
PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**

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R1212011

June 20, 2024

TO PARTIES OF RECORD IN RULEMAKING 12-12-011:

This proceeding was filed on December 20, 2012, and is assigned to Commissioner Baker and Administrative Law Judge (ALJ) Robert M. Mason III. This is the decision of the Presiding Officer, ALJ Mason.

Any party to this adjudicatory proceeding may file and serve an Appeal of the Presiding Officer's Decision within 30 days of the date of issuance (*i.e.*, the date of mailing) of this decision. In addition, any Commissioner may request review of the Presiding Officer's Decision by filing and serving a Request for Review within 30 days of the date of issuance.

Appeals and Requests for Review must set forth specifically the grounds on which the appellant or requestor believes the Presiding Officer's Decision to be unlawful or erroneous. The purpose of an Appeal or Request for Review is to alert the Commission to a potential error, so that the error may be corrected expeditiously by the Commission. Vague assertions as to the record or the law, without citation, may be accorded little weight.

Appeals and Requests for Review must be served on all parties and accompanied by a certificate of service. Any party may file and serve a Response to an Appeal or Request for Review no later than 15 days after the date the Appeal or Request for Review was filed. In cases of multiple Appeals or Requests for Review, the Response may be to all such filings and may be filed 15 days after the last such Appeal or Request for Review was filed. Replies to Responses are not permitted. (*See, generally, Rule 14.4 of the Commission's Rules of Practice and Procedure at www.cpuc.ca.gov.*)

If no Appeal or Request for Review is filed within 30 days of the date of issuance of the Presiding Officer's Decision, the decision shall become the decision of the Commission. In this event, the Commission will designate a decision number and advise the parties by letter that the Presiding Officer's Decision has become the Commission's decision.

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC:jnf

Attachment

ALJ/POD-RIM/jnf

Decision PRESIDING OFFICER'S DECISION OF ALJ MASON
(Mailed 6/20/2024)

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

**PRESIDING OFFICER'S DECISION APPROVING OFFERED SETTLEMENT
TERMS AND
GRANTING DEFERRAL OF THE ORDER TO SHOW CAUSE PROCEEDINGS**

TABLE OF CONTENTS

Title	Page
PRESIDING OFFICER’S DECISION APPROVING OFFERED SETTLEMENT TERMS AND GRANTING DEFERRAL OF THE ORDER TO SHOW CAUSE PROCEEDINGS.....	1
Summary	2
1. Factual and Procedural Background	2
1.1. Cruise’s Duty to Report Autonomous Vehicle Collisions.....	2
1.2. Cruise’s Failure to Provide a Complete Report of the October 2, 2023 Incident to the Commission	4
1.3. Cruise’s Public Misrepresentations Regarding the Extent of its Cooperation with the Commission	5
1.4. The Order to Show Cause	6
2. Submission Date	8
3. Jurisdiction and Burden of Proof	8
4. Discussion	9
4.1. The Settlement Agreement.....	9
4.2. Do the Terms Set Forth in the Motion and Settlement Agreement Satisfy the Rule 12.1(d) Standards?	11
4.2.1. The Terms Set Forth in the Motion and Settlement Agreement Are Reasonable in Light of the Whole Record.	11
4.2.2. The Terms of the Settlement Agreement Are Consistent with the Law	13
4.2.3. The Terms of the Settlement Agreement Are in the Public Interest.....	15
4.2.4. The Terms of the Settlement Agreement’s Penalty Provision Satisfy the Criteria in D.98-12-075	16
5. Appeal or Review of Presiding Officer’s Decision	20
6. Assignment of Proceeding.....	21
Findings of Fact.....	21
Conclusions of Law	22
ORDER.....	22

Attachment A - Motion for Approval of Cruise LLC’s Offer of Settlement

**PRESIDING OFFICER'S DECISION APPROVING OFFERED SETTLEMENT
TERMS AND GRANTING
DEFERRAL OF THE ORDER TO SHOW CAUSE PROCEEDINGS**

Summary

This decision approves the offered terms set forth in the *Motion for Approval of Cruise LLC's Offer of Settlement in Response to Administrative Law judge's Ruling on Motion of Cruise LLC for Alternative Dispute Resolution and Deferral of the Order to Show Cause Proceedings* (Motion). We approve the terms based on the representation from Craig Glidden, Cruise LLC's (Cruise) President and Chief Administrative Officer, made at the February 6, 2024 Order to Show Cause hearing, that Cruise would pay a penalty in the amount of \$112,500, up from a previous settlement offer of \$75,000. Pursuant to Public Utilities (Pub. Util.) Code §5378(b), \$112,500 (\$7,500.00 per day times fifteen days) is the maximum penalty to Commission can impose.

