



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

FILED

06/26/23

02:09 PM

R2111014

Order Instituting Rulemaking to Implement Senate Bill
1014-the California Clean Miles Standard Program

Rulemaking 21-11-014
(Filed November 18, 2021)

**REPLY COMMENTS OF LYFT, INC. TO ADMINISTRATIVE LAW JUDGE'S
RULING REQUESTING COMMENTS ON CLEAN MILES STANDARD PHASE 1
SUPPLEMENTAL STAFF PROPOSAL**

KERRY KLEIN
FARMER BROWNSTEIN JAEGER
GOLDSTEIN KLEIN & SIEGEL LLP
155 Montgomery Street, Suite 301
San Francisco, CA 94104
kklein@fbjgk.com
415-795-2050

JANEÉ WEAVER
JEFF BRANDT
Lyft, Inc.
185 Berry Street, Suite 400
San Francisco, CA 94107
jweaver@lyft.com
669-241-0468

June 26, 2023

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

Order Instituting Rulemaking to Implement Senate Bill
1014 - the California Clean Miles Standard Program.

Rulemaking 21-11-014
(Filed November 18, 2021)

**REPLY COMMENTS OF LYFT, INC. TO ADMINISTRATIVE LAW JUDGE'S
RULING REQUESTING COMMENTS ON CLEAN MILES STANDARD PHASE 1
SUPPLEMENTAL STAFF PROPOSAL**

I. INTRODUCTION

Lyft, Inc. (“Lyft”) respectfully submits the following Reply Comments pursuant to the May 10, 2023 Administrative Law Judge’s Ruling Requesting Comments on the Clean Miles Standard Phase 1 Supplemental Staff Proposal (“Supplemental Proposal”). Many of the opening comments provided thoughtful feedback on how to improve the Supplemental Proposal to advance the dual goals of California’s Clean Miles Standard (“CMS”) of transitioning drivers to Zero Emission Vehicles (“ZEVs”), and minimizing impact on low- and moderate-income (“LMI”) individuals.

However, a few commenters made recommendations that are inconsistent with the California Legislature’s intent in enacting Senate Bill (“SB”) 1014. In particular, Lyft addresses below commenters’ recommendations to: (1) increase the proposed upfront incentive levels by assuming that incentives offered by the proposed Drivers Assistance Program (“DAP”) will be the *only* incentives available to drivers and should cover the entire gap between the costs of owning a ZEV and a gas vehicle; and (2) doubling or tripling the per-trip regulatory fee from the illustrative range in the Supplemental Proposal. These proposals—if adopted—could disproportionately impact LMI individuals (both riders and drivers), and slow the adoption of ZEVs.

II. LYFT’S REPLY COMMENTS

A. Recommendations to Increase Incentive Levels are Inconsistent with the Clean Miles Standard

In Opening Comments, Lyft and other parties identified flaws in the analysis reflected in Appendix A to the Supplemental Proposal that resulted in inflated proposed incentive amounts.¹ The San Francisco Municipal Transportation Agency and the San Francisco County Transportation Authority (collectively, “San Francisco”) concluded that it could not support the Supplemental Proposal, which “raises the expected program costs by roughly 40 times, from \$11 million to \$440 million.”² In contrast, several commenters suggest increasing incentive levels from those in the Supplemental Proposal. This recommendation finds no support in the enabling legislation, and should be rejected.

The BlueGreen Alliance, Union of Concerned Scientists, Rideshare Drivers United, and Sierra Club (collectively, “Joint Commenters”) suggest increasing the upfront incentive levels from those in the Supplemental Proposal for drivers transitioning to a ZEV.³ Joint Commenters argue that the Commission’s role should not be limited to “filling the gap” in the total cost of ownership (“TCO”) between ZEVs and internal combustion engine (“ICE”) vehicles after other incentives are applied.⁴ Instead, Joint Commenters urge the Commission to be a “one-stop-shop” for LMI drivers and set the incentives offered by the DAP at a level to offset any cost difference between an ICE vehicle and a ZEV “in its entirety.”⁵ Similarly, Service Employees International Union, Local 721 and Local 1021 (collectively, “SEIU Locals”) recommend that the incentive levels be established at a level that assumes that existing federal and state incentives will be unavailable to drivers.⁶

¹ See, e.g., Lyft Opening Comments, pp. 4-6 and Appendix 1; Uber Technologies, Inc. Opening Comments, pp. 4-7.

² San Francisco Opening Comments, p. 2.

³ Joint Commenters Opening Comments, p. 3.

⁴ Joint Commenters Opening Comments, p. 3.

⁵ Joint Commenters Opening Comments, p. 3.

⁶ SEIU Locals Opening Comments, p. 3. SEIU Locals also recommend that the Commission explore a scheme in which drivers granted access to the DAP “automatically receive” access to the existing programs that CPED Staff considered in their assessment. *Id.* Lyft doubts this proposal is feasible, given that the Commission does not administer the other state and federal incentive and rebate programs identified in Appendix A.

These recommendations to set the incentive level at an amount that on its own entirely offsets any cost difference between a ZEV and an ICE vehicle are antithetical to the statute creating the CMS Program. When it enacted SB 1014, the California Legislature acknowledged that the California Air Resources Board (“CARB”) had already established the Clean Vehicle Rebate Project to “subsidize the purchase of new zero-emission vehicles, with a priority and an augmented funding amount for low-income drivers.”⁷ The Legislature also recognized the existence of the CARB’s Financing Assistance for Lower-Income Consumers Program “to subsidize the purchase of, and provide for low-cost financing for, zero-emission vehicles by low-income drivers.”⁸ Thus, the California Legislature intended for the CMS to be an additional program to assist California’s drivers in transitioning to a ZEV, as one part of a larger panoply of federal and state funding programs.

