

Decision 25-08-035 August 28, 2025

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

**DECISION RESOLVING PENDING TRANSPORTATION NETWORK
COMPANY CLAIMS OF CONFIDENTIALITY REGARDING INFORMATION
IN THE ANNUAL REPORTS FOR 2021-2024 AND SETTING THE
GUIDELINES FOR THE SUBMITTAL OF FUTURE ANNUAL
REPORTS, MODIFYING DECISION 20-03-014,
AND CLOSING PROCEEDING**

TABLE OF CONTENTS

<u>Title</u>	<u>Page</u>
DECISION RESOLVING PENDING TRANSPORTATION NETWORK COMPANY CLAIMS OF CONFIDENTIALITY REGARDING INFORMATION IN THE ANNUAL REPORTS FOR 2021-2024 AND SETTING THE GUIDELINES FOR THE SUBMITTAL OF FUTURE ANNUAL REPORTS, MODIFYING DECISON 20-03-014, AND CLOSING PROCEEDING	1
Summary	2
1. Background	6
1.1. Factual Background.....	6
1.2. Procedural Background	7
1.3. Submission Date	9
2. Jurisdiction	9
3. Issues Before the Commission.....	12
4. Discussion and Analysis	13
4.1. General Rules for the Evaluation of Confidentiality Claims.....	13
4.2. Privacy Claims	15
4.2.1. Moving Parties’ Claims.....	16
4.2.2. Government Code Section 6254(c)	20
4.2.2.1. Does Trip Data Include a Legally Protected Privacy Interest?	23
4.2.2.2. The Commission’s Data Aggregation Solution Provides Sufficient Protection for TNC Drivers and Passengers	34
4.2.2.3. Reasonable Expectation of Privacy	39
4.2.2.4. Harm from Unwarranted Invasion	39
4.2.3. Personal Autonomy Versus Informational Privacy	41
4.2.4. Fare Factors	42
4.3. The Trade Secret Claim.....	43
4.3.1. Information as Secret and Efforts to Maintain Secrecy	44
4.3.2. Independent Value	48
4.3.3. Balancing Test Considerations Required by Evidence Code Section 1060 and Government Code Section 6255 Weigh in Favor of Disclosing Trip Data to the Public with Limited Redactions	51
4.3.3.1. The Public’s Interest in TNC Trip Data.....	51

TABLE OF CONTENTS

<u>Title</u>	<u>Page</u>
4.3.3.2. The TNCs' Interests in Keeping Trip Data Secret.....	62
4.3.3.3. The Public's Interest in how the Commission Uses Trip Data	70
4.4. Instructions for Future Annual Report Filings and Confidentiality Claims.....	79
5. Closing this Proceeding and Future Work	81
6. Summary of Public Comment	87
7. Conclusion.....	87
8. Procedural Matters.....	87
9. Comments on Proposed Decision.....	88
9.1. Lyft.....	88
9.1.1. Data Appendix.	88
9.1.3. Two-Year Lag Time Before Publication of the Data.	89
9.1.4. The California Supreme Court Decision—Center for Biological Diversity v. Public Utilities Commission	90
9.2. SFCTA	90
9.2.1. Census Blocks and Aggregated Geographics	90
9.2.2. Confidentiality Matrix.....	90
9.2.3. Future Confidentiality Claims Procedures	91
9.2.4. Uniform ReportingT taxonomies.....	91
9.2.5. The 2021 Confidentiality Ruling.....	92
9.2.6. Vehicle mMake, Vehicle Model, and Vehicle Year	92
10. Assignment of Proceeding	92
Findings of Fact.....	93
Conclusions of Law	93
O R D E R	96

Appendix A: Ruling on Uber's and Lyft's Motion for Confidential Treatment of
Certain Information in Their 2020 Annual Reports

<https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=355738454>

Appendix B: Reporting Templates for the 2021 Annual Report, the 2022 Annual
Report, the 2023 Annual Report, and the 2024 Annual Report.

TABLE OF CONTENTS

Title

Page

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Summary

This decision resolves the Motions of Uber Technologies, Inc., Lyft, Inc., HopSkipDrive, Inc., and Nomad Transit, LLC for confidential treatment of portions of the trip data in their Annual Reports for 2021-2024. Except as noted below, the Commission finds that the trip data should be made publicly available as the information will provide the public with the most informative understanding of the nature and scope of Transportation Network Company (TNC) passenger service. In addition, public access to the balance of Annual Report information will provide interested government entities, academics, and other third parties with needed insights so they may evaluate and make informed decisions regarding the impact of TNC passenger transportation services on city roads, traffic congestion, public safety, equal access, competing transportation options, or other analyses.

As part of their Annual Reports for 2021-2024, each TNC shall disclose the following information as part of the public version of their Annual Reports:

- Trip Requester Zip Code (at time of trip request);
- Driver Zip Code (at time of trip request);
- Trip Request Date/Time (aggregated to the nearest 30-minute interval);
- Miles Traveled (Period 1);

- Request Accepted Date/Time (aggregated to the nearest 30-minute interval);
- Requested Accepted Zip Code;
- Passenger Pick Up Date/Time (aggregated to the nearest 30 minute interval);
- Miles Traveled (Period 2);
- Passenger Pick Up Zip Code;
- Passenger Drop Off Date/Time (aggregated to the nearest 30-minute interval);
- Passenger Drop Off Zip Code;
- Miles Traveled (Period 3);
- Total Amount Paid for the ride;
- Accident/Incident/liability unless there is either a confidential settlement or the court has ordered the records sealed;
- Law Enforcement: officer name, location, and amount of citation;
- Zero Tolerance; ZeroToleranceDescr and ComplaintResolveDescr;
- Off-Platform Complaints: OffPlatformSolicitationDescr and complaintresolvedDescr.;
- Waybill requests accepted;
- The vehicle make, vehicle model, and vehicle year of the vehicle providing the passenger trip;
- Census block and census tract of the passenger Pick Up; and
- Census block and census tract of the passenger Drop Off.

Any additional reporting categories to be made part of the public version of the 2021-2024 Annual Reports are set forth in the templates attached to this decision.

But because of the privacy concerns that the TNCs have raised, they may redact the following information from the public versions of their Annual Reports for 2021-2024:

- Latitude and longitude information in all information categories;
- Driver information in the following categories: drivers' names, type of driver identification, license state of issuance, license number, expiration date, description of allegation, definition, type and description of alleged sexual assault or sexual harassment, and vehicle VIN (Vehicle Identification Number);
- Ride ID;
- Waybill fields for assaults and harassments;
- Law Enforcement: The Reason for the Citation;
- Suspended Drivers; Description of Allegation Supporting Suspension;
- Driver pay but not the total cost of the fare charged; and
- Accidents and incidents: the parties involved in the incident, any party found liable in an arbitration proceeding, information concerning any criminal proceeding if the record has been sealed by the court, and amounts paid by the TNC's insurance, driver's insurance, or by any other source.

The TNCs shall submit the public versions of their Annual Reports for 2021-2024 to the California Public Utilities Commission in accordance with the

disclosure, aggregate disclosure, and redaction templates that are attached to this decision, and following the timetable that we adopt herein.

In addition, the Commission finds that the disclosure, aggregation, and redaction requirements adopted herein and set forth in the 2024 template attached hereto shall apply to all future Annual Reports that the TNCs file with the Commission. In doing so, the Commission modifies D.20-03-014, Ordering Paragraph 2, so that TNCs shall no longer file motions for confidential treatment for the information in their Annual Reports for 2025 and thereafter. The only exception to this modification is if either the Commission or its staff instructs TNCs to report on new information categories in their Annual Reports, the potential confidentiality of which the Commission has not previously resolved. However, staff refinements for the Annual Report templates on previously required categories of information do not change whether such information is treated as confidential or public. For example, the addition of the field “PreschedReq” in the Requests Accepted Report relates to whether the rider requested a prescheduled ride and does not change the fact that the Commission has found the Requests Accepted Report to be public except for the specific location (*i.e.*, address), driver information, and accident and incident information described above.

Finally, the Commission closes the Rulemaking 12-12-011 proceeding. Any unresolved issues regarding autonomous vehicles will be addressed in a subsequent rulemaking proceeding that the Commission intends to open shortly. As we are closing this proceeding, in the Ordering Paragraphs of this decision,

we remind the TNCs of their continuing duty to provide public versions of their Annual Reports for the years 2014-2020.

This proceeding is closed.

1. Background

1.1. Factual Background

Decisions (D.) 13-09-045 and D.16-04-041 dictated the contents of the information that Transportation Network Companies (TNCs) were required to provide in their Annual Reports, as well as the manner in which that information, including trip data, would be reported.¹ Compliance with these reporting requirements is a mandatory condition for a TNC to provide passenger transportation service in California.

To ensure that the TNCs were providing the Commission with the most useful information about trips requested and provided, as well as trips requested and not provided, the Commission permitted its staff to supplement the information requirements in order to gain sufficient information to evaluate TNC operations and to make recommendations for additional reporting category requirements. Over the years, staff provided the TNCs with compliance guidance through a series of courtesy reminders, templates, and data dictionaries

¹ The trip data that has been subject of the TNCs' legal challenges include: Census Block of Passenger Drop Off, Trip Requestor Zip code, Trip Requester Census Block, Driver Zip code, Driver Census Block, Trip Request Date/Time, Miles Traveled (P1), Request Accepted Date/Time, Request Accepted Zip Code, Request Accepted Census Block, Passenger Pick Up Date/Time, Miles Traveled (P2), Passenger Pick Up Zip Code, Passenger Pick Up Census Block, Passenger Drop off Date/Time, Passenger Drop Off Zip Code, Passenger Drop Off Census Block, Miles traveled P3), and Total Amount Paid. (See *Lyft Application for Rehearing* at 1, fn. 1.)

with instructions on how the information should be populated into the Commission generated templates.

In addition, the Commission modified its position on whether information from the Annual Reports would be publicly disclosed. D.20-03-014 reversed the Commission's policy from D.13-09-045, fn. 42, that allowed TNCs to submit their Annual Reports on a confidential basis. Instead, the Commission adopted a new protocol, with some modifications, set forth in the Commission's General Order 66-D, effective January 1, 2018, and placed the burden on each TNC to establish, by way of a noticed motion and supporting declaration, that its Annual Reports should not be made publicly available. D.20-03-014 found that the Commission's newly adopted approach in this proceeding aligned with California's policy that public agencies conduct their business with the utmost transparency, and that absent a compelling reason to the contrary, information provided by a TNC to the Commission should be made available to the public. The Commission provided further clarification in D.23-12-015 that the privacy risks embedded in some of the trip data in the Annual Reports must be protected from public disclosure with a degree of aggregation and redaction sufficient to protect against individual reidentification, either through the inherent character of the data or through its combination with other datasets.²

1.2. Procedural Background

In accordance with D.20-03-014, Uber Technologies, Inc. (Uber), Lyft, Inc. (Lyft), HopSkipDrive, Inc. (HopSkipDrive), and Nomad Transit, LLC (Nomad)

² D.23-12-015 at 107-110.

(sometimes referred to collectively as the Moving Parties) filed their respective *Motions for Confidential Treatment* of information they categorize in different ways as trip data in their 2021-2024 Annual Reports. We list each Motion for Confidential Treatment below by party, year, and accompanying declarations:

Party	Year	Declaration, Title, and the year of the Motion for Confidential Treatment to which the Declaration applies
Lyft	2021-2024	<u>Alix Rosenthal</u> (Vice President of Regulatory Compliance) to 2021-2022 Motions; Declarations of <u>Drs. Jan Whittington</u> (Associate Professor of the Department of Urban Design and Planning at the University of Washington) and <u>Feiyang Sun</u> (Asst. Teaching Professor Department of Urban Studies and Planning at the University of California San Diego) to 2023-2024 Motions; <u>Jeffrey Brandt</u> (Lyft's Director of Regulatory Compliance) to 2023-2024 Motions.
Uber	2021-2024	<u>Uttara Sivaram</u> (Head of Public Policy for Privacy and Security) to 2021-2022 Motions; <u>Amy Wagner</u> (Head of North America Insurance) to 2021 Motion; <u>Andy Parr</u> (Head of North America Insurance) to 2022-2023 Motions; <u>Vann Bentley</u> (Uber's Privacy and Cybersecurity Policy Manager) to 2023-2024 Motions; <u>David Case</u> (Uber's Manager of California Operations) to 2023-2024 Motions; <u>Brian Benbow</u> (Manager, Insurance Strategy & Operations) to 2024 Motion.
Hop Skip Drive	2021-2024	<u>Trish Donahue</u> (Director of Regulatory Affairs and Risk Management) to 2021 Motion; <u>Maggie Greene</u> (Director of Regulatory Affairs and Risk Management) to 2022 Motion; <u>Nicole Hampton</u> (Director of Regulatory Affairs) to 2023-2024 Motions.
Nomad	2021-2024	<u>Saar Golde</u> (Chief Data Scientist at Via Transportation, parent company of Nomad) to 2021-2024 Motions.

The resolution of Moving Parties' *Motions for Confidential Treatment* requires the Commission to determine whether the trip data is a trade secret and/or is protected by the constitutionally recognized right of privacy. While not entitled to *res judicata* effect,³ we are nonetheless guided by our discussions and resolutions of these issues in our prior decisions and rulings.⁴ In doing so, we also acknowledge that each Motion for Confidential Treatment must be evaluated on its own legal, factual, and evidentiary showing to the extent there are any material differences in each Motion.

1.3. Submission Date

This matter was submitted on September 19, 2024, when Nomad filed its Motion for Confidential Treatment of Portions of its 2024 Annual TNC Report.⁵

2. Jurisdiction

TNCs are regulated by the Commission, a constitutionally established regulatory agency vested with jurisdiction to regulate private persons and

³ *Res judicata* is a form of claim preclusion, in which a prior judgment bars a party from relitigating the same issue in a subsequent proceeding. (*Vezina v. Continental Cas. Co.* (1977) [66 Cal. App. 3d 665](#), 669.)

⁴ See, e.g., *Ruling on Uber's and Lyft's Motion for Confidential Treatment of Certain Information in Their 2020 Annual Reports* (the 2020 Confidentiality Ruling, dated December 21, 2020); *Ruling on the Motions of Uber, Lyft, HSD, and Nomad for Confidential Treatment of Portions of Their 2021 Annual Transportation Network Company ("TNC") Reports* (November 24, 2021); D.21-06-023 (Order Modifying D.20-03-014 and Denying Rehearing of Decision, As Modified) (June 4, 2021); D.23-02-041 (Order Modifying D.22-05-003 and Denying Rehearing of the Decision, as Modified) (February 24, 2023); and D.19-08-040 (Order Modifying D.16-01-014 and Denying Rehearing of the Decision, as Modified).

⁵ The delay in resolving these *Motions for Confidential Treatment* was necessitated by the need to first resolve D.24-10-034, which granted a limited rehearing of D.23-12-015 on the issue of whether trip data in the 2014-2019 Annual Reports, despite its age, still had independent value to satisfy a trade secret claim.

entities providing certain services to the public, including the passenger transportation services that the TNCs provide. (Cal. Const., art. XII, Sections 3, 5; and *City of San Francisco v. Uber Technology, Inc.* (2019) 36 Cal.App.5th 66, 76-77.) The Commission has broad authority to regulate every person, utility, and entity subject to its jurisdiction. (Pub. Util. Code § 701; and *San Diego Gas & Electric Co. v. Superior Court* (1996) 13 Cal.4th 893, 915.) The Commission's authority has been liberally construed and includes not only administrative but also legislative and judicial powers. (*Goncharov v. Uber Technologies, Inc.* (2018) 19 Cal.App.3d 5th 1157, 1168.)

In accordance with this expansive authority, the Commission regulates TNCs under the Passenger Charter-party Carriers Act of which TNCs are a subset. (Pub. Util. Code Section 5351 *et seq.*; and *City and County of San Francisco v. Public Utilities Commission* (2025) Cal. App.5th 22, 34.) As a condition to providing passenger services, the Commission has required each TNC to submit Annual Reports to the Commission that contain trip data regarding each TNC's passenger services that are provided in California. These Annual Reports constitute public records as defined by Government Code §6252(e).⁶ (*See City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 617, 622, quoted in D.23-02-041 at 5.)