This proceeding remains open.

1. Factual and Procedural Background

1.1. Cruise's Duty to Report Autonomous Vehicle Collisions

On November 23, 2020, the Commission issued Decision (D.) 20-11-046, entitled *Decision Authorizing Deployment of Drivered and Driverless Autonomous Vehicle Passenger Service*. Pursuant to that decision autonomous vehicle (AV) companies having the necessary operating permits from the California Department of Motor Vehicles (DMV) and the Commission to participate in the AV deployment program were required to comply with the requirements of D.20-11-046 as a condition for providing drivered and driverless AV transportation service.

For the Commission to satisfy its duty to understand and ensure the safety of the autonomous vehicle passenger service, D.20-11-046 contained two ordering paragraphs that established reporting requirements for Drivered and Driverless AV Passenger Service. As the incident giving rise to this OSC involves Cruise's driverless AV transportation service, it is necessary to set forth the applicable reporting requirements in Ordering Paragraph 7(g):

7. Permit-holders participating in the driverless AV deployment program shall:

g. Transmit simultaneously to the Commission all reports required by DMV regulations, including the process in the event of a collision, law enforcement interaction plan, collision reporting, disclosure to the passenger regarding collection and use of personal information, and annual Autonomous Vehicle disengagement reports[.]

The DMV requires permitted providers of AV transportation service to provide complete disclosure of information of any incident that may call into question the safety of AV transportation service. As stated in the DMV's October 24, 2023 Order of Suspension sent to Cruise, the failure to provide complete disclosure constitutes a violation of 13 California Code of Regulations §227.42(b)(5), which states:

Any act or omission of the manufacturer or one of its agents, employees, contractors, or designees which the department finds makes the conduct of autonomous vehicle testing on public roads by the manufacturer an unreasonable risk to the public.¹

Accordingly, as the DMV has determined that Cruise failed to comply with the DMV's reporting requirements, that failure also amounts to a violation

¹ *Order to Show Cause* dated December 1, 2023 (DMV Order of Suspension (October 24, 2023) and DMV News Release attached thereto).

of Ordering Paragraph 7g and applicable Commission's Rules of Practice and Procedure (Rules) and statutes.

1.2. Cruise's Failure to Provide a Complete Report of the October 2, 2023 Incident to the Commission

On October 2, 2023, at approximately 9:30 p.m., an unknown driver struck a pedestrian in the crosswalk at 5th and Market Streets in San Francisco. The impact caused the pedestrian to fall into the path of a driverless Cruise AV, which instituted a hard-braking maneuver and came to a stop.² In the process of engaging in the hard-breaking maneuver, the Cruise AV collided with and ran over the pedestrian.³ After coming to a complete stop, the Cruise AV attempted to perform a pullover maneuver while the pedestrian was still underneath the Cruise AV.⁴ The Cruise AV travelled approximately 20 feet and reached a speed of 7 mph before coming to a complete stop.⁵ During this pullover, the pedestrian remained lodged under the Cruise AV.⁶

On October 3, 2023, Jose Alvarado of Cruise telephoned Ashlyn Kong, an analyst with the Commission's Consumer Protection and Enforcement Division (CPED), and informed her of the collision.⁷ During this telephonic meeting, Mr. Alvarado's description of the incident only included that the Cruise AV immediately stopped upon impact with the pedestrian and contacted Cruise's remote assistance.⁸ Mr. Alvarado's description of the October 2, 2023 incident

² DMV Order of Suspension.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Order to Show Cause* (Declaration of Ashlyn Kong [Kong Decl.] at 4 attached thereto).

⁸ *Id.*, at 7.

omitted that the Cruise AV had engaged in the pullover maneuver which resulted in the pedestrian being dragged an additional 20 feet at 7 mph.⁹

On October 5, 2023, CPED's Transportation Enforcement Branch (TEB) issued a data request seeking information related to the October 2, 2023 incident, including video documentation.¹⁰

On October 11, 2023, the Commission's Transportation Licensing and Analysis Branch (TLAB) met with the DMV and learned that the DMV was trying to obtain a longer video of the October 2, 2023 incident.¹¹

On October 18, 2023, TLAB and Cruise representatives met. Cruise stated it was in the process of providing the full video to the Commission's TEB.¹²

On October 19, 2023, Cruise responded to TEB's data request and provided the full video of the October 2, 2023 incident.¹³

For a total of fifteen (15) days, from October 3, 2023 to October 18, 2023, Cruise failed to provide the Commission with a full account of the October 2, 2023 incident.