Moreover, the California Legislature did not task the Commission with creating incentives that would by themselves completely close any gap between the cost of a ZEV and a gas ICE vehicle. Rather, the statute requires the Commission to: (1) implement annual targets and goals for the reduction of GHG emissions per messenger miles driven;⁹ and (2) ensure minimal negative impact on low-income drivers.¹⁰ The statute does not empower—or even authorize—the Commission to create an incentive program out of whole cloth, and set the incentives at an amount that would on its own entirely offset the cost of transitioning to a ZEV.

Finally, Staff appropriately considered the availability of existing incentives in its analysis. Staff did not assume that the full complement of state and federal incentives (\$22,500 for purchasing a new ZEV, or \$15,500 for purchasing a used ZEV) would be available to drivers.¹¹ Rather, Staff acknowledged that not all incentives will be available to all drivers, and assumed in its calculations that drivers would have access to two out of the four existing incentives. This results in a conservative assumption of \$15,000 in existing incentives for a new

⁷ SB 1014, Stats. 2018, Ch. 369 § 1(i).

⁸ SB 1014, Stats. 2018, Ch. 369 § 1(j).

⁹ Cal. Pub. Util. Code § 5450(b)(2).

¹⁰ Cal. Pub. Util. Code § 5450(d)(1).

¹¹ Supplemental Proposal, p. 18.

ZEV, and \$8,000 in existing incentives for a used ZEV.¹² Staff’s conservative approach is consistent with statute, and should not be disturbed.

B. Proposals to Increase the Regulatory Fee are Inconsistent with Ensuring Access to Clean Mobility for LMI Individuals

Several commenters provided feedback on the proposal to fund the DAP through a per-trip regulatory fee. Some parties support the proposed per-trip fee, while others prefer a per-mile fee. Joint Commenters support a per-trip fee, and recommend that the fee be doubled or tripled from the \$0.06 to \$0.19 illustrative fee amounts in the Supplemental Proposal.¹³ As Lyft has consistently argued throughout this rulemaking, the regulatory fee to fund the DAP—whether it be per-trip or per-mile—exceeds the Commission’s authority granted in the enabling legislation.¹⁴ Should the Commission ignore the legal infirmities Lyft has identified and move forward with the proposed regulatory fee, it should reject commenters’ proposals to increase the regulatory fee to levels that would harm LMI passengers and drivers.

In implementing the CMS Program, the Commission is required to “[s]upport the goals of clean mobility for low- and moderate-income individuals.”¹⁵ Joint Commenters claim that there is “clearly room (and rider tolerance) to increase the regulatory fee.”¹⁶ Joint Commenters provide no support for this claim. In contrast, many commenters have persuasively argued throughout this proceeding that a regulatory fee would disproportionately impact LMI riders.¹⁷ As Lyft stated in Opening Comments, almost 40% of rides in California in 2022 started or ended in a low income community.¹⁸ A significant regulatory fee may provide a powerful disincentive to using ridesharing services. Increasing costs to passengers conflicts with SB 1014’s stated goal to

¹² Supplemental Proposal, p. 18.

¹³ Joint Commenters Opening Comments, p. 8.

¹⁴ Lyft’s January 30, 2023 Opening Comments to Administrative Law Judge’s Ruling Requesting Comments on Clean Miles Standard Phase 1 Staff Proposal, pp. 3-5; Lyft’s February 27, 2023 Reply Comments to Administrative Law Judge’s Ruling Requesting Comments on Clean Miles Standard Phase 1 Staff Proposal (“Lyft February 27, 2023 Reply Comments”), pp. 2-3.

¹⁵ Cal. Pub. Util. Code § 5450(d)(1).

¹⁶ Joint Commenters Opening Comments, p. 8.

¹⁷ Lyft February 27, 2023 Reply Comments, pp. 10-11; San Francisco County Transit Authority January 30, 2023 Opening Comments, p. 6; Protect App-Based Drivers and Services (“PADS”) Opening Comments, p. 3.

¹⁸ Lyft Opening Comments, p. 9, n.28.

“increase access to clean mobility options for [LMI] individuals, by increasing use of ride services that utilize zero-emission vehicles.”¹⁹

In addition, LMI drivers could be affected if ridership decreases as a result of a significant regulatory fee. As PADS points out, “As a consequence of increased prices, consumer demand and driver earnings could be seriously negatively impacted, especially in certain markets where conditions are elastic. Most notably, LMI drivers ***and*** consumers could be disproportionately impacted.”²⁰ Lyft urges the Commission to consider carefully the impacts of the proposed regulatory fee on riders and drivers (particularly LMI riders and drivers) before imposing a regulatory fee.

III. CONCLUSION

Lyft appreciates the opportunity to reply to parties’ comments on the Supplemental Proposal and looks forward to continuing to engage in discussions with the Commission, parties and interested stakeholders.

Dated: June 26, 2023

Respectfully submitted,

/s/ Janeé Weaver

Janeé Weaver
Senior Counsel
Lyft, Inc.
185 Berry Street Suite 400
San Francisco, CA 94107
jweaver@lyft.com
669-241-0468
Registered In House Counsel In California

¹⁹ SB 1014, Stats. 2018, Ch. 369 § 1(m).

²⁰ PADS Opening Comments, p. 3 (emphasis in original).

VERIFICATION

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 26, 2023, at San Francisco, California.

DocuSigned by:

84B1533E148547A
Lindsay Lewellyn
General Counsel