⁶ Currently Government Code § 7920.530. Government Code §§ 7920.000 through 7930.215 continue the former Government Code Sections dealing with records requests without substantive change. (*See* Assembly Bill 473 [Chau].) The California Public Records Act or CPRA was formerly codified as Chapter 3.5, commencing with §§ 6250 and through 6276.48. The renumbering of the CPRA was designed to make the law more user-friendly, thus furthering the public's right to access information concerning the conduct of public business. (*Id.*)

The Commission's authority to require TNCs to submit trip data to the Commission in both disaggregated and aggregated form that may be made publicly available has been upheld against numerous constitutional and jurisdictional challenges. For example, Lyft claims that requiring a TNC to disclose non-private trip data is both an unreasonable search and seizure under the Fourth Amendment of the U.S. Constitution⁷ and amounts to an unlawful regulatory taking under the Fifth Amendment of the U.S. Constitution. (Lyft 2021 Motion at 9-12; Lyft 2022 Motion at 9-12; Lyft 2023 Motion at 31-49; and Lyft 2024 Motion at 31-52).⁸ The Commission has previously considered and rejected these same arguments for being factually and legally unsound. (See D.24-10-034 at 7 ["[The] disclosure of Lyft's Annual Reports would not constitute a taking under the Fifth Amendment. As explained in the section below, Lyft fails to establish that disclosure of its Annual Report trip data constitutes a regulatory taking in violation of the Fifth Amendment because the company did not have a reasonable expectation of confidentiality."]; and at 15 ["[As] [D.23-02-041] recognizes, other laws, not the Fourth Amendment, govern whether the public

⁷ The Fourth Amendment states: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

⁸ The Fifth Amendment states: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

release of a regulated entity's records submitted to an agency is lawful."].)⁹ As neither Lyft nor any other Moving Party has presented any arguments that the Commission has not previously considered, these Fourth and Fifth Amendment constitutional challenges are rejected, and we incorporate by reference the relevant portions of the following decisions and ruling where the Commission explained why it rejected these claims: D.24-10-034 at 7-9 and 14-15; D.23-02-041 at 32-34; D.16-01-014 at 42-46 and 49-54 (modified and affirmed by D.19-08-040 at 25-30 and 30-36); and *Administrative Law Judge's Ruling Granting, in Part, The Motions of Uber Technologies, Inc., Lyft, Inc., HopSkipDrive, Inc., and Nomad Transit, LLC For Confidential Treatment of Portions of Their 2021 Annual Transportation Network Company Reports* at 8-25 (2021 Confidentiality Ruling.)¹⁰

3. Issues Before the Commission

The issue is whether portions of The Moving Parties' Annual Reports for 2021-2024 should be shielded from public disclosure on privacy and/or trade secret grounds.

⁹ In reaching this conclusion, the Commission rejected Lyft's attempt to rely on the following authorities because they were factually and legally inapposite: *Airbnb, Inc. v. City of New York* (S.D.N.Y. 2019) 373 F.Supp.3d 467, 499-500; *Patel v. City of Los Angeles* (9th Cir. 2013) 738 F.3d 1058, *aff'd sub nom. City of Los Angeles v. Patel* (2015) 135 S.Ct. 2443; *Airbnb, Inc. v. City of Boston* (D. Mass. 2019) 386 F.Supp.3d 113. (D.22-05-003 at 16-20; modified and affirmed at D.23-02-041 at 32-33.)

¹⁰ Lyft appealed the 2021 Confidentiality Ruling, making the same trade secret and privacy arguments that it has made in its *Motions for Confidential Treatment* for the trip data in its 2021-2024 Annual Reports. Accordingly, this decision also resolves the issues Lyft raised in its appeal.

4. Discussion and Analysis

4.1. General Rules for the Evaluation of Confidentiality Claims

D.20-03-014 requires that any claim for confidential treatment of information provided to the Commission must be justified with particularized references to the type of information sought to be shielded from public disclosure, the law that supports the claim of confidentiality, and a declaration under penalty of perjury that sets forth the factual justification with the requisite granularity.¹¹ Placing the burden on the TNC to substantiate its claim of confidentiality is consistent with the general rule regarding allocating the burden of proof. Pursuant to Evidence Code § 500: “except as otherwise provided by law, a party has the burden of proof as to each fact essential to its claim or defense.” (*See also Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 861; *Samuels v. Mix* (1999) 22 Cal.4th 1, 10-11; and *Bridgestone/Firestone, Inc. v. Superior Court* (1992) 7 Cal.App.4th 1384, 1393, *hearing denied, and opinion modified* [party claiming privilege has burden of proving that information qualifies as a protected trade secret].)

In addition, D.20-03-014’s strict evidentiary showing to substantiate a claim of confidentiality is derived from and reflects California’s strong public policy favoring access to government records. The California Constitution’s mandate provides that the public has the right to access most Commission records. Cal. Const. Article I, § 3(b)(1) states:

The people have the right of access to information concerning the conduct of the people's business, and, therefore, the

¹¹ D.20-03-014, Ordering Paragraph 2.

meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.¹²

The California Public Records Act (CPRA) requires that public agency records be open to public inspection unless they are exempt from disclosure under the provisions of the CPRA.¹³ The Legislature has declared that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.”¹⁴

The CPRA requires the Commission to adopt written guidelines for access to agency records, and requires that such regulations and guidelines be consistent with the CPRA and reflect the intention of the Legislature to make agency records accessible to the public.¹⁵ General Order (GO) 66-D, effective January 1, 2018, constitutes the Commission’s current guidelines for access to its records, and reflects the intention to make Commission records more accessible.¹⁶ GO 66-D also sets forth the requirements that a person must comply with in requesting confidential treatment of information submitted to the Commission. D.20-03-014 made clear that a person submitting information to the Commission must satisfy the requirements of GO 66-D to substantiate a claim for confidentiality treatment of information.¹⁷

¹² See e.g., *International Federation of Professional & Technical Engineers, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 328-329.

¹³ See *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 370.

¹⁴ Government Code § 625 (now § 7921.000).

¹⁵ Government Code § 6253.4(b) (now § 7922.640).

¹⁶ See D.17-09-023 at 11-12, 14.

¹⁷ D.20-03-014 at 23.

This decision applies the forgoing legal standards to Moving Parties' claims for confidential treatment for certain information contained in their 2021-2024 Annual Reports.

4.2. Privacy Claims

Disclosure of trip data from the annual reports potentially implicates the trip riders' and drivers' privacy, an inalienable right protected under California's Constitution, Article 1, Section 1. Preserving individuals' right to privacy is becoming increasingly more salient given rapid advances in technology in today's digital world. Individuals' right to privacy increasingly depends on the ability to control how personal information, including trip data, is collected and used. This is acknowledged in California's Consumer Privacy Act, which gives California residents significant rights over their personal information held by businesses. Studies have opined, and it is reasonable to foresee, that even where no personal identifier related to a trip is disclosed there is a possibility that disclosed trip data could be combined with publicly available data to re-identify the individual who took the trip. Recognizing this, the Commission has ensured riders and drivers' privacy rights are protected in this decision, by continuing to require the redaction of specific trip data as confidential, and by aggregating trip start and end times. As to specific trip data that is disclosed, the Commission properly applied a balancing test to determine that the proponents of confidential treatment did not show that the public interest in not disclosing that data with sufficient redactions and aggregation outweighed the public interest in disclosing it. As we further discuss trip data within this decision, we refer to trip

data as aggregated and redacted to protect the customer and driver privacy rights embedded in the complete trip data the Commission collects.

4.2.1. Moving Parties' Claims

Before resolving the various privacy claims, it will be helpful to identify the data fields required in the Annual Reports that Moving Parties argue should be redacted from the public versions because of privacy concerns so that the similarities between Moving Parties' Motions can be understood.

Uber

Uber argues that the following information is confidential: (1) trip data, including precise information such as pickup and drop-off locations; (2) driver information, including driver names and driver's license numbers; and (3) certain records of complaints, including reports made to Uber by riders and drivers, particularly in instances of sexual harassment or assault, and the disposition of those reports. (Uber 2021 Motion, at 4, and *passim*.) As legal support, Uber claims that the information is protected by Government Code § 6254(c)'s exemption for "files the disclosure of which would constitute an unwarranted invasion of personal privacy;"¹⁸ Government Code § 6254(k)'s exemption for "records, the disclosure of which is exempted or prohibited pursuant to federal or state law,"¹⁹ which would by extension cover the California Uniform Trade Secrets Act which is codified at Civil Code §§ 3246 *et*

¹⁸ Now Government Code § 7927.700.

¹⁹ Now Government Code § 7927.705.

seq; and Government Code § 6254.7(d),²⁰ which provides that trade secrets are not public records under the California Public Records Act.

Lyft

Lyft argues the following information, which it refers to collectively as census block trip data, is confidential: (1) requests accepted; (2) requests accepted periods; (3) requests not accepted; and (4) assaults and harassments. (Lyft 2021 *Motion* at 7-8, and *passim*.) Lyft makes legal arguments similar to Uber's, and also suggests that administrative law demands for data of private companies may "likely" violate a company's 4th Amendment rights. (*Id.*, at 10.)

Nomad

Nomad argues that the following information is confidential: (1) accidents and incidents report; (2) assaults and harassments report; (3) driver number of hours report; (4) driver number of miles report; (5) law enforcement citations report; (6) off platform solicitations report; (7) ride requests accepted report; (8) ride requests accepted period report; (9) ride requests not accepted report; (10) suspended drivers report; and (11) zero tolerance report. (Nomad 2021 *Motion*, Exhibit B thereto.) Nomad cites to the same statutory authorities in Uber's *Motion*. Nomad also cites to the public interest balancing test set forth in Government Code § 6255(a)²¹ which provides that information may be exempted from disclosure even if the information does not qualify for an exemption under any other section of the California Public Records Act where the public interest

²⁰ Now Government Code § 7924.510.

²¹ Now Government Code § 7922.000.

that is served by “not disclosing the record clearly outweighs the public interest served by disclosing the record.” (Nomad 2021 *Motion* at 14-15.)

HopSkipDrive

HopSkipDrive argues that the following information is confidential:

(1) Driver names and IDs report; (2) accidents and incidents report; (3) assaults and harassment report; (4) accessibility complaints report; (5) law enforcement citations report; (6) off platform solicitation report; (7) suspended drivers report; (8) zero tolerance report; (9) number of hours report; (10) number of miles report; (11) ride requests accepted report; (12) ride requests not accepted report; (13) rides requests accepted aggregate report and rides requests not accepted aggregate report; and (14) new report: ride requests accepted periods report. (HopSkipDrive *Motion* at 10-13.) HopSkipDrive cites to the same statutory authorities in Uber’s *Motion* and the balancing test cited in Nomad’s *Motion*. Since it is engaged primarily with the transport of minors, HopSkipDrive also claims confidentiality of certain information based on the Family Educational Rights and Privacy Act.

Moving Parties also reference the assigned Administrative Law Judge’s 2020 *Confidentiality Ruling*, which found that the following data fields were confidential on privacy grounds:

- Latitude and longitude information in all data categories.
- Driver information in all data categories: drivers’ names, type of driver identification, license state of issuance, license number, expiration date, description of allegation, definition, type, and description of alleged sexual assault and sexual harassment, and vehicle VIN.

- Accidents and incidents: the parties involved in the incident, any party found liable in an arbitration proceeding, information concerning any criminal proceeding if the record has been sealed by the court, amounts paid by the TNC's insurance, driver's insurance, or by any other source.

Where the *2020 Confidentiality Ruling* found certain data fields in the 2020 Annual Reports to be confidential on privacy grounds, some Moving Parties ask that those same findings apply to the same categories for the 2021-2024 Annual Reports. (*See, e.g., Lyft 2021 Motion* at 2-6; *HopSkipDrive 2021 Motion* at 3-5; *Nomad 2021 Motion* at 5-6.)

Consistent with the *2020 Confidentiality Ruling*, the Commission agrees with Moving Parties' request to keep latitude and longitude information, driver information, and accident and incident information in the 2021-2024 Annual Reports confidential but with one exception: information required by waybills. Upon further reflection, we find that waybill information (with the exception for information regarding assaults and harassment) is not protected on privacy grounds and is not entitled to trade secret protection. Waybill numbers in the data dictionary refer to Waybill 1, Waybill 2, Waybill 3 and up to Waybill 7. These 7 separate Waybill numbers are separate columns and are there in case there is a shared ride. In a shared ride, there is a separate waybill number which refers to a specific passenger's trip. For example, if a shared ride has two passengers, then Waybill 1 will refer to the Waybill number for Passenger 1 and Waybill 2 will refer to the Waybill number for Passenger 2 in a trip. As these numbers do not reveal personal information about a passenger, they are not protected from public disclosure on privacy grounds.

As to the balance of the trip data fields that the *2020 Confidentiality Ruling* determined were neither trade secret nor privacy protected, in their *Motions for Confidential Treatment* regarding the 2021-2024 Annual Reports, Moving Parties renew their previously rejected arguments but have supplemented their evidentiary showing to support their confidentiality claims. Since these *Motions* seek to shield from public disclosure a great deal of information about trips that TNCs provide to California passengers, it will be necessary to set forth the applicable law for establishing and resolving claims for confidential treatment, particularly in light of California's public policy favoring the disclosure of information in the government's possession in order to promote transparency in the government's regulatory activities.

4.2.2. Government Code Section 6254(c)

The foundation for Moving Parties' claim of trip data privacy is Government Code § 6254(c) which provides an exemption in the CPRA for "personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy."²² While the statute does not define "privacy" the California Supreme Court offered the following guidance in *International Federation of Professional and Technical Engineers v. Superior Court*

²² Government Code § 6254(c) is now Government Code § 7927.700. (Lyft 2021 Motion at 15, and 26-32; Lyft 2022 Motion at 32-41; Lyft 2023 Motion at 30-49; Lyft 2024 Motion at 30-52; Uber 2021 Motion at 13; Uber 2022 Motion at 6, 9-10; Uber 2023 Motion at 23-24; and Uber 2024 Motion at 23-24.) Both Nomad and HopSkipDrive agree with the factual and legal contentions that Lyft and Uber have made for the 2021-2024 Annual Reports, so by extension, they are also relying on Government Code § 6254(c). (See Nomad 2021 Motion at 5; Nomad 2022 Motion at 6-7; Nomad 2023 Motion at 8; Nomad 2024 Motion at 6-7; HopSkipDrive 2021 Motion at 3 and 10-13; and HopSkipDrive 2022 Motion at 6.)

(2007) 42 Cal.4th 319, 330: ““A particular class of information is private when well established- social norms recognize the need to maximize individual control over its dissemination and use to prevent unjustified embarrassment or indignity.” (Hill v. National Collegiate Athletic Assn. (1994) [7 Cal.4th 1](#), 35.”” In *Hill*, the California Supreme Court established a three-part test for determining the legitimacy of an invasion of privacy claim: (1) a legally protected privacy interest; (2) a reasonable expectation of privacy in the circumstances; and (3) conduct that constitutes a serious invasion of privacy.²³

Even if the three-part test is met, *Hill* notes that an “invasion of a privacy interest is not a violation of the state constitutional right to privacy” *per se*.²⁴ Instead, when a claim of privacy is made, *Williams v. Superior Court* (2017) 3 Cal.5th 531, 556, instructs that there must be a consideration of the seriousness of the privacy claim to determine what competing interest must be shown for the information’s disclosure:

Not every assertion of a privacy interest under article I, Section 1 must be overcome by a compelling interest. Neither the language nor history of the Privacy Initiative unambiguously supports such a standard. In view of the farreaching and multifaceted character of the right to privacy, such a standard imports an impermissible inflexibility into the process of constitutional adjudication. (citation omitted). A compelling interest is still required to justify an obvious invasion of an interest fundamental to personal autonomy. (citation omitted.) But whenever lesser interests are at stake, the more nuanced framework discussed above applies, with

²³ 7 Cal.4th, 39-40.

²⁴ 7 Cal.4th, 38.

the strength of the countervailing interest sufficient to warrant disclosure of private information varying according to the strength of the privacy interest itself, the seriousness of the invasion, and the availability of alternatives and protective measures.

