

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

Los Angeles Department of Transportation's  
Application to Rehear Resolution TL-19150  
Affirming the Consumer Protection and  
Enforcement Division's Disposition of  
Waymo Advice Letter 0002

Application 24-07-017

**ORDER DENYING REHEARING OF RESOLUTION TL-19150****I. INTRODUCTION**

In this Order, we dispose of the application for rehearing of Resolution (Res.) TL-19150 (the Resolution) filed by the City of Los Angeles, Department of Transportation (LADOT). We have determined that good cause has not been demonstrated to grant LADOT's application for rehearing of the Resolution.<sup>1</sup>

The Resolution stems from Decision (D.) 20-11-046, as modified by D.21-05-017 (the Deployment Decision). In the Deployment Decision, the Commission created a program to allow entities that hold a Transportation Charter-Party (TCP) carrier permit to add autonomous vehicles (AVs) to their passenger carrier equipment statement and to accept monetary compensation for rides in AVs. The Deployment Decision specifies the requirements for TCP carrier permit holders to offer driverless passenger service and the process for entities to apply. Requirements include, for example, holding a TCP permit, holding a California Department of Motor Vehicles (DMV) Autonomous Vehicle Deployment Permit, and maintaining insurance for the AVs offered for passenger

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<sup>1</sup> Unless otherwise noted, all citations to Commission decisions and resolutions are to the official pdf versions, which are available at <http://docs.cpuc.ca.gov/DecisionSearchForm.aspx> and <https://docs.cpuc.ca.gov/ResolutionSearchForm.aspx>.

service.<sup>2</sup> The process to apply or to modify existing authorization is through an advice letter to the Director of the Commission's Consumer Protection and Enforcement Division (CPED) demonstrating compliance with Commission General Order (GO) 157-E, which governs TCP carriers, and including specified information such as the DMV AV Deployment Permit and a passenger safety plan (PSP).<sup>3</sup> Initial deployment of fared AV service may be requested via a Tier 3 advice letter, while expansions of service may be requested via a Tier 2 advice letter that may be disposed of by the Industry Division, in this case CPED.<sup>4</sup>

On January 19, 2024, Waymo LLC (Waymo) filed a Tier 2 advice letter seeking to expand its fared AV passenger service. Under previously approved applications, Waymo held a TCP permit and was authorized to offer fared AV passenger service throughout San Francisco at any time of day.<sup>5</sup> Waymo sought to extend its fared AV service to portions of San Mateo and Los Angeles Counties. Finding the advice letter complied with the Deployment Decision requirements, on March 1, 2024, CPED issued a letter (CPED Disposition) approving the advice letter. Several parties, including LADOT, requested that the Commission review CPED's disposition of Waymo's advice letter. On June 20, 2024, the Commission issued the Resolution, finding no error in CPED's approval of the advice letter.

LADOT requests the Commission rehear the Resolution for three main reasons. First, LADOT asserts the advice letter process under which the Resolution was issued was inadequate. Second, LADOT claims the Commission violated its mandate to promote public safety by approving the Resolution without adopting additional public safety protections. Third, LADOT claims that the Commission should have delayed approval of the Waymo expansion pending litigation related to Waymo's initial

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<sup>2</sup> Deployment Decision, Ordering Paragraphs (OPs) 2, 7.

<sup>3</sup> Deployment Decision, OP 18.

<sup>4</sup> Deployment Decision, OPs 18, 20; GO 96-B, Rule 7.6.1.

<sup>5</sup> Res. TL-19144, p. 2.

deployment in San Francisco and a National Highway Traffic Safety Administration (NHTSA) investigation into AVs, including Waymo.

We have carefully considered all the arguments presented by LADOT. For the reasons set forth below, LADOT's application for rehearing is denied.<sup>6</sup>

## II. REHEARING STANDARD

"The purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously."<sup>7</sup> An application for rehearing should not "relitigate issues already determined by the Commission" or seek "to reweigh the evidence."<sup>8</sup> The rehearing applicant bears the "burden of proving legal error."<sup>9</sup>

## III. BACKGROUND AND PROCEDURAL HISTORY

Under the Passenger Charter-Party Carriers' Act (TCP Act), Pub. Util. Code section 5351 *et seq.*, the Commission regulates passenger service using the public highways for compensation. In the Commission's quasi-legislative proceeding on regulations relating to passenger carriers, ridesharing, and new online-enabled transportation services—Rulemaking (R.) 12-12-011—the Commission has issued several decisions establishing additional regulations for TCP permit holders who wish to offer passenger service for compensation using AVs.

In D.18-05-043, the Commission set out a framework and two pilot programs. The second pilot program authorized TCP permit-holders possessing a DMV Manufacturer's Testing Permit—which allows manufacturers of AVs to operate in

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<sup>6</sup> The County of San Mateo (San Mateo) also filed an application for rehearing of Res. TL-19150. By an order issued concurrently with this order, Res. TL-19150 was modified to address some of the issues raised by San Mateo. San Mateo's application for rehearing was also denied.