1.3. Cruise's Public Misrepresentations Regarding the Extent of its Cooperation with the Commission

On October 24, 2023, Cruise issued a blog post entitled "A detailed review of the recent SF hit-and-run incident."¹⁴ In the post, Cruise asserted that

⁹ *Id.*

¹⁰ *Order to Show Cause* (Declaration of Bezawit Dilgassa [Dilgassa Decl.] at 2 attached thereto).

¹¹ Kong Decl. at 9.

¹² *Id.*, at 10-12.

¹³ Dilgassa Decl., at 3.

¹⁴ On December 1, 2023, Cruise posted a blog in which it states that "Out of respect to ongoing regulatory engagement, we have removed the Oct. 24 post, and as previously communicated,
Footnote continued on next page.

our team proactively shared information with the DMV, California Public Utilities Commission (CPUC), and National Highway Traffic Safety Administration (NHTSA), including the full video, and have stayed in close contact with regulators to answer their questions.¹⁵

That statement is misleading in two respects: first Cruise claims to have “proactively shared information” when, in fact, it withheld information from the Commission for 15 days, thus misleading the Commission.¹⁶ Second, by withholding information about the extent of the Cruise AV interaction with the pedestrian, Cruise misled the DMV and, in turn, the Commission into thinking that the original/initial video accurately memorialized the full extent of the incident.

1.4. The Order to Show Cause

On December 1, 2023, the Assigned Commissioner and the Assigned Administrative Law Judge (ALJ) issued their *Joint Ruling Ordering Cruise LLC to Show Cause Why It Should Not Be Sanctioned by the Commission for Failing to Provide Complete Information and for Making Misleading Public Comments Regarding the October 2, 2023 Cruise Related Incident and Its Subsequent Interactions with the Commission* (Joint OSC Ruling). Cruise was ordered to appear on February 6, 2024.

are performing a full review on our response to the Oct. 2 incident.” [Cruise | Cruise \(getcruise.com\)](#)

¹⁵ Cruise’s claims of proactive sharing also appear in the following articles:

See: <https://abc7news.com/cruise-permit-suspended-dmv-autonomous-vehicle-permits/13964874/>.

See: <https://techcrunch.com/2023/10/24/dmv-immediately-suspends-cruises-robotaxi-permit-in-california/>.

¹⁶ Kong Decl., at 13.

On January 5, 2024, Cruise filed both a *Motion for Alternative Dispute Resolution and Deferral of the Order to Show Cause Proceedings*, and an *Offer of Settlement in Response to the Joint OSC Ruling*.

On January 12, 2024, the assigned ALJ issued his ruling denying Cruise's request for Alternative Dispute Resolution and, instead, instructed Cruise to file a motion for approval of settlement pursuant to Rule 12.1 of the Commission's Rules.

On January 30, 2024, Cruise filed its *Motion for Approval of Cruise LLC's Offer of Settlement in Response to Administrative Law Judge's Ruling on Motion of Cruise LLC for Alternative Dispute Resolution and Deferral of the Order to Show Cause Proceedings* (Motion).

On February 6, 2024, Cruise appeared to answer questions about its Motion and the underlying October 2, 2023 incident. During the discussion, Craig Glidden, Cruise's President and Chief Administrative Officer, agreed that Cruise would increase its penalty payment to the state General Fund from \$75,000 to \$112,500.¹⁷ Other than that adjustment, the remainder of the proposed settlement terms were not altered.

On February 29, 2024, the San Francisco Municipal Transportation Agency (San Francisco) filed its Comments to Cruise's Motion. San Francisco challenges the adequacy of the record since, in its view, the documents and testimony do not represent an accurate or complete accounting of the incident or the post-crash events. Further, San Francisco claims that even with Cruise's offer of additional reporting to the Commission, there is nothing in the proposed Settlement Agreement regarding public access to the documents and data that

¹⁷ Reporter's Transcript at 28:4-25.

Cruise has offered to provide to the Commission. Finally, San Francisco believes that the proposed Settlement Agreement is outdated because it fails to capture subsequent developments that occurred after its initial filing. San Francisco believes that any settlement should include an acknowledgement of the events that occurred or that, alternatively, the Commission should proceed with the OSC hearing.