Thus, the seriousness of the privacy claim turns on whether there is an effort to obtain data that would come under the category of informational privacy versus autonomy privacy. When a claim of informational privacy is made and the three-part test articulated in *Hill* is met, the party seeking the information needs to establish a legitimate and important interest in the disclosure.²⁵ In *Hill*, the California Supreme Court explained that interest as follows:

legitimate interests derive from the legally authorized and socially beneficial activities of government and private entities. Their relative importance is determined by their proximity to the central functions of a particular public or private enterprise.²⁶

In contrast, when the request seeks more sensitive personal information such as medical or financial details or personal autonomy, the requesting party's interest in the information must be compelling. The *Williams* decision put name and contact information in the informational privacy category such that only a legitimate and important interest, rather than a compelling need for the information, need be shown. While the foregoing legal discussion in *Hill* arose in the context of the NCAA's ability to collect samples from college athletes to

²⁵ 3 Cal.5th, 552-554.

²⁶ 7 Cal.4th, 38.

perform drug tests, and *Williams* involved the right to discovery, the Commission finds that the California Supreme Court's decisions are also instructive in resolving Moving Parties' claim that the government's proposed release of trip data not otherwise redacted or aggregated would be an impermissible invasion of privacy.

4.2.2.1. Does Trip Data Include a Legally Protected Privacy Interest?

The first inquiry is whether Moving Parties demonstrate that the trip data at issue fits within *Hill's* three-part test for privacy, and we answer that question in the negative. With the elimination of the presumption of confidentiality attendant to the Annual Reports, a claim of confidentiality based on privacy, or any other legally recognized grounds, must be affirmatively established. Yet Moving Parties have failed to set forth a credible factual and legal argument that would require a different finding for the trip data in their 2021-2024 Annual Reports. While Courts have deemed home contact information to be private,²⁷ the trip data itself does not ask for contact information. Moving Parties appear to agree that individual trip data categories do not invade protected privacy and, instead, argue that trip data can be manipulated through a re-identification process that can lead to the revelation of contact information. By their own argument, Moving Parties must acknowledge that disclosure of the trip data at issue does not reveal information about a rider or driver that would rise to a constitutionally protected privacy right.

²⁷ *Williams, supra*, 3 Cal.5th, 554.

As Moving Parties have spent a considerable amount of time on their data re-identification argument, the Commission will explain why generally the argument fails to establish that disclosure of trip data at issue can lead to the discovery of private information where the Commission has adopted aggregation measures which have proven to be effective at preventing driver and passenger re-identification, in addition to the redaction of trip data already discussed.

Lyft

Lyft claims that the granular trip data can be manipulated to identify specific individuals and track their movements, “potentially revealing intimate personal details, such as medical visits, political affiliations, personal relationships, sexual orientation, etc.”²⁸ To establish this claim, Lyft first references the United States Census Bureau documents that are attached to its *Motion* as Exhibit A and argues that because some census blocks may include as few as five individuals, and 4,000,000 census blocks in the United States have zero population, there are privacy implications from producing trip data census block information.²⁹ Yet Lyft does not claim that any of its TNC drivers travel from or to census blocks with few to no individuals, and that those trips are part of the information provided to the Commission in Lyft’s 2021 Annual Report. While Lyft claims in its 2022 *Motion* that Lyft’s TNC service is available in certain census block locations with sparse populations (Lyft 2022 *Motion* at 34, Rosenthal

²⁸ Lyft 2021 *Motion* at 27; see also Lyft 2022 *Motion* at 32-39; Lyft 2023 *Motion* at 31-43; Lyft 2024 *Motion* at 33-45.

²⁹ Lyft 2021 *Motion* at 28; Lyft 2022 *Motion* at 36-37.

Decl., ¶20), Lyft has not identified how many rides were provided in these locations and if the driver and/or passenger was re-identified.

This decision also faults Lyft for attempting to rely on a Census Bureau 2020 Disclosure Avoidance Modernization project, as well as comments from the Director of the Federal Trade Commission's Bureau of Consumer Protection.³⁰ They both claim that any geolocation information sufficient to identify a street name and name of a city or town to be sensitive and subject to restrictions on collection, but they do not demonstrate if such a conclusion is still true with the data redactions and data aggregation protocols that we are instructing Moving Parties to follow.

Lyft next refers to a series of opinions to support its claim that disclosed trip data can lead to an invasion of rider privacy by way of information re-identification. Lyft references a study involving the inadvertent release of New York City taxi data, and to a paper entitled *The Tradeoff between the Utility and Risk of Location Data and Implications for Public Good* that allegedly found that geolocation data aggregated to the census block level presents "a serious risk of de-identification."³¹ Finally, Lyft cites to Health Insurance Portability and Accountability Act rules that data linked to zip codes with fewer than 20,000 residents, medical data can be re-identified.³²

³⁰ Lyft 2021 Motion at 29; Lyft 2022 Motion at 36-3.

³¹ Lyft 2021 Motion at 29-31; Lyft 2022 Motion at 37-38.

³² Lyft 2021 Motion at 31; Lyft 2022 Motion at 38.

Even though there are fundamental hearsay problems with this claimed evidence that Lyft has failed to overcome, we will consider the substance of these opinions to explain why they do not convince the Commission that privacy concerns are implicated if a TNC complies with the trip data reporting requirements that the Commission adopts. In the New York City taxi data study, there was access to time and generalized pick up location, but Lyft fails to document if the same data redactions and data aggregation that the Commission adopts today was used in the New York study, making its usefulness of questionable value.

We reach the same conclusion with respect to *The Tradeoff* paper. There, the authors were concerned about the movements of individuals between neighborhoods combined with cell data records to discern the professions and unemployment status of individuals, as well as other socio-economic characteristics. But the TNCs are not required to divulge real-time movements that can be combined with cell data records to track travel patterns. Instead, the Annual Report consists of a year's worth of data, some of which is aggregated, so other than knowing the beginning and ending zip codes, the trip data does not track every neighborhood in which a TNC passenger trip takes place, nor can cell data records be utilized to achieve that objective.

The remaining studies that Lyft references are equally unpersuasive. In support of its position that zip codes must be protected from public disclosure, Lyft cites to the rules adopted to implement the Health Insurance Portability and Accountability Act. (Lyft 2021 Motion at 31; Lyft 2022 Motion at 38.) The authors allegedly claim that where data is linked to zip codes with fewer than

20,000 residents, de-identification measures must be taken to prevent re-identification of medical data. Lyft does not explain how the authors arrive at that conclusion, nor does Lyft demonstrate that the data considered by the Health Insurance Portability and Accountability Act is comparable to both the disaggregated and the aggregated trip data that TNCs must provide in the Annual Reports.

Nor is Lyft's position bolstered by its reference to an MIT study, which cautions that "cell-phone derived mobility data that presents privacy implications." (Lyft 2021 *Motion* at 31; Lyft 2022 *Motion* at 39.) While Lyft may have such mobility data on its app, or the mobility data can be found on a Google app, a Facebook app, or a vehicle's internal GPS system, the Commission does not require a TNC to disclose such mobility data beyond what is required in the Annual Reports. Thus, the concerns raised about having access to cell towers and mobility data are misplaced when they are compared to the preventative measures the Commission adopts today to protect passenger and driver privacy.

Lyft fares no better by its reliance on the Rosenthal Declaration. With respect to the invasion of privacy claim, she states:

Because public disclosure of the Census Block Trip Data may allow third parties to identify particular individuals and track their movements, potentially exposing them to danger, embarrassment, ridicule, or liability, the data is protected from disclosure pursuant to Government Code § 6254(c) as a file the disclosure of which would constitute an unwarranted invasion of privacy, and § 6254(k) and the

Right of Privacy guaranteed by Article I, Sect.1, of the California Constitution.³³

There are several legal infirmities with this Declaration. First, it is not based on personal knowledge. Second, with the use of the words “may” and “potentially,” the claims made therein are speculative. Third, it contains legal conclusions which are inappropriate for a declaration.³⁴ As such, the Rosenthal Declaration will not be given any weight on the privacy issue.³⁵

We must next address the Declarations of Drs. Jan Whittington and Feiyang Sun that Lyft appended to its 2023 and 2024 *Motions for Confidential Treatment*. Declarants assert that they were given confidential access to Lyft’s Annual Report data for 2014 to 2022 to ascertain if it were possible to re-identify individual passenger trips.³⁶ They assert that passenger trips are unique and travelers can be re-identified by combining three data fields: passenger pickup location, passenger drop off location, and pickup timestamp. The locations of

³³ Lyft 2021 Motion, Rosenthal Decl., ¶ 12; Lyft 2022 Motion, Rosenthal Decl., ¶15.

³⁴ See *Jack v. Wood* (1968) 258 Cal.App.2d 639, 645: “Legal conclusions are especially objectionable when they are contained in the moving party’s affidavits. (*Gardenswartz v. Equitable etc. Soc.*, [23 Cal. App. 2d Supp. 745](#), 753-754 [68 P.2d 322]; *Low v. Woodward Oil Co., Ltd.*, [133 Cal. App. 2d 116](#), 121 [283 P.2d 720]; *Weichman v. Vetri*, [100 Cal. App. 2d 177](#), 179 [223 P.2d 288]; *Fidelity Investors, Inc. v. Better Bathrooms, Inc.*, [146 Cal. App. 2d Supp. 896](#) [304 P.2d 283].)”

³⁵ For the same reason, we reject Lyft’s attempt to rely on the Declaration of Jeffrey Brandt because he makes the same factually unsupported and legal claim as Ms. Rosenthal that “public disclosure of the Trip Data would allow third parties to identify particular individuals and track their movements, potentially exposing them to danger, embarrassment, ridicule, liability, or other negative consequences.” (Lyft 2023 Motion, Brandt Decl., ¶23; and Lyft 2024 Motion, Brandt Decl., ¶23.)

³⁶ Lyft 2023 Motion, Whittington/Sun Decl., ¶6; Lyft 2024 Motion, Whittington/Sun Decl., ¶6.

passenger pick up and drop off were aggregated at the census block, census tract, and ZIP code levels, aggregated at different time intervals: 1 week, 1 day, 12 hours, 1 hour, 30 minutes, 15 minutes, 1 minute, and 1 second. Declarants assert that at the 1-second interval, nearly 100% of trips have a unique combination of pickup census block, drop off census block, and timestamp. Declarants conclude at the 1-second interval, travelers from September 2021 to the end of August 2022 would be easily re-identified if trip data were disclosed without any temporal aggregation and at the spatial area of the census block.³⁷ And at the 15-minute interval, the Declarants claim that re-identification ranges from 98% to 68.69% depending on the combination of data fields used.³⁸ For the travelers from 09/01/2015 to 09/01/2016 and 09/01/2016 to 09/01/2017, Declarants claim that at the 15-minute interval, 64.19% of the trips have a unique combination of pickup zip code, drop off zip code, and timestamp, meaning that 64.19% of the trips and travelers are re-identifiable.³⁹ In the remaining tables, Declarants offer re-identification percentages based on different variables: Table 3 (different times of day); Table 4 (pickup zip code, drop off zip code, and timestamp); Table 5 (pickup location drop off location, pickup timestamp, and vehicle make); Table 6 (pickup location, drop-off location, pickup timestamp, vehicle make, and vehicle model); and Table 7 (pickup location, drop-off location, pickup timestamp, vehicle make, vehicle model and vehicle year).

³⁷ Whittington/Sun Decl., ¶36.

³⁸ *Id.*, Table 1.

³⁹ *Id.*, Table 2

The flaw in the Declarants' reasoning is that it is based on the assumption that each trip is unique, but they fail to define uniqueness and how it would be found in the trip data for the Annual Reports. They assert that the "uniqueness of trip data and the re-identifiability of the traveler from the trips are inherent to the unique patterns of movement across space and time that come from each traveler's habits, social profile, and past experiences."⁴⁰ But the public version of the trip data in the Annual Report is subject to aggregation and redaction to obscure identifiable information and to reduce the risks of re-identification through the combination of Annual Report data with external datasets.

Further, it is not an accepted belief in the field of trip data study that uniqueness equals identifiability. In *On the anonymizability of mobile traffic datasets*, authors Marco Fiore and Marco Gramegna also examined mobile traffic datasets collected by cellular operators to determine the feasibility of effective anonymization. In doing so, they identified mobile traffic datasets that included different locations of the cellular network infrastructure, concerning the movements and traffic generated by thousands to millions of subscribers, typically for long timespans in the order of weeks or months. Fiore and Gramaglia also observed that mobile subscribers have distinctive patterns that often make them unique even within a large population. Yet even with this uniqueness, the authors acknowledged that feature is not the equivalent of identifiability:

Uniqueness does not [imply] identifiability, since the sole knowledge of a unique subscriber trajectory cannot disclose

⁴⁰ *Id.*, at 29, ¶46.

the subscriber's identity. Building that correspondence requires instead sensible side information and cross-database analyses similar to those carried out on medical or Netflix records. To date, there has been no actual demonstration of subscriber re-identification from mobile traffic datasets using such techniques—and our study does not change that situation. Still, uniqueness may be a first step towards re-identification, and whether this represents a threat to user privacy is an open topic for discussion.⁴¹

These theoretical suppositions regarding the probability of re-identifying TNC passengers or drivers do not match what is happening in reality. As we will demonstrate, *infra*, there is one jurisdiction that is providing aggregated trip data from Uber and Lyft, similarly aggregated as the Commission is ordering here, and there have been no reports of widespread re-identification of TNC drivers and passengers like Drs. Whittington and Sun claim will happen.

Uber

Uber relies on a series of studies and claims it employed Privacy Analytics, Inc. to review the re-identification risk associated with the sharing of trip data from the Annual Report.⁴² First, Uber claims that a report published in Nature allegedly found that 95% of individuals can be identified using only four spatiotemporal data points but fails to demonstrate what those data points are and how they correlate to the data required by the Annual Reports. Second, Uber claims that a Columbia University research paper shows that location data and mobility patterns can reveal demographic information such as gender or

⁴¹ *On the anonymizability of mobile traffic datasets* at 1.

⁴² Uber 2021 Motion at 6-10, and 15-17; and Sivram Decl., ¶¶ 4-8, and Exhibit 1 thereto.

ethnicity, but the Annual Reports do not require the revelation of any patterns. Third, Uber claims that an analyst used the Freedom of Information Act to obtain all NYC taxi records for the previous years, including pickup and drop-off GPS and “other data” to identify the patrons of a strip club by cross refereeing the taxi records against other publicly available information. This appears to be the same study that Lyft cited in its *Motion*, and we disposed of the usefulness of this study, *supra*.

Nor are we persuaded by Uber’s supporting declaration. In paragraphs 4-8, the Sivram Declaration refers to the work performed by Privacy Analytics, Inc., Uber’s internal data review experts. The Sivram Declaration does not say what the declarant’s knowledge is of the “technical practicalities associated with trip data.” While the declarant claims to be Uber’s Head of Public Policy for Privacy and Security,” that title, without more, is insufficient to establish that the declarant has the necessary personal knowledge to support the assertions therein.

Despite his concerns regarding re-identification, the Sivram Declaration does not say that the trip data should be redacted in its entirety. Instead, he proposes that data anonymization be used which includes at least 11 trips with identical dates, time periods, and location coordinates in any given dataset. He claims that this approach is based on a concept called “kanonymity,” which the declarant learned of by referencing and using something called the “Open Data Release Toolkit from DataSF, the International Organization for Standardization’s privacy standard on enhancing data deidentification terminology and classification of techniques, as well as other scholarly sources.”

Instead of following the kanonymity approach, we have adopted our own data aggregation measures that are designed to achieve the same end of protecting driver and passenger privacy.

Nomad

Nomad's argument for privacy of the trip data at issue is equally unpersuasive. While Nomad cites to Government Code § 6254(c), it does not set forth its own argument.⁴³ Instead, Nomad agrees with and relies on the "factual and legal contentions made by Uber and Lyft in 2020 and 2021 regarding confidentiality[.]"⁴⁴ As such, Nomad's claim for privacy of the trip data must also be rejected as not established.

Our conclusion is not altered by the Golde Declaration that Nomad provided because the declarant's concerns over re-identification and loss of privacy are speculative. (*See Nomad 2021 Motion*, Golde Decl., ¶ 11 in which declarant claims because of Nomad's small scale of service "it *could be possible* to re-identify a driver partner on the basis of other quasi-identifiers even if a driver partner's unique identification number or vehicle identification number are both omitted from disclosure.")