<sup>7</sup> Commission Rule of Practice and Procedure 16.1(c). All subsequent references to a Rule are to the Commission's Rules of Practice and Procedure, unless otherwise specified.

<sup>8</sup> D.21-03-048, p. 4.

<sup>9</sup> D.17-08-015, p. 4.

California—to operate driverless AVs in passenger service subject to certain restrictions.<sup>10</sup>

In November 2020, in the Deployment Decision, the Commission authorized TCP permit holders to potentially engage in full deployment of fared AV passenger service, through the Commission’s Autonomous Vehicle Passenger Service Deployment programs.<sup>11</sup> To obtain a Driverless Deployment Permit, which allows full deployment of fared AV passenger service, the AV carrier must submit an advice letter for the program that demonstrates its compliance with Commission GO 157-E, which governs the Commission’s TCP carriers, and includes all information required by the Deployment Decision.<sup>12</sup> Notable requirements include holding an active AV Deployment Permit from the DMV and submitting a PSP to the Commission.<sup>13</sup> Initial deployment of fared AV service may be requested via a Tier 3 advice letter; while expansions of fared AV service may be requested via a Tier 2 advice letter, that may be disposed of by the Industry Division, in this case CPED.<sup>14</sup>

The Commission also considered how the Commission should regulate AV safety, and adopted an approach that distinguished “vehicle safety” and “passenger safety.”<sup>15</sup> The Commission noted that the DMV will only issue a permit to deploy AVs if, among other things, “the manufacturer has conducted test and validation methods and is satisfied, based on the results of the tests and validations, that the vehicles are safe for deployment on public roads in California.”<sup>16</sup> The DMV also issues an Operational Design Domain (ODD) to AV operators, containing limitations as to geography, roadway

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<sup>10</sup> D.18-05-043, p. 3.

<sup>11</sup> Resolution, pp. 2-3; Deployment Decision, OPs 1, 2, 3.

<sup>12</sup> Resolution, p. 3; Deployment Decision, OP 18.

<sup>13</sup> Resolution, p. 3; Deployment Decision, OPs 2, 3, 8.

<sup>14</sup> Resolution, pp. 3-4; Deployment Decision, OPs 18, 20; GO 96-B, Rule 7.6.1.

<sup>15</sup> Deployment Decision, pp. 27-36.

<sup>16</sup> Deployment Decision, p. 14, citing Cal. Code of Regs., tit. 13, § 228.06(a)(11).

type, speed, weather conditions, daily hours of operation, and other matters.<sup>17</sup> The Commission thus found the DMV is the appropriate authority to address vehicle safety and to evaluate and affirm through the permit process the AV's capability to perform the dynamic driving task.<sup>18</sup> However, the Commission adopted passenger safety as a goal, and provided a process for each applicant for a Driverless Deployment Permit to submit a passenger safety plan that explains their policies and procedures to minimize risk for all passengers in their driverless vehicles.<sup>19</sup>

On November 9, 2022, the DMV issued an ODD to Waymo for driverless AV operations including all of San Francisco, 24 hours a day, 7 days a week, with no limits on fleet size.<sup>20</sup> On December 12, 2022, Waymo filed Advice Letter 0001, a Tier 3 advice letter seeking authorization under its TCP permit for Phase I fared AV passenger service to the limits of its DMV ODD. On August 10, 2023, the Commission issued Res. TL-19144, authorizing Waymo to offer fared driverless AV passenger service in San Francisco as limited by its ODD. The Commission did not impose additional limits beyond the ODD on the number of AVs, hours of operation, or geographic limits within the City of San Francisco.<sup>21</sup>

On September 11, 2023, the San Francisco Municipal Transportation Agency, the San Francisco County Transportation Agency, and the San Francisco Planning Department (collectively, San Francisco) filed an application for rehearing of Res. TL-19144. On November 8, 2023, the Commission issued D.23-11-053, modifying Res. TL-19144 relating to California Environmental Quality Act (CEQA) issues, and denying rehearing. On December 11, 2023, San Francisco filed a Petition for Writ of Review of D.23-11-053 in the First Appellate District of California. Pursuant to statute,

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<sup>17</sup> Cal. Code of Regs., tit. 13, §§ 228.06(a)(1), (2).

<sup>18</sup> Deployment Decision, p. 30.

<sup>19</sup> Deployment Decision, p. 34.

<sup>20</sup> Res. TL-19144, p. 12.

<sup>21</sup> Res. TL-19144, p. 1, OP 1.

San Francisco's CEQA claims were transferred to the California Supreme Court. Both of these cases are currently pending.