On March 6, 2024, Cruise filed its reply Comments. Cruise first questions San Francisco's right to file comments since it is not a party to the OSC. It points out that the assigned ALJ has already stated that the only party to the OSC was Cruise and thus no other parties participating in the underlying Rulemaking (R.) 12-12-011 proceeding, can file Comments under Rule 12.2. Cruise also argues that the Quinn Report, coupled with Cruise's Motion and the hearing, provides a complete record for the Commission to rule on the Motion. Finally, Cruise notes that the Commission is already considering data reporting and possible data sharing requirements, so this issue need not be resolved in the context of Cruise's Motion.

2. Submission Date

This matter was submitted on March 6, 2024, following the filing of Cruise's reply Comments.

3. Jurisdiction and Burden of Proof

The Commission has the authority to regulate both drivered and driverless passenger service provided by TCPs. California has long recognized that the provision of passenger service on public roads in the State is affected with a public interest, particularly in the areas of passenger safety, driver safety, consumer protection, and the fitness of the companies providing this service to

the public.¹⁸ The Commission licenses TCPs to offer such service, develops rules and regulations for TCP permit-holders, and enforces the rules and regulations.

As Cruise has filed its Motion pursuant to Rule 12.1, Cruise bears the burden of proving by the preponderance of the evidence that the settlement is reasonable in light of the whole record, is consistent with the applicable law, and is in the public interest.

4. Discussion

4.1. The Settlement Agreement¹⁹

The Settlement Agreement is broken down into three main components: reporting enhancements, coordinated responses to the Commission and the DMV, and the payment of a penalty to the state General Fund.²⁰

Reporting Enhancements

- a. Cruise will provide to the Commission collision reports for collisions in California at the same time Cruise provides these collision reports to the National Highway Traffic Safety Administration (NHTSA) under NHTSA's Standing General Order 2021-01.
- b. Cruise will provide to the Commission collision reports modeled on the California Department of Motor Vehicles' (DMV) form OL 316 for collisions in California involving

¹⁸ D.18-05-043 (*Decision Authorizing a Pilot Test Program for Autonomous Vehicle Passenger Service with Drivers...*) at 5-6; and D.20-11-046 (*Decision Authorizing Deployment of Drivered and Driverless Autonomous Vehicle Passenger Service*) at 8. See also Passenger Charter-party Carriers Act, Pub. Util. Code §5351 *et seq.* Commission regulation relates to the provision of passenger service and does not apply to other contractual agreements for the use of an AV, such as rental car or leased car arrangements as defined in the California Vehicle Code.

¹⁹ Though Cruise has characterized this as a Settlement Agreement, it is not a settlement in the traditional sense of a settlement between parties. Rather, it represents Cruise's proposed terms to resolve the Order to Show Cause without further hearings. Because Cruise's documents refer to the Settlement Agreement, we use that term here.

²⁰ Motion at 14-15.

AVs operating under a DMV deployment permit that resulted in property damage, bodily injury, or death.

- c. Cruise will provide to the Commission monthly reporting of AVs that entered a minimal risk condition (MRC) state while operating in California under a DMV deployment permit that resulted in a physical retrieval by field personnel where the AV blocked or partially blocked a travel lane, bike lane, or transit-only lane, or was within 200 feet of the nearest rail of any rail crossing. This monthly reporting will include the following information:
- License plate, VIN, or other unique identifier for the AV involved
 - Date and time
 - Latitude and longitude of where the MRC occurred
 - Duration of the MRC
 - Result of the MRC – e.g., AV blocked or partially blocked a travel lane, bike lane, or transit-only lane, or was within 200 feet of the nearest rail of any rail crossing
 - Response time – approximate time of dispatch, arrival at vehicle, vehicle removed
 - Involvement of law enforcement or other first responders at the scene
 - Number of passengers in the vehicle, if applicable.
 - o If passengers were present in the vehicle, how the ride was resolved – e.g., completed in a different vehicle, passenger ended ride early, etc.

Coordinated Exchange of Information

Cruise will provide the Commission with Cruises's responses to the DMV's permit reinstatement questions at the same time Cruise provides those responses to the DMV.²¹

Penalty Payment

Cruise agrees to make a payment of \$75,000 (now increased to \$112,500) to the state General Fund within ten days of the Commission's approval of the Settlement Agreement without further modification.

²¹ Given the passage of time, it is possible that Cruise may have already provided the first set of responses to the DMV. As such, Cruise has the option to provide the responses within 10 days of the Commission's approval of the terms of settlement, if Cruise has already provided them to the DMV.