Nomad attempts to cure that defect by having Golde provide a more detailed declaration for Nomad's 2022 and 2023 *Motions for Confidential Treatment*. For the 2022 *Motion*, Golde claims that he reviewed the Nomad trip data from April 1, 2022 and June 1, 2022 and found that on a daily basis, 41% of

⁴³ Nomad 2021 *Motion* at 5.

⁴⁴ *Id.*

the trips originate in a census tract from which they are the only trip to originate that day. (Golde Decl, ¶ 10.) He further claims that 57% of the trips between April 1, 2022 and June 1, 2022 were the only trip leaving a census block that day and 75% of trips originated in census blocks that had two or fewer trips that day. (*Id.*) Mr. Golde makes similar assertions for the 2023 *Motion* in which he reviewed the trip data between April 1, 2023 and June 1, 2023 (Golde Decl., ¶ 10), and for the 2024 *Motion* in which he reviewed the trip data between July 1, 2024 and September 1, 2024 (Golde Decl., ¶ 10).

The problem with this further analysis is that it is still speculative on the key issue of the capacity for the re-identification of a driver or passenger. Even after reviewing the trip data, the best that Mr. Golde can claim is that “it is probable” that person x was the only person who traveled on that day from a particular census block. But even Mr. Golde cannot claim that he can positively re-identify the passenger. That is because the public is not given access to the latitude and longitude of the start and the end of the trip, the only trip data information that can provide an actual address for the start and end of a passenger trip.

In sum, the Commission finds that Moving Parties have failed to establish that trip data that the Commission proposes to make public after sufficient redaction and aggregation, is a legally protected privacy interest.

4.2.2.2. The Commission’s Data Aggregation Solution Provides Sufficient Protection for TNC Drivers and Passengers

We have gone through Moving Parties studies on the merits as a segway to point out there are other scholarly studies that have reached the opposite

conclusion on the effectiveness of data aggregation to protect privacy. As we will show, not only are there studies that conclude data aggregation measures can protect legitimate privacy interests, but there is an actual example of data aggregation from another state upon which the Commission is modeling its proposal.

The Commission adopts a data aggregation approach in which the time stamp for the start and end of each TNC trip reported in the public version of a TNC's Annual Report for 2021-2024 will be aggregated to the nearest 30-minute interval. We are persuaded in reaching this compromise interval by our independent review of how the City of Chicago has been aggregating the time stamp for TNC trips (there, TNCs are called Transportation Network Providers or TNPs) and taxi trips⁴⁵ and utilizing a longer and more aggregated interval than the City of Chicago. Since 2016, the City of Chicago has required that TNP and taxi trips be aggregated by time, with all trips rounded to the nearest 15-minutes interval, and we are not aware of, and no party has made us aware of any incidents or any complaints, including from Chicago officials tasked with transportation oversight that the aggregated timestamp data, is insufficient for their regulatory purposes. We have also taken an additional precaution of using a more protective longer time interval twice as long as the interval used by the

⁴⁵ The Commission intends to take official notice of the City of Chicago's Transportation Network Provider reporting regulations (*See* Chicago Municipal Code Chapter 9-115, the rules posted at www.Chicago.Gov/BACP and at <http://digital.cityofchicago.org>) pursuant to Rule 13.10 of the Commission's Rules of Practice and Procedure, and Evidence Code §§ 452 (a), (b), (c), and 455. Parties may comment on the Commission's intent pursuant to Evidence Code § 455 (a).

City of Chicago. In fact, we note that in Uber's Comments in this proceeding, it asserts that "other entities have successfully utilized aggregated timestamp trip data to understand and monitor traffic patterns and improve transportation management."⁴⁶

There are material parallels to the Commission's and City of Chicago's approaches to data redaction and time stamp aggregation. As with the Commission's reporting requirements, the census tract in which each trip starts and ends is provided, whereas latitude and longitude points for the start and the end of a trip are not provided.⁴⁷ It is noteworthy that both Lyft and Uber provide TNC services in the Chicago market and yet, in the last nine years since Chicago adopted its timestamp aggregation approach, neither of them have reported in their comments to the Commission any breaches of personal passenger privacy. And the fact the Commission has decided to double the timestamp aggregation from 15 to 30-minute intervals gives us greater confidence that the TNC passengers will receive, at a minimum, the same level of privacy protection in California that the TNP passengers in Chicago enjoy.

Our conclusion is bolstered by the scholarly literature that has found that mobility data can be successfully aggregated without sacrificing individual

⁴⁶ Uber Comments on Assigned Commissioner's Ruling Reopening the Record for Further Comments Regarding the Disclosure of TNC Annual Reports from 2014-2019 on Whether the Timestamp Data for Each TNC Trip Should be Aggregated (June 15, 2023) at 4, footnote 10, citing to Virginia Sisiopiku et al., *Final Report: Project 12: Mitigating Network Congestion by Integrating Transportation Network Companies & Urban Transit* (Nov. 2022); and Hanig et al., *What Stay-At-Home Orders Reveal About Dependence on Transportation Network Companies* (January 2023).

⁴⁷ HOW CHICAGO PROTECTS PRIVACY IN TNP AND TAXI OPEN DATA. Chicago Open Data Portal Team (April 12, 2019). (cityofchicago.org.)

privacy rights. In *Big Data and Innovation, Setting the Record Straight: De-identification Does Work*, authors Ann Cavoukian and Daniel Castro from The Information Technology & Innovation Foundation and the Office of the Information and Privacy Commissioner of Ontario⁴⁸ analyzed several studies that questioned the effectiveness of data aggregation approaches and concluded as follows:

[C]ommentators have misconstrued their findings to suggest that de-identification is ineffective. Contrary to what misleading headlines and pronouncements in the media almost regularly suggest, datasets containing personal information may be de-identified in a manner that minimizes the risk of re-identification, often while maintaining a high level of data quality.⁴⁹

Castro and Cavoukian attribute the tendency to claim that aggregated datasets can be re-identified is based on commentators overstating their findings. Instead, Castro and Cavoukian argue that there are additional techniques, “such as obfuscation,” and spatial and temporal aggregation of data, “that can significantly help to preserve the anonymity of location data.”⁵⁰ The authors

⁴⁸ The Information Technology and Innovation Foundation is a 501 (c) 3 non-profit, non-partisan think tank dedicated to designing strategies and technology policies by documenting the beneficial role technology plays in everyday lives. The Office of the Information and Privacy Commissioner of Ontario acts independently from the government to uphold and promote open government and the protection of personal privacy.

⁴⁹ *Big Data and Innovation, Setting the Record Straight: De-identification Does Work* at 1. This study was cited in *No silver bullet: De-identification still doesn't work*, and Lyft cited *No silver bullet* in its *Comments on Assigned Commissioner's Ruling Reopening the Record for Further Comments Regarding the Disclosure of TNC Annual Reports from 2014-2019 on Whether the Timestamp Data for Each TNC Trip Should be Aggregated* (June 15, 2023) at 6, footnote 22.

⁵⁰ *Id.*, at 3.

further argue that data anonymization can be successful if it addresses three privacy risks. First, data aggregating must protect an individual's records from being uniquely identified in the dataset. Second, data aggregation must prevent an individual's records from being linked to other datasets. Third, data aggregation must make it difficult to infer sensitive information about an individual.

The approach the Commission adopts today meets the three privacy risks that Castro and Cavoukian have identified. First, the public versions of Annual Reports do not contain any unique identifiers for each passenger. Neither names nor code names are used for a passenger's trips. Thus, someone reviewing the dataset would not be able to tell all the times that an individual passenger made use of the TNC passenger service. Second, no information is provided about an individual passenger trip that would allow that information to be linked to other datasets. The Annual Reports do not contain gender information, dates of birth, or other data that would permit such linkages. Third, nothing is required in the public version of the Annual Reports that would allow a third party to determine sensitive information about an individual. The usual examples that parties' offer in support of their objection to the public disclosure of trip data is that it can be manipulated to determine a passenger's sexual predisposition or political party affiliation, determine if a passenger is going to an abortion clinic, or if a passenger is going to conduct an illicit assignation. But as the Annual Reports do

not contain latitude and longitude, one cannot tell by a zip code if a passenger is going to or coming from such a sensitive location.⁵¹

Thus, when we combine the timestamp aggregation approach adopted today with the other privacy measures previously adopted (*i.e.*, redacting driver information, vehicle information, and latitude and longitude information for the start and end of each passenger trip), the Commission concludes that it has struck the appropriate balance in protecting passenger and driver privacy, while providing the public and interested third parties with sufficient trip data information to perform their analysis of the impact of TNC operations in California.

As a result of these studies, the Commission will require the same data aggregation measures that it adopted in D.23-12-015, Ordering Paragraph 3, to apply to the public versions of the 2021-2024 TNC Annual Reports.

4.2.2.3. Reasonable Expectation of Privacy

Because Moving Parties have failed to establish that balance of the trip data after redactions and aggregation should be protected from disclosure on privacy grounds, they cannot meet the reasonable expectation of privacy criterion.

4.2.2.4. Harm from Unwarranted Invasion

Finally, Moving Parties fail to establish that the disclosure of the trip data as redacted and aggregated would be an unwarranted invasion of privacy. As noted above, the claims that the trip data can be re-identified to reveal personal

⁵¹ And while there are unique identifiers for drivers, that information is not released as part of the public version of an Annual Report.

information about a rider's politics, religious beliefs, sexual orientation, or medical status are speculative and based on evidence that is, at best speculative and has been challenged by other trip data studies.

In addition, the Commission rejects Uber's further claim about the harm from the release of trip data as it, too, is speculative. Paragraph 11 of the Sivaram Declaration claims that keeping trip data confidential could limit the number of individuals "who could perform re-identification with the dataset," and releasing the data to the public leaves open the possibility of any member of the public, including a motivated adversary, "to access the data for re-identification purposes."⁵² The use of the words "might," "possibility," and the unidentified "motivated adversary" only serve to underscore the speculative nature of the harm Uber claims will occur if trip data is released to the public. Such speculation and lack of personal knowledge are insufficient to establish a privacy claim for the trip data.

⁵² Uber 2021 *Motion*, Sivaram Decl., ¶11; Uber 2022 *Motion*, Sivaram Decl., ¶¶6-7; Uber 2023 *Motion*, Bentley Decl., ¶¶6, 7, and 9; and Uber 2024 *Motion*, Bentley Decl., ¶¶6, 7, and 9.

4.2.3. Personal Autonomy Versus Informational Privacy

Even if *Hill's* three-part test has been met, the Commission must next address if trip data falls into the personal autonomy category, where a compelling interest must be shown for its disclosure, or the informational privacy category, where there only needs to be a legitimate and important interest to justify its disclosure. As trip data does not fall within the personal autonomy category, which deals with a person's medical records or personnel file, trip data would fall within the informational privacy category where a less stringent standard is employed to determine if the information should be released to the public.

Initially, the Commission concludes that it has satisfied the legitimate and important interest standard. Gathering trip data is part of the Commission's duty to regulate and understand all facets of each TNC's passenger services. Both the California Constitution and the Public Utilities Code vest the Commission with expansive authority to investigate TNCs companies, which would include learning about rides provided and using that information to promulgate any additional regulations and reporting requirements regarding TNC passenger services.

The Commission is unaware of any law that would require it to satisfy a heightened preliminary proof requirement to disclose trip data. In *Williams*, the California Supreme Court rejected the imposition of a heightened preliminary showing as none was required by the statute: "If the Legislature intended to demand more than mere allegations as a condition to the filing of suit or

preliminary discovery, it could have specified as much. That it did not implies no such heightened requirement was intended.”⁵³ *Williams* went further and cautioned that to insert such a requirement would “undercut the clear legislative purposes the act was designed to serve.”⁵⁴ Similarly, to impose a heightened proof requirement on the Commission when none appears within the Public Utilities Code would frustrate the Commission’s ability to carry out the will of the Legislature that it provide transparency over its regulation and investigation of TNCs subject to its jurisdiction.

Even if the Commission had to satisfy the compelling state interest standard, it could do so. The Commission is tasked by the California Constitution and the Legislature to regulate services in a manner that protects the safety of the persons who avail themselves of those services. Ensuring public safety is perhaps one of the most compelling state interests that the Commission is tasked with protecting. When that duty is combined with the Constitutional mandate to conduct governmental operations with the greatest transparency and to give the public access to government records unless prohibited by law, the Commission finds that there is a compelling state interest in making the trip data public even if it did have protected privacy status under *Hill*.

4.2.4. Fare Factors

HopSkipDrive asks for confidential protection for fare factors (i.e. data fields that seek information about how fares are calculated) on the grounds that

⁵³ 3 Cal.5th, 546.

⁵⁴ *Id.*

it is protected private information.⁵⁵ The Commission rejects HopSkipDrive's request as it fails to satisfy the *Hill* factors for determining if fare information is private.

4.3. The Trade Secret Claim

In 1984, California adopted, without significant change, the Uniform Trade Secrets ACT (UTSA). (Civil Code §§ 3426 through 3426.11. *DVD Copy Control Assn., Inc. v. Bunner* (2003) 31 Cal. 4th 864, 874; *Cadence Design Systems, Inc. v. Avant! Corp.* (2002) 29 Cal.4th 215, 221.) A trade secret has three basic elements:

- Information such as a formula, pattern, compilation, program, device, method, technique, or process;
- That derives independent economic value (actual or potential) from not being generally known to the public or to other persons who can obtain economic value; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Civil Code § 3426.1(d)'s three requirements are written in the conjunctive, rather than the disjunctive, meaning that all three requirements must be satisfied to successfully establish a trade secret claim. This approach is in accordance with decisions that have construed statutory provisions with the words "and" or "or" between the requirements. (*See Pueblo of Santa Ana v. Kelly* (D.N. Mexico 1996) 932 F.Supp. 1284, 1292 ["In this Section, the compact requirement is separated from the requirement that the compact be approved by the Secretary by the conjunctive term "and", indicating that Congress recognized as distinct the existence of a valid tribal-state compact and the approval of the Secretary putting

⁵⁵ HopSkipDrive 2021 Motion at 12.

that compact into effect.”]; and *Azure v. Morton* (9th Cir. 1975) 514 F.2d 897, 900 [“As a general rule, the use of a disjunctive in a statute indicates alternatives and requires that they be treated separately.”].) Thus, the failure to satisfy any one of the three required elements dooms a trade secret protection claim.

4.3.1. Information as Secret and Efforts to Maintain Secrecy

Civil Code § 3426.1(d) refers to information and includes, as examples, formulas, patterns, compilations, programs, devices, methods, techniques, or processes. While it is true that the word “information” has a broad meaning,⁵⁶ trade secrets usually fall within one of the following two broader classifications: first, technical information (such as plans, designs, patterns, processes and formulas, techniques for manufacturing, negative information, and computer software); and second, business information (such as financial information, cost and pricing, manufacturing information, internal market analysis, customer lists, marketing and advertising plans, and personnel information). The common thread going through these varying types of information is that it is something that the party claiming a trade secret has created, on its own, to further its business interests.

But we must also consider whether trip data that is compiled for dual purposes (*i.e.* pursuant to a government obligation *and* to further private business interests) can qualify as the type of information that can be considered a trade secret in the first instance. California has not addressed this issue, and other states have reached opposite conclusions based on differing factual

⁵⁶ *Altavion, Inc. v. Konica Minolta Systems Laboratory, Inc.* (2014) 226 Cal.App.4th 26, at 53.

records. (See, e.g., *Spokane Research v. City of Spokane* (1999) 96 Wn. App. 565, 578 [“It is illogical for the Developers to claim the studies were at the outset trade secrets in this context because the studies were produced for the City, not the Developers.”]; and *Lyft, Inc., et al., v. City of Seattle* (2018) 190 Wn.2d 769. Despite the absence of guiding California precedent, we can resolve this issue by conducting a closer examination of the word “information.”

