

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



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

R.12-12-011
(Filed December 20, 2012)

**JOINT MOTION OF THE CONSUMER PROTECTION AND ENFORCEMENT
DIVISION AND UBER TECHNOLOGIES, INC.**

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January 3, 2022

**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
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R.12-12-011
(Filed December 20, 2012)

**JOINT MOTION OF THE CONSUMER PROTECTION AND ENFORCEMENT
DIVISION AND UBER TECHNOLOGIES, INC.**

I. INTRODUCTION

Pursuant to Rule 11.1 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules") and Section D.1 of the Settlement Agreement Between the Consumer Protection and Enforcement Division ("CPED"), Uber Technologies, Inc. ("Uber"), and the Rape, Abuse & Incest National Network, Inc. ("RAINN") ("Agreement") approved in Decision ("D.") 21-12-003, CPED and Uber (collectively the "Parties") file this joint motion requesting the Commission require all Transportation Network Companies ("TNCs") to (1) release public versions of previously filed TNC annual reports kept confidential by the Commission pursuant to Decision 13-09-045, footnote 42, and (2) follow the requirements of GO 66-D to keep any portion of those previously filed TNC annual reports confidential.

II. BACKGROUND

In D.13-09-045 the Commission adopted specific safety requirements and regulatory requirements for the TNC industry, including a requirement that each TNC file an annual report with data covering TNC trips by zip codes, driver suspensions/violations, passenger complaints,

traffic and accident information, and requests and compliance with accessible vehicles.¹

Pursuant to footnote 42 of that decision, the Commission permitted these annual reports to be submitted confidentially.

In D.20-03-014, the Commission found “there have been three important developments that have caused this Commission to conduct a fresh consideration of whether any of the information required by the annual reports should be confidential and protected from public disclosure: (1) lack of viable competition in the TNC industry; (2) the Commission's adoption of stricter standards for establishing a claim of confidentiality; and (3) the heightened public interest in obtaining unredacted TNC annual reports.”² The Commission determined that, on a going-forward basis, the TNC annual reports will no longer be presumed to be confidential. Accordingly, footnote 42 was deleted.

In D.21-12-003, the Commission adopted the Agreement between the CPED, Uber, and RAINN. Section D.1 of the Agreement provides:

1. *Motion to Waive Confidentiality of Prior Annual Reports.* As authorized by Decision 20-03-014, Uber and CPED agree to file a joint motion in Rulemaking 12-12-011 no later than 30 days after the adoption of this Agreement requesting that the CPUC require all TNCs to release public versions of previously filed TNC annual reports kept confidential by the CPUC pursuant to Decision 13-09-045, footnote 42 and follow the requirements of G.O. 66-D to keep any portion of those previously filed TNC annual reports confidential.

The Parties file this motion accordingly.

¹ D.13-09-045, p.29-33. The Commission ordered TNCs to submit annual reports to the Safety and Enforcement Division (now CPED) addressing various Regulatory Requirements including: 1) g. # of accessible vehicles requested and TNC compliance with those requests; 2) j. # of rides requested and accepted within each zip code; 3) k. # of drivers suspended or committed violations, list of zero tolerance complaints, and details of each accident or incident; and 4) l. hours and miles drivers spent working for the TNC.

² D.20-03-014, at 14. In D. 21-06-023, the Commission revised D.20-03-014 to remove “lack of viable competition” as one of the considerations that led to its confidentiality determinations with respect to TNC annual reports.

III. ARGUMENT

A. Removing the Presumption of Confidentiality of Previously-Filed Annual Reports Is Consistent with the Commission's Recent Decision in D.20-03-014

With the Commission's determinations in D.20-03-014, the Joint Parties argue the Commission should not view previously-filed TNC annual reports differently than future TNC annual reports. D.20-03-014 states that increasing transparency for the public on the TNC annual report data is helpful. For instance, D.20-03-014 describes: "The purpose behind the annual reports that each permitted TNC was ordered to submit was to give the Commission and the parties, a better understanding of each TNC's operations."³

The Commission also reasons in D.20-03-014 that TNC data can provide insight on the impacts on public safety, health, housing, land use, and in developing local regulations and policies, is important to provide to the public.⁴ D.20-03-014 also notes that maintaining a presumption of confidentiality over the annual reports is not consistent with the Commission's stricter standards for establishing claims of confidentiality.⁵ Lastly, D.20-03-014 removes the presumption of confidentiality over TNC annual report data as consistent with the public's right to access agency records under the California Constitution and the California Public Records Act.⁶

Therefore, in light of the Commission's determination in Decision 20-03-014, the Parties request the Commission order all TNCs to release public versions of previously filed TNC annual reports, and specifically allow TNCs to follow the requirements of General Order 66-D to request confidential treatment of any portions of those previously filed TNC annual reports.

³ D.20-03-014, p.13

⁴ Id. at 27-28.

⁵ Id. at 14 & 20-24.

⁶ Id. at 3 & 10-14.

B. TNCs May Continue to Seek Confidentiality Over Annual Report Data Utilizing the Commission’s GO 66-D Process

Parties that have submitted previously filed annual reports will be afforded an opportunity to request and justify any continued claims for confidentiality by designating the specific information they contend is confidential and providing the legal basis for confidential treatment, consistent with the provisions of GO 66-D. Thus, all affected TNCs that have submitted the previously filed annual reports will have an opportunity to reply to this motion, and/or claim confidentiality through the GO 66-D process or other process as directed by the ALJ.

IV. CONCLUSION

The Parties respectfully request that the Commission approve this Motion.

_____/s/
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