The Settlement Agreement states that upon the Commission's approval of the Settlement Agreement, the OSC track of this proceeding shall be closed.

4.2. Do the Terms Set Forth in the Motion and Settlement Agreement Satisfy the Rule 12.1(d) Standards?

Contrary to the position of San Francisco and as we will demonstrate, the Commission has a sufficient record in which to decide whether to adopt the terms set forth in Cruise's Motion to resolve the OSC. Though the terms offered in Cruise's Settlement Agreement are not a settlement in the traditional two party sense, we conclude that the standards utilized to review settlements are logical in light of the facts of this case.

4.2.1. The Terms Set Forth in the Motion and Settlement Agreement Are Reasonable in Light of the Whole Record.

A Settlement Agreement, or in this case, the terms set forth in the Settlement Agreement, is reasonable in light of the whole record if, *inter alia*, it saves the Commission significant expenses and use of its resources, when compared to the risk, expense, complexity, and likely duration of further proceedings, which still protecting the public interest.²² In addition, the Commission considers "whether the settlement as a whole produces a just and reasonable outcome."²³

We find that the terms in the Settlement Agreement are reasonable in light of the whole record. First, rather than subject the Commission to an evidentiary hearing that could lead to a decision, an appeal, an application for rehearing, and a possible petition for writ of mandate, Cruise is seeking to resolve this dispute

²² *In re Southern California Gas Co.* (1999) D.00-09-034, 2000 Cal. PUC LEXIS 694 at *29.

²³ D.10-04-033 (*Decision Approving Settlement Agreement*) at 9.

expeditiously. Approval of the Settlement Agreement terms will bring this dispute to a close which will permit Commission staff to devote their resources to Cruise's regulatory oversight rather than engage in potentially protracted litigation.

Second, Cruise has taken responsibility for its failure to affirmatively raise the pullover maneuver or dragging of the pedestrian. Both in its communications with Commission staff on October 3, 2023, as well as in its written responses on October 19, 2023, Cruise has admitted that its verbal and written communications were incomplete in that they failed to provide Commission staff with a complete account of the incident and its aftermath.²⁴ Cruise has also acknowledged that the actions of its representatives in the aftermath of the October 2, 2023 incident have raised concerns about whether Cruise provided accurate, timely, and complete information as required by D.20-11-046, as modified by D.21-05-017.²⁵

Third, Cruise has promised to engage with Commission staff with greater transparency. Cruise has specifically promised to adopt new data reporting requirements for minimal risk condition incidents on a monthly basis, along with data sharing with the Commission of information Cruise provides to the DMV and to the National Highway Traffic Safety Administration. We recognize that as this rulemaking continues to enhance data reporting and transparency for the broader AV industry, these efforts may supplant such data reporting that Cruise has proposed. As such, Cruise's agreement to proactively provide this information relieves staff from the need to continually serve data requests to

²⁴ Motion at 17.

²⁵ Cruise's Offer of Settlement at 1, first WHEREAS clause.

pinpoint any follow up inquiries regarding Cruise's AV operations to ensure that Cruise is operating in a manner that best promotes transparency and public safety.

By adopting the terms of the Settlement Agreement, the Commission will achieve all the goals that it could hope to achieve if it conducted an evidentiary hearing. Cruise has admitted responsibility for its actions and has proposed a pathway that will promote greater transparency and public safety. Further, what Cruise has agreed to pay as a penalty is all that the Commission could impose because of Pub. Util. Code §5378(b) even if it went forward with an evidentiary hearing. As such, we conclude that the Settlement Agreement is reasonable in light of the whole record.

4.2.2. The Terms of the Settlement Agreement Are Consistent with the Law

Cruise asserts, and the Commission agrees, that there is no known statutory provision or prior Commission decision that would be contravened by adopting the terms of the Settlement Agreement.²⁶ The Commission has approved and adopted settlement agreements involving TCPs or TNCs where, as here, the matter of a respondent's duty to comply with the Commission's regulatory authority has been raised, and the respondent has been cooperative in trying to achieve a settlement. (*See* D.18-11-006 [*Decision Adopting the Settlement Agreement, as Amended, Between Rasier-CA, LLC and the Consumer Protection and Enforcement Division Regarding Zero Tolerance Rules in Safety Requirement D of Decision 13-09-045*; and D.15-07-012 [*Decision Approving the Settlement Agreement between the Commission's Safety and Enforcement Division and Lyft, Inc. (Lyft) Regarding Lyft's Compliance with D.13-09-045's Reporting Requirements*].)