For information to fit within the trade secret definition, it must be secret, i.e., information not generally known to the industry or to the public. (Civil Code § 3426.1(d); and *Morlife, Inc. v. Perry* (1997) 56 Cal.App.4th 1514, 1521; *American Paper & Packaging Products, Inc. v. Kirgan* (1986) 183 Cal.App.3d 1318, 1326; *Aetna Building Maintenance Co. v. West* (1952) 39 Cal.2d 198, 206; and *Woo v. Fireman’s Fund Insurance Co.* (2007) 137 Wash.App. 480, 488-489.) While that concept does not appear to be in dispute, there is an additional nuance that we must initially address. Can information that a party provides to a government entity as a condition for conducting business still be considered secret if the party takes reasonable steps to maintain the information’s secrecy from the public? California has not addressed this question, and we are aware of one jurisdiction that has. (See *Lyft, Inc., et al., v. City of Seattle* (2018) 190 Wn.2d 769 [The Washington Supreme Court acknowledged that it was “a close call” and that “while the evidence is mixed and the question is not beyond debate,” it affirmed the superior court’s conclusion that the zip code reports were trade secrets within the meaning of the UTSA.].) We believe that the better conclusion is that even though a party is required to provide information to the Commission, that

party is not precluded from claiming and establishing that the information still is secret and, therefore, enjoys trade secret protection.

Next, a party claiming trade secret protection must identify the steps it has undertaken to keep the information secret. (*In re Providian Credit Card Cases* (2002) 96 Cal.App.4th 292, 304.) In determining if reasonable efforts to protect a trade secret's secrecy have been made a court can consider the following factors: whether documents or computer files containing the trade secret were marked with confidentiality warnings; whether the claimant instructed the employees to treat the trade secret as confidential; whether the claimant restricted access to the trade secret; whether the trade secret was kept in a restricted or secured area; whether employees had to sign a confidentiality or nondisclosure agreement to access the trade secret; and the extent to which any general measures taken would prevent the unauthorized disclosure of the trade secret.⁵⁷

Moving Parties have met their burden of establishing that the trip data information required by the Annual Reports is secret and that they have taken concrete steps to protect the trip data's secrecy.⁵⁸ First, Lyft asserts that the trip

⁵⁷ California Civil Jury Instructions (CACJI) No. 4404 (Reasonable Efforts to Protect Secrecy). Some of the factors from CACJI No. 4404 are listed in *Whyte v. Schlage Lock Co.* (2002) 101 Cal.App.4th 1443, 1454.

⁵⁸ In making this finding, we must distinguish trip data, defined *supra*, at fn. 1, and other items that TNCs claim are proprietary. In their *2021 Motions for Confidential Treatment*, Uber and Lyft speak of the need to protect proprietary databases, algorithms, and formulas used internally to develop strategies for appealing to customers and drivers. (Uber *2021 Motion* at 22, Sipf Decl., ¶¶6, 8, and 9; Lyft *2021 Motion* at 18-20, Rosenthal Decl., ¶¶6 and 7.) Nomad makes a similar argument regarding the need to protect its algorithms. (Nomad *2021 Motion* at 10-11, Golde Decl., ¶12; Nomad *2022 Motion* at 14-15, Golde Decl., ¶16; and Nomad *2023 Motion* at 16-17, Golde Decl., ¶18.) But as the Commission has not asked any TNC to produce its internal

Footnote continued on next page.

data is stored on a secure software network and access is limited to a subset of Lyft's employees. Second, Lyft requires that, as a condition of employment, all new employees sign a confidentiality agreement to protect the trip data from being disclosed to employees or former employees to unauthorized outside parties. Third, Lyft states it requires that all its employees sign an employee handbook that describes each employee's obligations regarding technology use and security and protection of Lyft's information that it classifies as proprietary. (Lyft 2021 Motion at 21, Rosenthal Decl., ¶¶31-32; Lyft 2022 Motion at 16, Rosenthal Decl., ¶13; Lyft 2023 Motion at 16-17, Brandt Decl., ¶21; and Lyft 2024 Motion at 17, Brandt Decl., ¶21.) The other Moving Parties have made similar factual showings regarding efforts to protect the secrecy of their trip data. (Uber 2021 Motion at 27-28, Sipf Decl., ¶28; Uber 2023 Motion at 21-22, Case Decl., ¶¶14-15; Uber 2024 Motion at 21-22, Case Decl., ¶14; Nomad 2021 Motion at 10, Golde Decl., ¶12; Nomad 2022 Motion at 15, Golde Decl., ¶¶19-22; Nomad 2023 Motion at 16-17, Golde Decl., ¶¶21-24; Nomad 2024 Motion at 15-16, Golde Decl., ¶¶21-24; HopSkipDrive 2021 Motion, Donahue Decl., ¶17;⁵⁹ HopSkipDrive 2022 Motion at 7, Greene Decl., ¶7; HopSkipDrive 2023 Motion, Hampton Decl., ¶¶7 and 17; and HopSkipDrive 2024 Motion,

analyses, algorithms, or business strategies for marketing its business, we reject the TNCs' attempt to secure a decision by the Commission as to whether the trade secret protection is applicable to these information categories.

⁵⁹ In its 2021 Motion, HopSkipDrive claims that it filed a Motion for Confidential Treatment regarding the trip data for its 2020 Annual Report, but the Commission has not ruled on that 2020 Motion. (HopSkipDrive 2021 Motion at 4-5.) As HopSkipDrive made the same confidentiality arguments in its 2020 Motion as it did in its 2021 Motion, today's decision will apply to HopSkipDrive's 2020 Motion as well.

Hampton Decl., ¶¶7 and 17.) While some showings are more granular than others, overall, Moving Parties have provided sufficient evidence that outside of providing the trip data to regulatory agencies like the Commission, they do not make the totality of their trip data publicly available and have taken steps to protect trip data secrecy.

Thus, while a driver or passenger may know the trip data about a particular ride and is not prohibited from sharing that information publicly, no one driver or passenger knows the full extent of the disaggregated trip data maintained by a TNC and provided to the Commission in the Annual Report because of each TNC's protective measures.

4.3.2. Independent Value

In *DVD Copy Control, supra*, 31 Cal.4th, at 881, the California Supreme Court recognized that “trade secrets are a peculiar kind of property. Their only value consists in their being kept private. Thus, the right to exclude others is central to the very definition of the property interest.” (*See also Silvaco Data Systems v. Intel Corp.* (2010) 184 Cal.App.4th 210, 220-221 [“the *sine qua non* of a trade secret, the, is the plaintiff's possession of information of a type that can, at the possessor's option, be made known to other, or withheld from them....Trade secret law, in short, protects only the right to control the dissemination of information.”].) The secrecy adds to the trade secret's value ‘because it is unknown to others.’ (*AMN Healthcare, Inc. v. Aya Healthcare Services, Inc.* (2018) 28 Cal.App.5th 923, 943.) In other words, the secrecy of the trade secret information provides the holder of the trade secret with “a substantial business advantage.” (*Morlife, Inc. v. Perry, supra*, 56 Cal.App.4th, at 1522.)

Finally, in determining if a trade secret has independent value, the fact finder must consider if the claimant established the amount of time, money, or labor that was expended in developing the trip data, as well as the amount of time, money, or labor that would be saved by a competitor who used the trip data. (Judicial Council of California Civil Jury Instruction 4412 (Independent Economic Value Explained.) In *Yield Dynamics, Inc. v. TEA Systems* (2007) 154 Cal.App.4th 547, 564-565, the Court provided guidance as to the specificity of the showing to demonstrate independent value:

Merely stating that information was helpful or useful to another person in carrying out a specific activity, or that information of that type may save someone time, does not compel a fact finder to conclude that the particular information at issue was "sufficiently valuable . . . to afford an . . . economic advantage over others." (Rest.3d Unfair Competition, § 39.) The fact finder is entitled to expect evidence from which it can form some solid sense of *how* useful the information is, *e.g., how much* time, money, or labor it would save, or at least that these savings would be "more than trivial."

The Commission must address whether Moving Parties carried their burden of establishing the independent value of its trip data because of its alleged secrecy.

The Commission finds that Moving Parties have met their burden of proof. First, Lyft claims it has invested thousands of person hours and billions of dollars in developing and refining its ridesharing platform and its data collection processes and procedures. (Lyft 2023 *Motion* at 12, Brandt Decl., ¶9; Lyft 2024 *Motion* at 12-13, Brandt Decl., ¶9.) Second, Lyft has documented that trip data

has commercial value for third-party trip gatherers who would seek to monetize the trip data. As proof, Lyft identifies companies such as Datarade, which hosts an online marketplace to facilitate the sale or licensing of mobility data; Streetlight Data, which focuses on selling anonymized location records; McKinsey & Co., which has issued reports analyzing the monetary value of mobility data collected from phones and GPS connected vehicles; and PreDik, which sells mobility data with GPS coordinates. (Lyft 2021 Motion 20-21, Rosenthal Decl., ¶9; Lyft 2022 Motion at 15, Rosenthal Decl., ¶13; Lyft 2023 Motion at 14-15, Brandt Decl., ¶16; and Lyft 2024 Motion at 15, Brandt Decl., ¶16.) Third, Lyft has documented that the trip data has a cost savings value for actual or potential competitors seeking greater understanding of and access to the TNC market. (Lyft 2021 Motion 19-20, Rosenthal Decl., ¶8; Lyft 2022 Motion at 14-15, Rosenthal Decl., ¶12; Lyft 2023 Motion at 14, Brandt Decl., ¶15; and Lyft 2024 Motion at 14, Brandt Decl., ¶¶14-15.) Fourth, Lyft asserts that government entities would save significant sums of money if they had access to the trip data rather than having to recreate from other sources. For example, Lyft notes that the San Francisco Municipal Transportation Agency has stated in its Comments filed in this proceeding about how access to trip data would be extremely valuable as it would save it from having to allocate hundreds of professional staff hours and tens of thousands of dollars to find alternative sources of the trip data, and would help facilitate San Francisco meet its public policy goals relating to improving transportation efficiency, environmental impacts, and public safety. (Lyft 2023 Motion at 16,

Brandt Decl., ¶19; and Lyft 2024 Motion at 16, Brandt Decl., ¶19.)⁶⁰ The remaining Moving Parties make similar arguments regarding the independent value of their trip data. (Uber 2021 Motion at 20-27, Sipf Decl., ¶¶3-5, 7-16; Uber 2023 Motion at 16-21, Case Decl., ¶¶3-6, 8, and 10-12; Uber 2024 Motion at 16-20, Case Decl., ¶¶3-6, 8, 9-13; Nomad 2021 Motion at 9-14, Golde Decl., ¶¶12-15; Nomad 2022 Motion at 14-19, Golde Decl., ¶¶16-22; Nomad 2023 Motion at 15-21, Golde Decl., 18-24; Nomad 2024 Motion at 14-20. Golde Decl., ¶¶18-24; and HopSkipDrive 2021 Motion at 9, Donahue Decl., ¶8; HopSkipDrive 2022 Motion at 13, Donahue Decl., ¶8; HopSkipDrive 2023 Motion at 12, Hampton Decl., ¶7; and HopSkipDrive 2024 Motion, Hampton Decl., ¶8.) Collectively, this evidence demonstrates that access to the trip data would have independent value for competitors, third parties, and government entities.

**4.3.3. Balancing Test Considerations Required
by Evidence Code Section 1060 and
Government Code Section 6255 Weigh in
Favor of Disclosing Trip Data to the Public
with Limited Redactions**

4.3.3.1. The Public's Interest in TNC Trip Data

Even if a trade secret claim is established, such a claim is not an absolute bar to making trade secret information public. (*See Bridgestone/Firestone, Inc. v.*

⁶⁰ Although Lyft did not make a similar claim in its 2021 and 2022 Motions, San Francisco's interest in obtaining TNC trip data is documented in its Comments in this proceeding. (*See San Francisco's Opening Comments Track 3—TNC Data* (July 17, 2017) at 8-9; and *San Francisco's Opening Comments* (December 3, 2019) at 10: "The veil created by footnote 42 forced the [San Francisco County Transportation Authority to allocate hundreds of professional staff hours and tens of thousands of dollars to find alternative sources of data to inform its recent analysis of the impact of TNC service on traffic congestion in San Francisco."].) Thus, we take it that San Francisco will want access to Lyft's trip data for the years 2021 and 2022.

Superior Court (1992) 7 Cal.App.4th 1384, 1390-1393.) Unlike privileges such as the attorney-client or the physician-patient, which—with limited exceptions—bar the public’s intrusion in the content of these privileges, a trade secret claim does not enjoy the same automatic protection against public disclosure. (*Id.*)⁶¹ Instead, a court must conduct a balancing test to determine whether the public’s or the objector’s interest is greater. (See Evidence Code §1060⁶² and Government Code § 6255.⁶³)

The balancing test is prescribed by Government Code § 6255(a),⁶⁴ the catch-all provision which may be used for determining the confidentiality of records not covered by a specific exemption enumerated in the California Public Records Act (CPRA). This provision allows an agency to balance the public interest that would be served by withholding information with the public interest that would be served by the disclosure of the information. (*Humane Society of the United States v. Superior Court* (2013) 214 Cal.App.4th 1233,

⁶¹ This is true notwithstanding Government Code §6254(k), which provides an exemption to Public Records Act requests for “records, the disclosure of which is exempted or prohibited by federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.” As a trade secret claim is included in such privileges, the Court is required by Evidence Code §1060, quoted in the next fn., to conduct a balancing test.

⁶² Evidence Code § 1060 states: “If he or his agent or employee claims the privilege, the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.”

⁶³ Government Code § 6255 now appears at § 7922.000 and states: “An agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that on the facts of the particular case, *the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.*”

⁶⁴ Now Government Code § 7922.000.

1255.) To withhold information, the agency must find that the public interest served by not disclosing the record clearly outweighs the public interest served by the disclosure of the record. Under this CPRA balancing test, a submitter of information requesting confidential treatment under Government Code § 6255(a) “must identify the public interest and not rely solely on private economic injury.” (D.17-09-023 at 44.) While the public’s right to information in possession of the government must be construed broadly, *Humane Society* cautions that “exemptions are to be construed narrowly.” (214 Cal.App.4th, at 1254.) Finally, although Government Code § 6255(a) references the “agency,” suggesting that it is incumbent on the government entity holding the information to establish that the catch-all exemption applies, the burden of proof as to the application of an exemption is on the proponent of nondisclosure. (*Michaelis, Montanari & Johnson v. Superior Court* (2006) [38 Cal.4th 1065](#), 1071.) In this case, the burden would be on the TNCs to establish, by the preponderance of the evidence, the applicability of the catch-all exemption.

Application of the foregoing test to Moving Parties’ Motions leads the Commission to conclude that concealing alleged trade secret protected trip data would work an injustice as there is strong public interest in obtaining trip data. As the assigned Administrative Law Judge’s *2020 Confidentiality Ruling* found:

There is a public interest in learning when riders are in operation and when trips are accepted or rejected. Public entities have an interest in knowing how many drivers are in operation on their rides for the planning purposes identified above, and would also want to know the number of times and when rides are accepted or rejected to determine if the TNC ride service is being provided to all neighborhoods in a

nondiscriminatory manner. County district attorneys or the state attorney general may want to use this data to bring the necessary enforcement actions in civil court.⁶⁵

The planning purposes that the *2020 Confidentiality Ruling* referenced are those identified by the San Francisco Municipal Transit Agency, San Francisco County Transportation Authority, San Francisco City Attorney's Office, and the San Francisco International Airport in *Opening Comments on Proposed Decision Re; Data Confidentiality Issues* that trip data information is relevant in determining the impact of TNC services on San Francisco's infrastructure, environmental impacts, traffic patterns, and the overall quiet enjoyment.⁶⁶ In fact, Lyft put the question of the environmental and infrastructure benefits of TNC rides as basis for allowing them to operate when Lyft filed its initial *Comments* in this proceeding:

Giving people viable and convenient alternatives in transportation – as a complement to public transit, taxis, carsharing, carpooling, etc. – is the critical element that makes reduced individual car ownership and use of single occupancy vehicles achievable. For platform-based communities to reach the critical mass tipping point at which they can significantly contribute to reduction of urban congestion, greenhouse gas emissions, and other problems caused by single-occupant driving, such communities must be allowed to develop and flourish without unnecessary or ill-fitting regulatory barriers.⁶⁷

⁶⁵ *2020 Confidentiality Ruling* at 20-21, affirmed D.22-05-003.

