regulations in order to safeguard the public.¹⁷ With this data in hand, the Commission's staff can review same and make recommendations where our safety regulations can be improved.

In sum, we find that the Settlement should be approved.

4. Categorization and Need for Hearing

The Scoping Memo Ruling dated April 2, 2014, confirmed the preliminary categorization of this proceeding as quasi-legislative. However, the OSC phase

¹⁷ D.13-09-045 at 33, 34, and Ordering Paragraphs 9 and 10.

of this proceeding that was opened by the assigned Commissioner on November 7, 2014, created an adjudicatory aspect of the proceeding vis-a-vis SED and Lyft regarding Lyft's satisfaction of D.13-09-045's reporting requirements. Evidentiary hearings were necessary as to the OSC phase of this proceeding.

5. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. Code and Rule 14.6(c)(2), and at the Settling Parties' request, the otherwise applicable 30-day period for public review and comment is waived.

6. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Robert M. Mason III is the assigned ALJ and Presiding Officer in the OSC portion of this proceeding.

Findings of Fact

1. On December 20, 2012, the Commission opened 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.

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

3. Among other regulatory requirements, the Decision required TNCs to submit annual reports containing certain specified information:

- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a report detailing the number and percentage of their customers who requested

accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles.

- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report detailing the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates; and the number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates. The verified report provided by TNCs must contain the above ride information in electronic Excel or other spreadsheet format with information, separated by columns, of the date, time, and zip code of each request and the concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted. In addition, for each ride that was requested and accepted, the information must also contain a column that displays the zip code of where the ride began, a column where the ride ended, the miles travelled, and the amount paid/donated. Also, each report must contain information aggregated by zip code and a statewide total of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers.
- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report in electronic Excel or other spreadsheet format detailing the number of drivers that were found to have committed a violation and/or suspended, including a list of zero tolerance complaints and the outcome of the investigation into those complaints. Each TNC shall also provide a verified report, in electronic Excel or other spreadsheet format, of each accident or other incident that involved a TNC driver and was reported to the TNC, the cause of the incident, and the amount paid, if any, for compensation to any party in each incident. The verified report will contain information of the date of the incident, the time of the incident, and the amount that was paid by the driver's insurance, the TNC's insurance, or any other source. Also, the report will provide the total number of incidents during the year.

- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report detailing the average and mean number of hours and miles each TNC driver spent driving for the TNC.
- TNCs shall establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer service. This program must be filed with the Commission within 45 days of the adoption of this decision. TNCs must report to the Commission on an annual basis the number of drivers that became eligible and completed the course.

4. On September 19, 2014, Respondent submitted annual report information to SED. After reviewing the information submitted, SED alleged that the Respondent failed to comply with the reporting requirements set forth in D.13-09-045 by failing to provide all of the required information in those reports.

5. On November 7, 2014, the then-assigned Commissioner issued a ruling amending the scope of this proceeding to include an OSC against both UberX and Lyft.

6. On November 14, 2014, the assigned ALJ issued a ruling ordering Lyft to appear for hearing and to show cause as to why it should not be found in contempt, why penalties should not be imposed, and why Lyft's license to operate should not be revoked or suspended for its failure to comply with D.13-09-045.

7. The Parties submitted their respective testimony, and the evidentiary hearing was held on December 18, 2014.

8. On January 30, 2015, Lyft and the SED filed their Joint Motion for Approval of Settlement Agreement.

Conclusions of Law

1. All issues in the OSC phase of this proceeding for Lyft are encompassed by, and resolved in the Settlement.
2. The parties to the Settlement are all of the active parties in this proceeding.
3. The parties are fairly reflective of the affected interests.
4. No term of the Settlement contravenes statutory provisions or prior Commission decisions.
5. The Settlement is reasonable in light of the record, is consistent with law, and is in the public interest.
6. The Settlement should be approved because it fully resolves all disputed issues in the OSC phase of this proceeding regarding Lyft, Inc.'s, compliance with the reporting requirements of Decision 13-09-045.
7. The OSC phase of this rulemaking regarding Lyft, Inc.'s, compliance with the reporting requirements of Decision 13-09-045 should be closed.

O R D E R**IT IS ORDERED** that:

1. The Settlement Agreement between the Safety Enforcement Division and Lyft, Inc., attached hereto as Appendix A, is approved.
2. Lyft, Inc. (Lyft) shall make a payment of \$30,000, payable to the "California Public Utilities Commission" (Commission), and mailed or delivered to the Commission's Fiscal office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102, within 10 days of the effective date of this decision. Lyft shall write on the face of the check or money order "For deposit to the General Fund pursuant to Decision_____."

3. The allegations identified in the November 14, 2014 Ruling by the assigned Administrative Law Judge as to Lyft, Inc., are resolved.

4. The Order to Show Cause phase of this rulemaking regarding Lyft, Inc.'s, compliance with the reporting requirements of Decision 13-09-045 is closed.

5. Rulemaking 12-12-011 remains open.

This order is effective today.

Dated _____, at San Francisco, California.