²⁶ Motion at 18.

Additionally, and under similar circumstances, the Commission has adopted settlement agreements in other situations where the settlement resolved the issues raised in the scope of an OSC in an expeditious manner. (*See* D. 94-11-018 (1994) Cal PUC LEXIS 1090 at *153 [Decision approved and adopted the proposed settlement agreement that “address[ed] the issues raised in the OSC of the Echo Summit site, and also resolve[d] potential issues concerning” other sites]; and D.07-03-048 at 4 [Decision approved and adopted proposed settlement agreement that resolved issues raised in an investigation “quickly and fairly”].)

Finally, the payment of \$112,500 is consistent with other proceedings where a TCP has been charged with violations of Pub. Util. Code §5381, among other statutes. (*See* D.15-07-012 [\$30,000 negotiated settlement for alleged violation of the Commission’s reporting requirements after the respondent agreed to provide the missing information]; D.18-11-006 [CPED and Rasier LLC agreed to a settlement of \$750,000 regarding Rasier’s alleged failure to comply with the Commission’s zero-tolerance rules regarding driving under the influence]; D.06-04-039 [Wine & Roses Limousine was charged with operating without proper workers’ compensation insurance coverage in violation of Pub. Util. Code §5378.1, among other violations. A fine of \$5,000 per violation was stayed, in part, to provide a greater incentive for compliance and cooperation]; D. 04-12-037 (The Ultimate Limousine failed to enroll drivers in the California Department of Motor Vehicles (DMV) Pull Notice Program in violation of Pub. Util. Code §5381, among other violations. Settlement in the amount of \$20,000 was reached, payable in installments. The Commission took into account the size of the business and the need for deterrence in setting the amount.); and D.03-10-079 [Tour Designs failed to enroll drivers in the DMV Pull Notice

Program and was fined \$10,200 plus the cost of the investigation into the offenses].

In sum, the Commission finds that there is sufficient analogous law to conclude that the terms of the Settlement Agreement are consistent with Commission law.

4.2.3. The Terms of the Settlement Agreement Are in the Public Interest

There are several reasons why we find that the terms of the Settlement Agreement are in the public interest. First, and as noted above, California has “a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation.”²⁷ Here, adoption of the terms of the Settlement Agreement will permit Cruise and the Commission to focus their resources on actions that enhance the safety of AV transportation services.

Second, Cruise has engaged in certain housekeeping matters to convince the Commission that Cruise is sincere in efforts to restore the Commission’s and the public’s trust in Cruise’s operations. For example, Cruise retained the law firm of Quinn Emanuel Urquhart & Sullivan who conducted a top to bottom internal investigation of Cruise’s operational structure following the October 2, 2023 and made several systemic recommendations.²⁸ Quinn’s recommendation of

²⁷ *Opinion*, D.88-12-083, 1988 Cal. PUC LEXIS 886 at *85 (Cal. P.U.C. Dec. 19, 1988); *see also Opinion Adopting Settlement Agreement*, D.07-05-060, 2007 Cal. PUC LEXIS 159 at *7-8 (Cal. P.U.C. May 24, 2007); *Decision Adopting a Settlement Agreement, Authorizing the Use of Facilities Fees to Offset the Costs for Plant Upgrades, and Setting the Rate of Interest for Allowance for Funds Used During Construction and Post-In-Service Expenses*, D.22-12-006, 2022 Cal. PUC LEXIS 521 at *12 (Cal. P.U.C. Dec. 1, 2022).

²⁸ The Quinn Emanuel report, entitled *REPORT TO THE BOARDS OF DIRECTORS OF CRUISE LLC, GM CRUISE HOLDINGS LLC, AND GENERAL MOTORS HOLDINGS LLC REGARDING THE OCTOBER 2, 2023 ACCIDENT IN SAN FRANCISCO*, is attached as Attachment B to Cruise’s Motion.

greater transparency has been incorporated into the terms of the Settlement Agreement as a measure of Cruise's sincerity in developing a more visible corporate operation. Further, Cruise has instigated the departure of Cruise personnel as a means of rebuilding the trust of regulators and the public:

WHEREAS, following an initial analysis of the Incident and Cruise's response and interactions with the Commission and other regulators, nine employees departed Cruise, including key leaders from Legal, Government Affairs, Commercial Operations, and Safety and Systems. Since the Incident, the Chief Executive Officer and Chief Product Officer of Cruise also have departed;

WHEREAS, Cruise believes these departures were an appropriate step as Cruise moves forward with rebuilding trust with its regulators and the public with paramount focus on safety, integrity, and accountability;²⁹

We conclude that by taking these corrective measures, Cruise is on its way to restoring public trust by making itself a more transparent and cooperative entity that will not hide material information from regulatory agencies who oversee its AV transportation services.