⁶⁶ *Id.*, at 19 and footnote 37.

⁶⁷ Zimride (now Lyft) *Comments*, filed February 11, 2013.

It would not be surprising for local government entities to want access to the trip data to evaluate whether the claimed environmental and infrastructure benefits from allowing TNC vehicles to operate have been realized. The San Francisco Municipal Transportation made such an argument in its *Comments* on Issue Track 3—Trip Data:

San Francisco’s transportation planners need TNC trip data to perform their duties. Under the City’s charter, SFMTA has a responsibility to the general public to plan the transportation infrastructure for the future, manage congestion, and manage curb space appropriately. Without TNC data, SFMTA transportation planners must rely instead on anecdotal information to fill the gap, but such information does not present an accurate depiction of conditions on the ground. Creating public policy on factual, real time data, is clearly preferable. Here, the CPUC already requires TNCs to report much of the relevant data. Sound public policy requires the CPUC to make it available to allow local jurisdictions to make intelligent, supported transportation planning decisions for the benefit of all Californians.

In their Motions, none of the Moving Parties challenge the validity of the environmental and infrastructure claims of municipalities such as San Francisco for wanting access to trip data that the *2020 Confidentiality Ruling* cited and agreed with.

Additionally, the Court of Appeal recognized a municipality’s interest in obtaining a TNC’s trip data goes beyond environmental and infrastructure considerations. In *City and County of San Francisco v. Uber Technologies, Inc.* (2019) 36 Cal.App.5th 66, 73-74, the Court acknowledged that the San Francisco City Attorney has a broad right to investigate when it suspects an entity operating

within its jurisdiction is violating the law, citing *California Restaurant Assn. v. Henning* (1985) 173 Cal.App.3d 1069, 1075. The San Francisco City Attorney claims it began its TNC investigation to determine:

- Whether Uber was violating the law in several areas relating to unsafe driving and illegal parking, the congestion and volume of Uber vehicles, inequality of access and treatment of passengers, and the distance driven by Uber drivers prior to commencing a shift, after media reports that Uber incentivizes drivers to drive as much as 200 miles or more before driving for an additional 12 to 16 hours, crowding the City's streets with unfamiliar and fatigued drivers.
- Whether Uber was violating California nuisance law, Civil Code § 3479, since the number of TNC vehicles might obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstruct the free passage or use, in the customary manner, of any public park, square, street, or highway.
- Whether Uber was failing to provide adequate accommodations for disabled riders and, possibly, in violation of the Unruh Civil Rights Acts (Civil Code § 51, subd. (b) and Civil Code § 54) and other state laws protecting individuals with disabilities.
- Whether Uber was underpaying its drivers and thereby violating San Francisco's independent minimum compensation ordinance (S.F. Administrative Code, ch. 12V).⁶⁸

The Court found that the administrative subpoena seeking Uber's Annual Reports submitted to the Commission from 2013 to 2017, as well as the raw data

⁶⁸ 36 Cal.App.5th, at 74-75.

the reports were based, was relevant to the City's investigations into possible violations of the law:

The CPUC reports requested are reasonably relevant to the City's investigation of possible violations of state and municipal laws by Uber. (Citation omitted.) The CPUC reports contain information and data regarding safety problems with drivers, as well as hours and miles logged by drivers, which are relevant to the City Attorney's investigation of safety hazards, parking violations, and other possible violations of state nuisance law. The accessibility plans and the data on providing accessible vehicles included in the CPUC reports are clearly relevant to the City Attorney's investigation of possible violations of state law protections for individuals with disabilities.⁶⁹

The Commission finds that public entities would also be interested in TNC trip data for 2021-2024 and beyond for all the foregoing reasons, and it would result in an injustice to deny the public access to the current and future trip data. Based on the data provided in the Annual Reports, the TNC industry continues to be a growing mode of private transportation, accounting for more than millions of rides annually in California, so TNCs' reach and impact on municipalities where they conduct business is no doubt pervasive. Several investigations into whether a TNC such as Uber or Lyft is operating in violation of various state and local laws would be stymied if governmental entities could not review the relevant trip data. Accordingly, assuming that the trip data was a trade secret, keeping that trip data private is outweighed by the injustice inflicted on governmental entities who would be denied access to trip data. As we will

⁶⁹ *Id.*, at 75.

demonstrate, the Moving Parties have failed to overcome the significant public interest in gaining access to TNC trip data for 2021-2024.

Lyft

Rather than challenge other government agencies' interests in obtaining trip data, Lyft claims, incorrectly, that the fact that other government agencies "might find Lyft's data useful for various purposes cannot justify denying confidential treatment to that data."⁷⁰ Lyft bases its position on a quote from *City of San Jose v. Superior Court* (1999) 74 Cal.Ap.4th 1008, 1018 wherein the Court stated the "the purpose of the requesting party in seeking disclosure cannot be considered." Lyft's argument is incorrect once *City of San Jose* is understood in its proper legal context.

The City of San Jose filed opposition to the San Jose Mercury's petition for writ of mandate, which sought the production of citizen complaints about airport noise. In its opposition, the City of San Jose argued that the airport noise complainants' privacy interest in their personal information outweighed the public interest in disclosure of their names, addresses, and telephone numbers. If this personal information was disclosed, the complainants would be subject to harassment and intimidation, and the public's reporting of airport noise complaints would be chilled. When weighing the City of San Jose's right under Government Code § 6255 to refuse to produce records, the Court said: "The burden of proof is on the proponent of nondisclosure, who must demonstrate a "clear overbalance" on the side of confidentiality. ([Govt. Code] § 6255; *Black*

⁷⁰ Lyft 2021 Motion at 26. See also Lyft 2023 Motion at 27-28; and Lyft 2024 Motion at 27-28.

Panther Party v. Kehoe (1974) 42 Cal.App.3d 645, 657.) The purpose of the requesting party in seeking disclosure cannot be considered.”⁷¹ As such, the validity of the government’s objection to a Freedom of Information Act request in *City of Jan Jose* did not turn on the resolution of the interplay between Government Code § 6254 and Evidence Code § 1060, statutes that do permit consideration of a third party’s interest in obtaining government records.

Uber

Uber claims that the following trip data categories are confidential, and that their confidentiality clearly outweighs the public interest in gaining access to them—confidential complaints (such as sensitive information regarding confidential reports of harassment, assault, or other complaints); driver discipline; and the unknowability of potential confidential information such as complaint settlements.⁷²

With respect to confidential complaints, this issue is moot. The Commission has already determined that information regarding sexual assaults and sexual harassment complaints, including latitude and longitude, and settlement information, may be redacted from the public version of a TNC’s Annual Report. (2021 Confidentiality Ruling at 5; and 2020 Confidentiality Ruling at 9-10.) As for “other complaints,” that category is too vague for the Commission

⁷¹ See also *U.S. Department of Justice v. Reporters Committee for Freedom of Press* (1989) 489 U.S. 749, 772: “Thus, whether disclosure of a private document under Exemption 7(C) is warranted must turn on the nature of the requested document and its relationship to ‘the basic purpose of the Freedom of Information Act to open agency action to the light of public scrutiny.’”

⁷² Uber 2021 Motion at 29-32; Uber 2022 Motion at 14-15; Uber 2023 Motion at 23-24; Uber 2024 Motion at 23-24.

to determine if Uber has carried its burden of proof. Thus, we will not invoke Government Code §6255(a)'s protection any more than the Commission already has.

With respect to driver discipline information, Uber claims that the disclosure of this information "is likely to leave the public with the mistaken impression that one TNC has drivers who are more likely to commit violations than its competitor whose disciplinary standards are more lax."⁷³ We reject Uber's concern because it is vague and unsubstantiated.

Finally, as for settlements and pending complaints, we reject Uber's request as being too broadly based. Uber claims that publishing pending complaints before they are resolved will undercut the confidentiality granted to incidents which ultimately result in confidential settlement agreements. But when a complaint is filed, there is no confidentiality attached to it, making it public knowledge. If a settlement is later reached, the Court can determine if anything beyond the terms of the settlement should be made confidential as one of the terms of the settlement agreement.

Nomad

Nomad claims that no significant public interests would be advanced by the disclosure of its trip data. Nomad claims that it already shares its metrics and regular updates about its service in California with public and private

⁷³ Uber 2021 Motion at 30-31.

partners.⁷⁴ In its view, requiring the disclosure of its trip data would not advance Nomad's public partners' interests in regulating Nomad's activities or overseeing its service because they are already able to receive the reporting they need.

But the fact that Nomad is sharing some of its trip data with public and private partners only serves to underscore the public interest in the balance of Nomad's trip data. Nomad claims to partner with municipalities, transit agencies, and corporations to offer transit services to office workers, low-income riders and riders in transit deserts. By Nomad's own tacit omission, there is interest in data regarding Nomad's TNC operations, so we are hard pressed to discern how other public entities would not share that same interest to ensure that Nomad's service is being offered safely and in a non-discriminatory manner.

HopSkipDrive

HopSkipDrive asserts that the public interest in obtaining its trip data is outweighed by its interest in keeping this information private and offers three arguments in support. HopSkipDrive first asserts that it is a small TNC focused on serving public agencies who arrange rides for students, foster youth and homeless youths, as well as elderly riders and other persons who need more support. Because of the need to ensure the safety of minors who avail themselves of this service, HopSkipDrive believes that the Commission would want to keep this trip data secret. Second, because it has a limited and targeted

⁷⁴ Nomad 2021 Motion at 15, Golde Decl. ¶16; Nomad 2022 Motion at 20, Golde Decl. ¶22; Nomad 2023 Motion at 22, Golde Decl. ¶22; and Nomad 2024 Motion at 21, Golde Decl. ¶¶ 22-23.

customer base, any trip data disclosed would have a *de minimis* benefit to public entities interested in studying the data to reduce traffic congestion and reduce GHG emissions. Third, because of the size of its operations, HopSkipDrive asserts that disclosing its trip data would not enhance transparency into its operations that would be of significant benefit to interested public entities.⁷⁵

But the nature of HopSkipDrive's service, regardless of the size of its operations, demonstrates why there is public interest in its trip data.

HopSkipDrive states that its service provides a safe and reliable solution for schools, school districts, county foster agencies and nonprofits that need to arrange rides for people that they serve. The only way to determine if HopSkipDrive's service is safe is to make its trip data public so that interested public entities can analyze the data and make an independent assessment as to the safety and reliability of HopSkipDrive's operations.

In sum, the Commission finds that it would work an injustice if interested members of the public were prohibited from gaining access to trip data.

4.3.3.2. The TNCs' Interests in Keeping Trip Data Secret

The finding that the public has a strong interest in trip data being disclosed, however, does not end our inquiry required by the balancing test. The Commission must also examine the arguments by the people who wish to shield their information from the public and decide which interest must ultimately

⁷⁵ HopSkipDrive 2021 Motion at 9; HopSkipDrive 2022 Motion at 11; HopSkipDrive 2023 Motion at 9-10; and HopSkipDrive 2024 Motion at 10-11.

prevail. To answer that question, we must consider each TNC's Motion as different arguments are advanced.

- Lyft

In reviewing Lyft's *Motions*, Lyft raised the possibility that the trip data can lead to competitive companies and anyone gaining access to the trip data learning a rider's exact pick-up and drop-off addresses which could reveal personal information about the passenger (*e.g.*, gender, sexual predisposition, political affiliation, medical condition, *etc.*):

Consider the revealing information one can learn with just a few details regarding a TNC ride, such as the precise time and general location at which the ride commenced. A spouse *might*, for example, ascertain the true destination of their partner after they leave the house; whether to the office located in one census block or zip code, or to a suspected paramour's residence, a healthcare or psychiatric facility, a political rally, or another suspected location in a different census block or zip code.... Put simply, *it is impossible to anticipate*—and confidently dismiss—the virtually endless nefarious purposes to which such a massive, detailed, and content-rich database *might* be put.⁷⁶

In support of the arguments from its *Motions*, Lyft references a series of secondary source articles and informational maps from the US Census Bureau as its factual support.⁷⁷

The Commission rejects Lyft's argument because the arguments regarding harm to Lyft's passengers if trip data were released are too speculative. Lyft uses

⁷⁶ Lyft 2021 Motion at 29; and Lyft 2022 Motion at 32-39.

⁷⁷ Lyft 2021 Motion at 27-30.

words such as “might” and “impossible to anticipate” which only serve to underscore the speculative nature of the harm that Lyft claims might befall passengers who avail themselves of the Lyft app for transportation and if their trip data is disclosed. Put another way, Lyft has failed to present any credible evidence that the public interest favoring nondisclosure greatly outweighs the public interest favoring disclosure.

The Commission finds legal support for its decision to reject Lyft’s request to keep trip data confidential. In *Humane Society*, the Court cautioned against accepting as true unsubstantiated invasion of privacy claims as a basis for invoking Government Code § 6255(a):

HSUS relies on an Attorney General opinion (81 Ops.Cal.Atty. Gen. 383 (1998)) that says speculation is not a basis for denying disclosure. As reflected in that opinion, the Attorney General was asked whether senior citizens' claims for parcel tax exemptions levied by a school district are subject to public inspection. Balancing the interests, the Attorney General concluded that the claims must be disclosed. Regarding the interests on the nondisclosure side of the balance, the Attorney General observed, "if the information in question is not disclosed, the rights of privacy of the senior citizens in the district would be protected. Arguably, they would not be subject to unwanted solicitations directed to them due solely to their having surpassed the age of 65. Such speculation, however, is not a basis for denying disclosure under the terms of Section 6255." (81 Ops.Cal.Atty.Gen., *supra*, at 387.) Thus, the privacy concern noted by the Attorney General was nothing more than an unsubstantiated fear, not supported by evidence.⁷⁸

⁷⁸ 214 Cal.App.4th, at 1257.

Other decisions have also rejected catch-all exemption claims based on speculative assertions of privacy invasions. For example, in *CBS v. Block* (1986) 42 Cal.3d 646, 652, Defendants contend that they met the burden of proving that the records of applications and licenses for concealed weapons fall within the catch-all exception by arguing that releasing this information will allow would-be attackers to more carefully plan their crime against licensees and will deter those who need a license from making an application. In rejecting Defendants' argument, the Court cautioned against the reliance on speculative assertions:

Defendants' concern that the release of the information to the press would increase the vulnerability of licensees is conjectural at best. The prospect that somehow this information in the hands of the press will increase the danger to some licensees cannot alone support a finding in favor of non-disclosure as to all. A mere assertion of possible endangerment does not "clearly outweigh" the public interest in access to these records."

(*See, also, New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579, 1581, 1586 [The Court held that the catchall exemption did not apply to a request for the names and addresses of water customers who exceeded their water rationing allocation. The water district had asserted that publication of the names "could expose" the individuals to verbal or physical harassment, but the Court reasoned that "the record contains no evidence that revelation of names and addresses of those who have exceeded their water allocation during a billing period will subject those individuals to infamy, opprobrium, or physical assault."]; and *California State University, Fresno Association, Inc. v. Superior Court*

(2001) 90 Cal.App.4th 810, 835 [the Court compelled the University to disclose documents containing the identities of donors who, upon making donations to a university-affiliated foundation, obtained licenses to use luxury suites in a new campus arena. The Court reasoned that the University's arguments for nondisclosure were speculative and not supported by competent evidence: "[A]ny claims by the University that donations will be canceled are speculative, supported only by inadmissible hearsay. Statements by University personnel that disclosure of the licensees will likely have a chilling effect on future donations, resulting in a potential loss of donations, are inadequate to demonstrate any significant public interest in nondisclosure."].)

The Commission considers the foregoing authorities instructive. The "likely" claim that *California State University* rejected as legally insufficient is synonymous to Lyft's claims of privacy invasion that are couched around the word "might." In both *California State University* and here, the claims are speculative and are not corroborated by any credible evidence. Similarly, *CBS*' and *New York Times*' rejection of the applicability of the catch-all exception based on the claim of "possible endangerment" and "could expose," respectively, is the equivalent of Lyft's use of the phrase "potentially revealing intimate personal details[.]"⁷⁹ In sum, based on the review of the evidentiary record, the Commission concludes that Lyft has failed to carry its burden of proving that the public interest in not disclosing the trip data greatly outweighs the public interest in disclosing the trip data.