On January 11, 2024, the DMV expanded Waymo's ODD to include portions of San Mateo and Los Angeles Counties.<sup>22</sup> On January 19, 2024, Waymo filed Advice Letter 0002, a Tier 2 advice letter seeking expansion of its fared AV service to include the expanded service territory. LADOT, San Mateo, and three other parties protested the Waymo advice letter; there were 81 responses in support of Advice Letter 0002.<sup>23</sup>

On March 1, 2024, CPED issued a disposition finding that none of the parties had submitted proper grounds for protest per the directives of GO 96-B and approving Advice Letter 0002.<sup>24</sup> On March 11, 2024, LADOT, San Mateo, and two other parties separately requested that the Commission review CPED's disposition of the advice letter. On June 20, 2024, the Commission issued the Resolution, finding no error in CPED's approval of the advice letter.

On July 22, 2024, LADOT filed an application for rehearing of the Resolution (Rehearing App). San Mateo also filed an application for rehearing of the Resolution on July 19, 2024. On August 6, 2024, Waymo filed a response (Waymo Response) to the Rehearing App., while the San Francisco Taxi Workers Alliance filed a response (SFTWA Response) supporting the Rehearing App.

#### **IV. DISCUSSION**

LADOT contends there are three main justifications for rehearing: (1) the advice letter process resulting in the Resolution was inadequate; (2) the Commission violated its mandate to promote public safety by approving the Resolution without adopting additional public safety protections; and (3) the Commission should have delayed approval of the Waymo expansion pending litigation related to Waymo's initial

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<sup>22</sup> Resolution, Finding 1.

<sup>23</sup> Resolution, p. 4.

<sup>24</sup> Resolution, p. 4; *see also* CPED Disposition.

deployment in San Francisco and an NHTSA investigation into Waymo.<sup>25</sup> LADOT briefly mentions other issues, such as “environmental impacts” or that the “resolution and disposition should not be a ministerial act, but one that requires an evidentiary hearing.”<sup>26</sup> However, these issues, discussed in only one phrase in LADOT’s Rehearing App., and without supporting argument or citation to any authority, do not require a response, as LADOT has not fulfilled the Commission’s threshold requirements for applying for rehearing.<sup>27</sup>

**A. The Commission Properly Established an Advice Letter Process to Implement Driverless Deployment.**

The Deployment Decision created an advice letter process for TCP permit holders to seek approval of fared driverless service. Waymo used the advice letter process, which was approved by the Industry Division in the CPED Disposition. In the Resolution, the Commission found no error in the CPED Disposition approving the advice letter. LADOT notes that “(t)he advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions.”<sup>28</sup> LADOT argues the use of the advice letter process was inadequate to address the issue of AVs, which, it claims “is both controversial and has continuously raised important policy and legal questions related to safety [and] equity.”<sup>29</sup>

In describing advice letters, the Commission’s GO 96-B states that they provide a “quick and simplified review” where the advice letter process has already been authorized or required by Commission order, as the Deployment Decision did in this case.<sup>30</sup> LADOT does not acknowledge that the Deployment Decision authorized the use

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<sup>25</sup> Rehearing App., pp. 2, 3-4.

<sup>26</sup> Rehearing App., pp. 2, 4.

<sup>27</sup> Rule 16.1(c); Pub. Util. Code, § 1732.

<sup>28</sup> Rehearing App., p. 2, citing GO 96-B, Rule 5.1; *see also* SFTWA Response, p. 4.

<sup>29</sup> Rehearing App., p. 3; *see also* SFTWA Response, p. 4.

<sup>30</sup> GO 96-B, Rule 5.1.

of the advice letter process for deployment and expansion of fared AV service. In the Deployment Decision, the Commission properly considered all the evidence before it, including evidence from parties opposing its authorization of fared driverless AV service.<sup>31</sup> Based on consideration of this evidence, the Commission decided to authorize fared driverless AV service subject to certain requirements.

The Commission's main duty in considering Waymo's Advice Letter 002 was ensuring compliance with the Deployment Decision. CPED found that compliance with the Deployment Decision had been demonstrated, and LADOT has not proven otherwise. The Resolution found no error in CPED's finding of compliance. Additionally, in the Resolution, the Commission addressed the issues raised by LADOT and other parties in protests, requests for review, and comments. In discussing the issues raised, the Resolution relied on and cited the Commission's orders and guidance in the Deployment Decision.<sup>32</sup>

On safety issues, we already considered how to address road safety in a formal proceeding—in the Deployment Decision.<sup>33</sup> LADOT argues that a new proceeding is needed to consider safety issues related to Waymo's expansion.<sup>34</sup> Nowhere in the Deployment Decision does the Commission suggest that a new proceeding and new evidentiary hearings are needed to re-consider fared AV service deployment in each new locality or for each service expansion. The Deployment Decision's consideration of and authorization for fared AV service was not limited to any local geographical area; they are applicable anywhere "in California."<sup>35</sup> The CPED Deposition found that Waymo's advice letter met the Deployment Decision's requirements for a TCP permit holder to expand its fared driverless AV service; such requirements included a Passenger

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<sup>31</sup> See *e.g.*, Deployment Decision, pp. 28-29, 31-33, 48-50.