**4.2.4. The Terms of the Settlement Agreement's
Penalty Provision Satisfy the Criteria in
D.98-12-075**

Finally, we must analyze the proposed settlement amount of \$112,500 to determine if it is in accord with the criteria set forth in D.98-12-075.

²⁹ Offer of Settlement at 2.

The severity of the offense

A fine amount should be proportionate to the severity of the offense. To determine the severity of the offense, the Commission considers the following factors:

- Physical harm: The most severe violations are those that cause physical harm to people or property, with violations that threatened such harm closely following.
- Economic harm: The severity of a violation increases with (i) the level of costs imposed upon the victims of the violation, and (ii) the unlawful benefits gained by the public utility. Generally, the greater of these two amounts will be used in setting the fine. The fact that economic harm may be hard to quantify does not diminish the severity of the offense or the need for sanctions.
- Harm to the regulatory process: A high level of severity will be accorded to violations of statutory or Commission directives, including violations of reporting or compliance requirements.
- The number and scope of the violations: A single violation is less severe than multiple offenses. A widespread violation that affects a large number of consumers is a more severe offense than one that is limited in scope.³⁰

Cruise's failure to give a complete account of the October 2, 2023 incident by withholding information harmed the regulatory process. Cruise knew that D.20-11-046 required it to provide accurate, complete, and timely information but failed to do so by withholding information about the incident. This failure strikes at the heart of the Commission's ability to regulate entities subject to its jurisdiction if the Commission lacks complete information about their operations, especially when an incident has occurred. Because of the severity of Cruise's

³⁰ 1998 Cal. PUC LEXIS 1016, at 71-73.

actions, we have determined that the maximum daily penalty of \$7,500 for TCPs pursuant to Pub. Util. Code §5378(b) is appropriate.

The conduct of the utility

The size of a fine should reflect the conduct of the utility. As such, the Commission considers the following factors:

- The utility's actions to prevent a violation: Utilities are expected to take reasonable steps to comply with applicable laws and regulations. A utility's past record of compliance may be considered in assessing a penalty.
- The utility's actions to detect a violation: Utilities are expected to diligently monitor their activities. Deliberate, as opposed to inadvertent wrongdoing, is an aggravating factor. The level and extent of management's involvement in, or tolerance of, the offense will be considered in determining the amount of any penalty.
- The utility's actions to disclose and rectify a violation: Utilities are expected to promptly bring a violation to the Commission's attention. What constitutes "prompt" will depend on circumstances. Steps taken by a utility to promptly and cooperatively report and correct violations may be considered in assessing any penalty.³¹

Cruise had a duty to provide a complete accounting of the October 2, 2023 but failed to do so through a series of omissions that lasted for 15 days. As such, the daily maximum fine of \$7,500 per Pub. Util. Code §5378(b) will be applied for each of the 15 days for a total penalty of \$112,500.

³¹ *Id.*, at 73-75.

Financial resources of the utility

The size of a fine should reflect the financial resources of the utility. When assessing the financial resources of the utility, the Commission considers the following factors:

- Need for deterrence: Fines should be set at a level that deters future violations. Effective deterrence requires that the Commission recognize the financial resources of the utility in setting a fine.
- Constitutional limitations on excessive fines: The Commission will adjust the size of fines to achieve the objective of deterrence, without becoming excessive, based on each utility's financial resources.³²

It is unlikely that a \$112,500 will be a deterrence given the depth of the financial resources of General Motors, the company that acquired Cruise. But the Commission does retain the power to revoke Cruise's operating permit to the extent that Cruise either fails to pay the fine or fails to live up to its other promises set forth in the terms of the Settlement Agreement. Thus, we consider the size of the fine and Cruise's commitment to change the way it operates and interacts with the Commission in concluding that the terms of the Settlement Agreement provides a sufficient deterrent to any future failures to disclose information concerning Cruise AV incidents to the Commission.

³² *Id.*, at 75-76.