⁷⁹ Lyft 2021 Motion at 27.

- Uber

Uber identifies the following categories of information where it claims the public interest served by not disclosing them clearly outweighs the public interest served by disclosure: (1) confidential complaints, which Uber defines as sensitive information regarding confidential reports of harassment, assault, or other complaints; (2) driver discipline; and (3) unknowability of potentially confidential information.⁸⁰ As we have previously considered and rejected Uber's position as vague and unsubstantiated in the preceding section of this decision, the Commission need not consider these arguments again.

- Nomad

Nomad asserts that the following interests weigh in favor of not disclosing trip data: (1) protecting the privacy of the users of regulated platforms and services; and (2) promoting competition. The Commission rejects Nomad's arguments. With respect to privacy, Nomad cites the *Patel* decision in which the Ninth Circuit found, and the Supreme Court agreed that businesses have a reasonable expectation of privacy regarding guest records.⁸¹ Nomad extrapolates that holding to argue that the same right to privacy extends equally to the privacy of users of regulated TNC platforms and services. As we will explain in greater detail, *Patel* is factually distinguishable from the instant proceeding and, therefore, cannot be relied upon to cloak trip data in a privacy blanket.⁸² First, in *Patel*, the parties did not dispute whether the information at

⁸⁰ Uber 2021 Motion at 29-31.

⁸¹ 135 S.Ct. 2443, 2456.

⁸² Nomad 2021 Motion, at 14.

issue was private. In contrast, the trip data in dispute, with limited exceptions, has no presumption of privacy. Second, *Patel* dealt with whether the government had the ability to collect seemingly private data. In contrast, there is no dispute that the Commission has the authority to require TNCs to collect and report data to the Commission, even if the responding party believes that data is private. The dispute here is what portions of the trip data from the Annual Reports can be publicly disclosed.

Next, Nomad claims that the Commission has recognized that privacy is a compelling basis for not making certain information public.⁸³ While true, Nomad does not cite any Commission decisions that have found that trip data as a whole is entitled to blanket privacy protection. To the contrary, the Commission recognized that limited categories of trip data information should be protected from public disclosure.

Nomad's argument that promoting competition is a sufficiently compelling interest that would justify the nondisclosure of the trip data is also unfounded.⁸⁴ Nomad claims that the disclosure of its trip data could lead to the reverse engineering and expropriation of Nomad's trade secrets, but the Commission has already rejected the reverse engineering claims as being too speculative so there is nothing in the record to support the claim that releasing trip data will stifle competition in the California TNC industry.

- HopSkipDrive

⁸³ *Id.*

⁸⁴ *Id.*, at 15.

HopSkipDrive asserts three arguments to satisfy the balancing test in its favor: first, it is a small TNC focused on service public agencies who arrange rides for students, foster youth, and homeless youths, as well as elderly riders and other persons who need more support, and there is a public interest in maintaining the privacy of these riders.⁸⁵ But the Annual Reports do not require the disclosure of the names of HopSkipDrive's customer base or other service public agencies who arrange for the rides so the disclosure of trip data will not invade rider privacy.

Second, because it offers a niche service, there won't be the same interest in examining whether HopSkipDrive's trip data will be useful to developing public policy programs that might reduce traffic congestion and GHG emissions.⁸⁶ While its operation may be small compared to Uber and Lyft, the fact remains that HopSkipDrive is putting vehicles on the road to further its customer's transportation interests. HopSkipDrive's trip data, even though it may be small compared to Uber and Lyft's trip data, nonetheless provides interested government entities with the best overall illustration of the number of TNC passenger rides being provided by the TNC industry as a whole.

Third, HopSkipDrive claims there could be anticompetitive effects from releasing its trip data.⁸⁷ But HopSkipDrive's argument is sheer speculation. It fails to identify any competitors for the customer base it services, nor does it

⁸⁵ HopSkipDrive 2021 *Motion* at 8-9.

⁸⁶ *Id.*, at 9.

⁸⁷ *Id.*

demonstrate that an unknown competitor could use the trip data to identify any specific customers.

On the whole, Moving Parties have failed to carry their burden of proof under Government Code § 6255(a)'s balancing test.

4.3.3.3. The Public's Interest in how the Commission Uses Trip Data

In *International Federation of Professional Technical Engineers v. Superior Court* (2007) 42 Cal.4th 319, 328-329, the California Supreme Court spoke to the essential value of an open government, which includes access to government records in the possession of an agency like the Commission:

Openness in government is essential to the functioning of a democracy. "Implicit in the democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process....

As the result of an initiative adopted by the voters in 2004, this principle is now enshrined in the state Constitution: "The people have the right of access to information concerning the conduct of the people's business, and therefore, . . . the writings of public officials and agencies shall be open to public scrutiny." ([Cal. Const., art. I, § 3, subd. \(b\)](#)(1).)

In the case of the Commission, regulatory transparency is essential to the public's understanding how the Commission performs its responsibility of regulating entities under its jurisdiction. Additionally, transparency instills confidence in the public that the Commission is ensuring that entities under the

Commission's control provide services to Californians in a safe, reliable, and nondiscriminatory manner.

When faced with a claim that the catch-all exemption prevents the disclosure of documents in the government's possession, *Humane Society* teaches us how to balance the two conflicting interests:

If the records sought pertain to the conduct of the people's business there *is* a public interest in disclosure. The *weight* of that interest is proportionate to the gravity of the governmental tasks sought to be illuminated and the directness with which the disclosure will serve to illuminate.' (*Citizens for a Better Environment v. Department of Food & Agriculture* (1985) [171 Cal.App.3d 704](#), 715 [[217 Cal.Rptr. 504](#)], *italics added*.) The existence and weight of this public interest are conclusions derived from the nature of the information." (*Connell v. Superior Court* (1997) [56 Cal.App.4th 601](#), 616 [65 Cal.Rptr.2d 738] (*Connell*); accord, *County of Santa Clara, supra*, 170 Cal.App.4th at 1324.)

As the court put it in *County of Santa Clara* and *City of San Jose*, "the issue is 'whether disclosure would contribute significantly to public understanding of government activities.'"

In assigning *weight* to the general public's interest in disclosure, courts should look to the "nature of the information" and how disclosure of that information contributes to the public's understanding of how the government functions, and if that functioning is in the best interests of Californians.

In setting forth the reasons why the Commission is gathering trip data, we acknowledge that there is some overlap with why interested government entities might also want access to TNC trip data. Yet the overlap in no way lessens the

importance of ensuring transparency in the Commission's records and how they are utilized for the public's benefit.

The nature of the information and how it is used

The trip data that the Commission has ordered each TNC to submit in its Annual Report provides the Commission, the agency tasked with regulatory oversight over TNC, with the most comprehensive account of each TNC's transportation for the past 11 months. With the trip data, the Commission can learn the number of rides each TNC provides, learn about driving patterns by examining the areas where rides commence and end, learn about the times of the day and days of the week where TNC passenger requests are highest, learn about TNC requests accepted by geographic locations, and total amounts paid for the rides completed.

The benefits and the public's understanding of government

The Commission's analysis and understanding of TNC trip data will enable the Commission to achieve several important objectives that are in the public interest. First, the trip data will enable the Commission to determine the safety of TNC operations and if any adjustments in the Commission's regulations should be implemented. As the Commission found in D.13-09-045:

The Commission opened this proceeding to protect public safety and secondarily encourage innovators to use technology to improve the lives of Californians. The Commission has a responsibility for determining whether and how public safety might be affected by these TNCs. In opening this Rulemaking, the Commission wanted to assess public safety risks, and to ensure that the safety of the public is not compromised in the operation of TNCs.

With trip data as a guide, the Commission can investigate if there are any safety issues concerning the providing of TNC transportation, and if those safety issues are located in particular areas or times of day in which the service is being provided. Unquestionably, the public has an interest in seeing that the Commission satisfies its obligation to ensure that TNC drivers are operating safely.

Second, the trip data can shed light on whether TNCs are offering their service in a nondiscriminatory manner. Transportation is more than a public convenience. As the Comments from the Center for Accessible Technology point out, transportation, and the equal access to same, has become a civil rights priority:

Transportation equity is a civil and human rights priority. Access to affordable and reliable transportation widens opportunity and is essential to addressing poverty, unemployment, and other equal opportunity goals such as access to good schools and health care services. However, current transportation spending programs do not equally benefit all communities and populations. And the negative effects of some transportation decisions—such as the disruption of low-income neighborhoods—are broadly felt and have long-lasting effects. Providing equal access to transportation means providing all individuals living in the United States with an equal opportunity to succeed.⁸⁸

⁸⁸ Center For Accessible Technology's *Opening Comments on OIR*, at 3-4, quoting from Leadership Conference on Civil and Human Rights website.

As a result of the need to treat all California residents equally, the Legislature enacted Civil Code § 51(b) to protect all California residents against discrimination:

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

The Commission can use the trip data to ensure that all geographic locations, regardless of their economic or racial makeup, are provided with equal access to TNC services. If trip patterns reveal that some geographic locations receive greater access than others, the Commission can use the trip data to investigate those disparities and take the appropriate corrective or enforcement measures, thus assuring the public that the Commission is ensuring that TNCs do not discriminate against any class of persons.

The public interest in ensuring the release of information to validate that industry services regulated by the state are being provided in a nondiscriminatory manner is so strong that it can overcome claims that the information is protected by trade secrets. The California Supreme Court recognized this interest in the context of insurance rates in *State Farm Mutual Automobile Insurance Company v. Garamendi* (2004) 32 Cal.4th 1029, 1047:

Finally, the fact that insurers may invoke the trade secret privilege in the public hearing process established by Proposition 103, pursuant to [Insurance Code Section 1861.08](#),

does not dictate a different result. There is nothing anomalous about precluding insurers from invoking the trade secret privilege after they have already submitted trade secret information to the Commissioner pursuant to a regulation validly enacted under article 10 (*see ante*, at 1045), while permitting them to invoke the privilege in response to a request for information in a public rate hearing. [Insurance Code Section 1861.07](#) merely requires public disclosure of "information provided to the commissioner pursuant to" article 10. By definition, this information is relevant to the Commissioner's mandate under article 10 to "ensure that insurance is fair, available, and affordable for all Californians." (Historical and Statutory Notes, 42A West's Ann. Ins. Code, *supra*, foll. [§ 1861.01](#) at 649.) Given that article 10 seeks to encourage public participation in the rate-setting process (*see ante*, at 1045), precluding insurers from withholding trade secret information already provided to the Commissioner because of its relevance under article 10 (*see ante*, at 1040-1042) is certainly reasonable.

As the public's interest in TNC rides being offered in a nondiscriminatory manner is undoubtably as strong as the public's interest in ensuring that insurance is fair, available, and affordable, making trip data public serves a public interest that should be given great weight in the Commission's calculus.

Third, akin to the public interest in ensuring TNC rides are provided in a nondiscriminatory manner is the public interest that persons with disabilities have equal access to TNC rides. Civil Code § 54.1 specifically prohibits discrimination against persons with disabilities in the provision of services, including transportation services:

(a)(1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities,

including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

Similarly, on the federal level, Title II of the Americans with Disabilities Act prohibits disability-based discrimination in providing public and private services.⁸⁹ Public and or private entities that provide transportation services to the public are required by law to be accessible to individuals with disabilities. Under the Americans with Disabilities Act (ADA), TNCs are considered private entities primarily engaged in transportation and are required to be accessible to individuals with disabilities.⁹⁰

⁸⁹ 28 CFR 35.130 General prohibitions against discrimination

- a. No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

⁹⁰ Private entities that are primarily engaged in the business of transporting people and whose operations affect commerce shall not discriminate against any individual on the basis of disability in the full and equal enjoyment of specified transportation services. This obligation includes, with respect to the provision of transportation services, compliance with the requirements of the rules of the Department of Justice concerning eligibility criteria, making reasonable modifications, providing auxiliary aids and services, and removing barriers (28 CFR 36.301-36.306).

California recognized the importance of providing TNC service access to people with disabilities when it amended Pub. Util. Code §5440 as follows:

(f) There exists a lack of wheelchair accessible vehicles (WAVs) available via TNC online-enabled applications or platforms throughout California. In comparison to standard vehicles available via TNC technology applications, WAVs have higher purchase prices, higher operating and maintenance costs higher fuel costs, and higher liability insurance, and require additional time to serve rider who use nonfolding motorized wheelchairs.

(g) It is the intent of the Legislature that California be a national leader in the deployment and adoption of on-demand transportation options for persons with disabilities.

Trip data can provide the initial understanding into whether persons with disabilities are given fair and equal access to TNC rides. In addition to the applicability of ADA protections to TNCs, in September 2018, the Governor signed into state law [Senate Bill \(SB\) 1376: TNC Access for All Act \(Hill, 2018\)](#). Pursuant to SB 1376, the Commission must establish a program relating to accessibility for persons with disabilities as part of its regulation of TNCs. While implementation of SB 1376 is occurring in R.19-02-012, the trip data developed and submitted in this proceeding can assist the Commission develop regulations specific to people in wheelchairs to help these people have access to TNC rides.

Fourth, the trip data can help the public understand the impact of TNC vehicles on traffic congestion, infrastructure, and airborne pollutants. With Government Code § 65088, the Legislature made the following findings regarding the need to alleviate traffic congestion and air pollution:

- a. Although California's economy is critically dependent upon transportation, its current transportation system relies primarily upon a street and highway system designed to accommodate far fewer vehicles than are currently using the system.
- b. California's transportation system is characterized by fragmented planning, both among jurisdictions involved and among the means of available transport.
- c. The lack of an integrated system and the increase in the number of vehicles are causing traffic congestion that each day results in 400,000 hours lost in traffic, 200 tons of pollutants released into the air we breathe, and three million one hundred thousand dollars (\$3,100,000) added costs to the motoring public.
- d. To keep California moving, all methods and means of transport between major destinations must be coordinated to connect our vital economic and population centers.
- e. In order to develop the California economy to its full potential, it is intended that federal, state, and local agencies join with transit districts, business, private and environmental interests to develop and implement comprehensive strategies needed to develop appropriate responses to transportation needs.

The public has an interest in the Commission sharing trip data with government entities responsible for addressing transportation issues such as congestion, air pollution, and impact on infrastructure. The trip data can show the number of TNC vehicles in service on a given date and time, where the vehicles are concentrated, the overall impact on traffic congestion, impact on road usage, and the impact TNC vehicles have on other service vehicles (*e.g.* public buses, private shuttles, taxis, and vans) that share the same roads.

Thus, when the Commission applies the balancing test to determine the applicability, if any, of the catch-all exemption to Moving Parties' trip data, the Commission concludes that the public interest in disclosing TNC trip data far outweighs the benefits from not disclosing TNC trip data.

4.4. Instructions for Future Annual Report Filings and Confidentiality Claims

When D.20-03-014 eliminated the presumption of confidentiality for information in the TNC Annual Reports, it required that going forward, each TNC must file a motion for confidential treatment of trip data, accompanied by a supporting declaration and supporting materials, ninety days before the deadline for submitting its Annual Report to the Commission. But in complying with this directive, as the TNCs filed their annual motions, they raised the same claims of trade secret protection and privacy protection for the trip data included in their Annual Reports. This repetition of arguments, declarations, and supporting materials has created an unintended burden for both the TNCs given the length of the motions, declarations, and the secondary sources, and for the Commission in having to devote its resources to resolve these duplicative motions.

In issuing today's decision, the Commission intends its findings to apply prospectively to all future Annual Report filings that contain the same trip data information cells as the ones found in the templates for the 2021-2024 Annual Reports. Therefore, pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure, we modify D.20-03-014, OP 2, so that commencing in 2025 and thereafter, the TNCs shall not file annual motions for confidential treatment of

trip data based on arguments that this decision and prior decisions and rulings in this proceeding have resolved.

Starting with the 2025 Annual Reports and thereafter, each TNC shall file its Annual Report on or about January 31 of the following calendar year as required by D.13-09-045 and D.24-08-010 and shall include the trip data information either in full, redacted, or in aggregated form as described herein and in accordance with this decision and the *2020 Confidentiality Ruling*.⁹¹ Along with their Annual Report filing, each TNC may submit a cover letter containing any objections that they might have regarding the trip data categories. That way, each TNC can preserve its rights against a charge or waiver⁹² or estoppel⁹³ because of its compliance with today's decision and in the event there may be challenges to this decision in the future.