<sup>32</sup> Resolution, pp. 8-10, 11-13.

<sup>33</sup> See *e.g.*, Deployment Decision, §§ 4.6, 4.7, 4.10, 4.12, 4.16.

<sup>34</sup> Rehearing App., p. 3.

<sup>35</sup> See Deployment Decision, Conclusion of Laws (COLs) 1, 2, OPs 1, 2.



Safety Plan, permits from the DMV, and other matters.<sup>36</sup> LADOT does not demonstrate that the advice letter failed to meet these requirements. Thus, LADOT does not demonstrate legal error in the Resolution.

**B. The Commission's Determinations on Public Safety Are Lawful.**

LADOT claims that by “issuing this resolution and not adopting additional public safety protections, or making any modifications to this service, the Commission has abused its discretion and has violated its mandate to promote public safety”<sup>37</sup> LADOT further claims that the advice letter process set up by the Deployment Decision failed to enhance standards to protect public safety or to modify rules to protect public safety, and this constitutes a “dereliction of [the Commission's] duty and mandate under the law.”<sup>38</sup>

LADOT cites to no authority for the Commission's “mandate to promote public safety;” however, we may infer that LADOT is referencing the preamble to the TCP Act, which lists among the Act's purposes “to promote carrier and public safety through [the Act's] safety enforcement regulations.”<sup>39</sup> LADOT does not demonstrate that the Commission failed to comply with its obligations under the TCP Act or any other law. The preamble to the TCP Act is codified in Public Utilities Code section 5352. Section 5352 specifies the actions the Commission must undertake to satisfy the preamble, including, for example, prioritizing the timely processing of consumer complaints and implementing a process for appropriate and timely enforcement against illegally operating carriers.<sup>40</sup> LADOT fails to identify any Commission violation of these provisions.

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<sup>36</sup> Resolution, p. 13, Finding 6.

<sup>37</sup> Rehearing App., p. 2.

<sup>38</sup> Rehearing App., p. 3.

<sup>39</sup> Pub. Util. Code, § 5352(a).

<sup>40</sup> Pub. Util. Code, § 5352.

LADOT cites no statutory or regulatory public safety protections that the Commission violated in its approval of the Resolution. As discussed in Section IV.A above, the Commission considered safety issues in the Deployment Decision. The Deployment Decision's consideration of and authorization for fared AV service was not limited to any local geographical area; they are applicable anywhere "in California."<sup>41</sup> A new formal proceeding is not needed to address public safety issues for each locality, as LADOT claims. LADOT cannot use this rehearing process to relitigate the Commission's quasi-legislative policy decision on how to regulate driverless passenger service safety. Thus, this allegation of error is without merit.

**C. Neither Pending Litigation Nor an NHTSA Investigation Provide a Basis for Rehearing.**

LADOT argues that as there is pending legislation by San Francisco against Waymo's initial fared AV service, the Commission should not have approved the expansion of Waymo's service.<sup>42</sup> LADOT further argues the Commission should not have approved the Resolution before first reviewing or consulting with the NHTSA regarding its investigations into Waymo and other AV operators.<sup>43</sup>

LADOT cites no law, regulation, or any other authority that supports rehearing because of the above two reasons.<sup>44</sup> No court has issued any stay of the Commission's activities related to AVs. Moreover, while the NHTSA may be investigating Waymo and other AV operators, neither it, nor the DMV, have withdrawn any authority for Waymo to operate AVs. LADOT does not explain why the Commission should suspend AV activity pending an NHTSA investigation, when the NHTSA itself has not found reason to do so. Thus, LADOT provides no basis for rehearing of the Resolution.

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<sup>41</sup> See Deployment Decision, COLs 1, 2, OPs 1, 2.

<sup>42</sup> Rehearing App., p. 3-4.

<sup>43</sup> Rehearing App., p. 4.

<sup>44</sup> Rule 16.1(c); Pub. Util. Code, § 1732; *see also* D.15-02-023, p. 5.

**V. CONCLUSION**

For the reasons discussed above, we deny LADOT's application for rehearing of the Resolution because LADOT has not demonstrated legal, factual, or procedural error.

**THEREFORE, IT IS ORDERED:**

1. Rehearing of Resolution TL-19150 is denied.
2. Application 24-07-017 is closed.

This order is effective today.

Dated October 17, 2024, at Sacramento, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

MATTHEW BAKER

Commissioners