Totality of the circumstances

The fine should be tailored to the unique facts of each case. When assessing the unique facts of each case, the Commission considers the following factors:

- The degree of wrongdoing: The Commission will review facts that tend to mitigate the degree of wrongdoing as well as facts that exacerbate the wrongdoing.
- The public interest: In all cases, the harm will be evaluated from the perspective of the public interest.³³

By withholding material information concerning the October 2, 2023 incident, Cruise's degree of wrongdoing was high and merits. Yet we appreciate Cruise's efforts in taking responsibility for its prior actions, hiring an outside consultant to recommend changes, and promising greater transparency and cooperation in its interactions with the Commission. Given the totality of the circumstances, we believe that the penalty amount and other promises made make the terms of the Settlement Agreement appropriate for resolving this OSC.

5. Appeal or Review of Presiding Officer's Decision

The presiding officer's decision in this matter was mailed to the parties in accordance with Pub. Util. Code §311. Pursuant to Rule 14.4 of the Commission's Rules of Practice and Procedure, any party may file an appeal of the presiding officer's decision within 30 days of the date the decision is served. In addition, any Commissioner may request review of the presiding officer's decision by filing a request for review within 30 days of the date the decision is served.

³³ *Id.*, at 76.

6. Assignment of Proceeding

Matthew Baker is the assigned Commissioner and Robert M. Mason III is the assigned Administrative Law Judge and the Presiding Officer in this proceeding.

Findings of Fact

1. On October 2, 2023, a pedestrian was struck by an unknown driver and fell into the path of a driverless Cruise AV.

2. After first coming to a stop, the Cruise AV performed a pullover maneuver that dragged the pedestrian approximately 20 feet at 7 mph.

3. On October 3, 2023, Jose Alvarado of Cruise telephoned Ashlyn Kong, a CPED analyst at the Commission, and informed her of the incident but did not mention the Cruise AV pullover maneuver.

4. On October 5, 2023, CPED's Transportation Enforcement Branch issued a data request seeking information related to the October 2, 2023 incident, including video documentation.

5. On October 19, 2023, Cruise responded to TEB's data request and provided the full video of the October 2, 2023 incident.

6. From October 3, 2023 to October 18, 2023, Cruise failed to provide the Commission with a full account of the October 2, 2023 incident for 15 days.

7. On October 24, 2023, Cruise issued a blog post entitled "A detailed review of the recent SF hit-and-run incident."

8. On December 1, 2023, the assigned Commissioner and ALJ issued their *Joint Assigned Commissioner's and Assigned Administrative Law Judge's Ruling Ordering Cruise LLC to Show Cause Why It Should Not Be Sanctioned by the Commission for Failing to Provide Complete Information and for Making Misleading*

Public Comments Regarding the October 2, 2023 Cruise Related Incident and Its Subsequent Interactions with the Commission.

9. On January 30, 2024, Cruise filed a *Motion for Approval of Its Offer of Settlement*.

10. At the February 6, 2024 hearing, Cruise increased its proposed penalty that it would pay into the state General Fund from \$75,000 to \$112,500.

Conclusions of Law

1. It is reasonable to conclude that Cruise's proposed Settlement terms are reasonable in light of the whole record.

2. It is reasonable to conclude that Cruise's proposed Settlement terms are consistent with the law.

3. It is reasonable to conclude that Cruise's proposed Settlement terms are in the public interest.

4. It is reasonable to conclude that a penalty of \$112,500 should be approved as it satisfies the criteria for the imposition of penalties or fines set forth in D.98-12-075.

O R D E R

IT IS ORDERED that:

1. The terms of the Settlement Agreement of Cruise LLC, a copy of which is attached hereto as Attachment A, are approved. The provisions from the Settlement Agreement covering cooperation with the Commission and the provision of information to the Commission are incorporated into this Ordering Paragraph by reference.

2. Cruise LLC shall make one lump sum payment of \$112,500.00 by check, money order, or other acceptable form of payment by the Commission, payable to the California Public Utilities Commission and mailed or delivered to the

Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102, within 30 days of the effective date of this decision. Cruise LLC shall write on the face of the check or money order "For deposit to the General Fund pursuant to Decision _____."

3. The *Order to Show Cause Why Cruise LLC Should Not Be Sanctioned by the Commission for Failing to Provide Complete Information and for Making Misleading Public Comments Regarding the October 2, 2023 Cruise Related Incident and its Subsequent Interactions with the Commission* is closed.

4. Rulemaking 12-12-011 remains open.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

(Motion for Approval of Cruise LLC's Offer of Settlement)