We do, however, recognize that there may be one exception to the foregoing requirement. To the extent Commission or Commission staff amends the reporting templates to add new categories of information that the Commission has not addressed in this decision or prior Commission decisions and rulings in this proceeding, TNCs shall maintain the right to file future motions for confidential treatment but only as to any new reporting categories.

⁹¹ The *2020 Confidentiality Ruling* is provided for reference as Appendix A.

⁹² "Waiver is the intentional relinquishment of a known right after knowledge of the facts." (*Roesch v. De Mota* (1944) 24 Cal.2d 563, 572.)

⁹³ Evidence Code § 623 defines estoppel: "Whenever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement or conduct, permitted to contradict it."

5. Closing this Proceeding and Future Work

Since opening this proceeding in 2012, the Commission has issued multiple decisions that have addressed the issues identified in various scoping memos that have been issued by the assigned Commissioners: jurisdiction over TNCs, insurance and background check requirements, accessibility and equal access issues, the need for uniform sexual assault and sexual harassment taxonomies, whether the Annual Reports for 2014-2019 should be disclosed, trip data confidentiality, transportation of minors and the required background checks, app sharing, autonomous vehicle regulations, vehicle emissions reductions, and environmental and social justice considerations.⁹⁴ As we will demonstrate in the following table, the Commission has resolved the majority of the issues that have been scoped.⁹⁵

#	Decision Number	Subject Matter	What the Decision Ordered
1	D.13-09-045 September 19, 2013	Jurisdiction over Uber, Lyft, Sidecar and other app enabled	Commission decided that TNCs are a subset of Charter-party Carriers (TCPs) and that it had jurisdiction pursuant to California Constitution, Article XII and the TCP Act (Pub.

⁹⁴ See, e.g., *Scoping Memo and Ruling* (April 2, 2013), *Scoping Memo and Ruling for Phase II of Proceeding* (April 28, 2015), and *Third Amended Phase III. C. Scoping Memo and Ruling* (December 9, 2021).

⁹⁵ The Commission need not resolve in this proceeding whether TNC drivers should be classified as employees or independent contractors, as this issue has been addressed by the California Supreme Court and is also being litigated in federal court. As for vehicle emissions reductions, the Commission opened a separate rulemaking (R.21-11-014) to address implementation of Senate Bill 1014 (Skinner), the California Clean Miles Standard and Incentive Program. Finally, the Commission opened a separate rulemaking (R.19-02-012) to address the need for and deployment of wheelchair accessible vehicles.

		transport providers	Util. Code Section 5351, <i>et. seq.</i>) Safety and regulatory requirements were adopted. TNCs are required to submit annual reports in conformity with the reporting requirements.
2	D.14-04-022 April 10, 2014	Decision addressing Application for Rehearing	Limited rehearing was granted on the following issues: the application of Pub. Util. Code Section 5391 (adequate insurance); the application of PUC Section 5374 (mandatory drug testing); the application of Pub. Util. Code Section 5385.6 (license plate requirement); and whether UberX or some other component or subsidiary is a TNC.
3	D.14-11-043 November 20, 2014	Implement Assembly Bill 2293's New TNC Insurance Requirements.	The decision defines TNCs and divides driver travel into three periods. TNCs must carry \$1 million in primary commercial insurance for periods 2 and 3, and \$50k in primary insurance for period 1. Other insurance requirements are covered by this decision.
4	D.16-04-041 April 21, 2016	Phase II Scoping Issues	The Decision established inspection deadlines for all TCP vehicles, including TNCs. TCPs, including TNCs, must maintain inspection records. TCPs and TNCs must maintain 19-point checklist records. SED may inspect records. TNCs that primarily transport minors must comply with <i>Trustline</i>

			background check standards (<i>i.e.</i> fingerprints). Trade dress standards adopted. Personal vehicle definition expanded to cover leases. Fare splitting operations permitted subject to conditions.
5	D.16-12-037 December 15, 2016	Definition of Personal Vehicle	A personal vehicle is defined as a vehicle that is either owned, leased, or rented for a term that does not exceed 30 days, or otherwise authorized for use by the participating driver.
6	D.17-11-010 November 9, 2017	Decision on Phase III.B. Issue: Criminal Background Checks for TNC Drivers	TNCs must comply with Pub. Util. Code Section 5445.2 which establishes background standards for TNC drivers. The Commission added additional background check requirements but did not require fingerprinting if the TNC did not primarily transport minors.
7	D.18-04-005 April 26, 2018	Decision on Phase III.B. Tracks II and IV Issues: Is Uber Technologies, Inc. a TNC and/or a TCP	Uber is both a TNC and a TCP and must register as both with the Commission.
8	D.18-05-043 May 31, 2018	Pilot Test Program for Autonomous Vehicle	The decision authorized two pilot programs: (1) permitted entities (TCPs) may provide passengers service using autonomous vehicles

		Passenger Service	(AVs) with a driver in the vehicle; and (2) permitted entities (TCPs) may provide passenger service using AVs without a driver in the vehicles and in compliance with all applicable requirements pursuant to the CA. DMV regulations.
9	Resolution TL-19129 October 25, 2018	Updating General Order 157-D	Adopts General Order 157-E to update and supersede General Order 157-D to conform with changes to the Pub. Util. Code, Vehicle Code, and subsequent Commission decisions regarding TCPs, including TNCs. Adds Sections 8.01 and 8.02 which provide a waiver request protocol for TCPs who do not want to hire employees to operate their AVs in the pilot program.
10	D.20-03-014 March 16, 2020	Data Confidentiality Issues in the TNC Annual Reports	Eliminates prospectively the presumption of confidentiality created by footnote 42 in D.13-09-045. Going forward, each TNC must file a motion for confidentiality following the standards in GO 66D and the standards adopted herein.
11	D.20-11-046 November 19, 2020	AV Deployment	Decision Authorizing the Deployment of Drivered and Driverless Autonomous Vehicle Passenger Service. AV companies must submit Tier 3 Advice Letters, and Staff will prepare resolutions for a Commission vote.

12	D.21-12-003 December 2, 2021	Uber Settlement	Decision Adopting Settlement between CPED, Uber, and RAINN (The Rape, Abuse, & Incest National Network). Uber agreed to cooperate with the Commission in providing information regarding sexual assault and sexual harassment-related TNC claims.
13	D.22-05-003 May 5, 2022	2020 Annual Report Ruling Appeal	Decision Denying Appeal of Lyft re: Ruling Denying in part Motions by Uber and Lyft for confidential treatment of certain information in 2020 Annual Reports.
14	D.22-06-029 June 24, 2022	Sexual Assault and Sexual Harassment Definitions	Decision Adopted Uniform Taxonomies for Sexual Assault and Sexual Harassment that TNCs must use for their Annual Reports, and Establishing a Framework for Adopting Training, Investigation, and Reporting Protocols.
15	Resolution TL-19144 August 10, 2023	Waymo Application	Resolution Approving Waymo's Application for Phase I Driverless AV Passenger Service Deployment Program.
16	Resolution TL-19145 August 10, 2023	Cruise Application	Resolution Approving Authorization for Cruise's Expanded Service in AV Passenger Service Phase I Driverless Deployment Program.
17	D.23-12-015 December 15, 2023	2014-2019 Annual Reports	Decision Requiring TNCs to Submit Annual Reports for The Years 2014-2019 with Limited Redactions.
18	D.24-07-004 July 25, 2024	Cruise Settlement	Presiding Officer's Decision Approving Cruise's Offered Settlement Terms.

19	D.24-11-002 November 12, 2024	AV Data Requirements	Decision Adopting New Data Reporting for AV Deployment and Pilot Programs.
20	D.24-12-004 December 16, 2024	Minor Transport Background Checks	Decision Adopting Background Check Requirements For TNC Drivers Who Transport An Unaccompanied Minor. The Decision also adopts monitoring and reporting requirements.
21	D.24-10-034 October 22, 2024	Disposition of Lyft Application for Rehearing	Order Modifying D2312015 and Granting Limited Rehearing of The Decision.
22	D.16-01-014 January 15, 2016	Raiser OSC	MOD POD Finding Raiser-CA in Contempt and in Violation of Rule 1.1 for failure to comply with D.13-09-045 reporting requirements.

There may be some underlying questions that have not been addressed but are related to the main issues that have been resolved. Rather than keep this proceeding open, the foregoing decisions provide a sufficient regulatory framework for the TNC parties and Commission staff to resolve any remaining questions without the need for this proceeding to remain open indefinitely.

But to help facilitate the resolution of future remaining questions, this decision provides additional instruction. This decision's treatment of a data category as public or confidential will continue to apply to the different data categories identified herein, even if Commission Staff refines that category. On the other hand, if Commission Staff require a Transportation Network Company to provide a brand-new category of data that is not covered in this decision, then

this decision shall not be determinative as to whether such information is confidential or public.

The remaining major issue that has not been resolved completely is AV regulation. Instead of keeping this proceeding open, the Commission has determined that AV related issues will best be resolved in a subsequent proceeding that the Commission plans to open shortly.

6. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

No public comments were submitted.

7. Conclusion

Closing this proceeding will not end the Commission’s regulatory oversight of the TNC industry. Our staff will continue to monitor TNC activities, report to the Commission as needed, and engage in any enforcement actions that are authorized at the staff level. Of course, if there are future directives regarding TNCs from California’s Legislature, or if the TNC business model evolves in areas not covered by any of our prior numerous decisions, the Commission can decide in the future if a new rulemaking is required.

8. Procedural Matters

This decision affirms all rulings made by the ALJ and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

9. Comments on Proposed Decision

The proposed decision of Commissioner Matthew Baker in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Lyft and the San Francisco County Transportation Authority (SFCTA) filed Opening Comments on August 14, 2025, and their Reply Comments on August 19, 2025.

9.1. Lyft

Lyft raises eight issues regarding the Proposed Decision

9.1.1. Data Appendix.

Lyft asserts that to avoid confusion, the Commission should provide a detailed appendix specifying which fields may be redacted for each Annual Report between 2021—2024, and which fields may be redacted in future years. Lyft contends that its request is reasonable and necessary since the reporting templates have changed over the years. Lyft also asks that the TNCs be allowed to comment on the proposed appendices before they become final, as the detailed list of fields might create questions or issues not decipherable from the description in the proposed decision. Finally, Lyft seeks clarification that it may resubmit a public version of its 2020 Annual Report that is consistent “with the foregoing appendix, and that the previously submitted public version will be removed from the CPUC website.

Attached to the Rev. 1 of this PD are the appendices, which specify which fields may be redacted for each Annual Report between 2021-2024.

As for the request to comment on the appendices, we deny that request as premature. To the extent Lyft, or any other TNC, wishes to raise concerns regarding the appendices, they may raise those concerns with Commission staff who drafted the appendices and are responsible for collecting and reviewing each TNC's Annual Report submission.

Finally, Lyft may resubmit a public version of its 2020 Annual Report that is consistent with the attached appendices.

9.1.2. Redaction of Census Tract

Pay

Lyft claims that in its 2023 and 2024 *Supplemental Motions for Confidential Treatment*, it asked that driver pay be redacted as confidential. We agree that Lyft and the other TNCs, to the extent they made similar requests, to redact driver pay but not the total fare charged for each TNC ride from the public version of their Annual Reports.

9.1.3. Two-Year Lag Time Before Publication of the Data.

Lyft notes that the decision does not specify when the TNCs must submit the public/redacted versions of their Annual Reports in future years and/or when the Commission may publicize those public/redacted reports. Lyft proposes that the decision be modified to require at least a 2-year lag time between the TNCs' submission of their Annual Reports to the Commission and publication of redacted versions of those reports by the Commission.

The timetable for the submission of future public/redacted versions of their Annual Reports remains the same. The Annual Reports are due on January 31st of each year.

As for Lyft's request for a two-year lag time, we reject Lyft's request. Other than making the baseless claim that this "change would strike a more appropriate balance between Lyft's and TNC users' interests and the public interest," Lyft fails to offer any factual or legal basis to support this request.

**9.1.4. The California Supreme Court
Decision—Center for Biological
Diversity v. Public Utilities Commission**

On August 7, 2025, the California Supreme Court issued its decision in *Center for Biological Diversity v. Public Utilities Commission*, in which the Court addressed the degree of deference that reviewing courts should afford to the Commission's interpretation of the Public Utilities Code. Lyft fails to explain how that limited issue has anything to do with the standard from Rule 14.3(c) that the Commission must utilize in evaluating the proposed decision and the parties' comments made thereto.

9.2. SFCTA

**9.2.1. Census Blocks and
Aggregated Geographics**

SFCTA notes that Ordering Paragraph 3 of D.23-12-015 allows for the redaction of census blocks and geographics other than zip code, despite the discussion in D.23-12-015 rejecting the TNCs' confidentiality claims.

We will revise this decision to require that census block and census tract information for each TNC trip must be disclosed.

9.2.2. Confidentiality Matrix

SFCTA states that the decision has created ambiguity and confusion by incorporating the *2020 Confidentiality Ruling* and its appendices by reference, while also concluding that the proposed decision trumps the *2020 Confidentiality*

Ruling in cases of conflict. To avoid this apparent confusion, SFCTA asks that a confidentiality matrix be attached to the decision.

The requested matrix is attached.

9.2.3. Future Confidentiality Claims Procedures

SFCTA asks for clarification of the future confidentiality claims procedures. First, the fact that a TNC may submit a cover letter with objections to a future Annual Report does not give the TNC permission to redact those information categories that this decision has ordered to be publicly disclosed. Second, future motions for confidential treatment as to categories of information not resolved by this decision should be filed with the Commission in accordance with General Order 66-D.

9.2.4. Uniform Reporting Taxonomies

SFCTA appreciates that the decision has addressed the need for uniform sexual assault and sexual harassment taxonomies but believes that there is also a need for uniform taxonomies for non-sexual assault and non-sexual harassment incidents.

We decline this request for now. Instead, we will leave it up to Commission staff in charge of receiving and reviewing future Annual Reports if additional uniform taxonomies are warranted. Also, if the Commission opens new TNC proceedings in the future, it can determine if additional taxonomies are needed.

9.2.5. The 2021 Confidentiality Ruling

SFCTA asks that the proposed decision explain why the *2021 Confidentiality Ruling* doesn't govern the public release of the 2021 Annual Reports.

As this decision has resolved the TNCs' confidentiality claims regarding the 2021 Annual Reports, it is unnecessary to explain why the *2021 Confidentiality Ruling* doesn't govern the public release of the 2021 Annual Reports except, as noted above in Section 2 of this decision, where portions of the *2021 Confidentiality Ruling* have been incorporated into this decision by reference.

9.2.6. Vehicle Make, Vehicle Model, and Vehicle Year

SFCTA notes that there are contradictory statements as to whether vehicle make, vehicle model, and vehicle year should be redacted. (*See* D.23-12-015 at 35-36, which allows for the redaction of all vehicle information, and the *2020 Confidentiality Ruling* and the *2021 Confidentiality Ruling* that require the disclosure of a TNC vehicle's make, model, and year.

We modify the language above in this decision by deleting the statement that "public versions of the Annual Reports do not disclose vehicle make, vehicle model, and vehicle year information." We also modify Ordering Paragraph 5 to require that the TNC vehicle make, vehicle model, and vehicle year be publicly disclosed.

10. Assignment of Proceeding

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

Findings of Fact

1. In D.13-09-045, the Commission required all TNCs to submit Annual Reports that include trip data.
2. Commission staff has supplemented the trip data requirements in D.13-09-045 and D.16-04-041 with data requests and reminder letters that advised the TNCs as to the additional data fields that needed to be completed for the Annual Reports.
3. Commission staff has provided TNCs with a template and data dictionary for use in completing their Annual Reports.
4. For the years 2014-2019, the TNCs have submitted their Annual Reports to Commission staff on a presumed confidential basis because of footnote 42 in D.13-09-045.
5. Decision 20-03-014 reversed the policy the Commission adopted in D.13-09-045, footnote 42, that allowed TNCs to submit their Annual Reports required by the Commission on a confidential basis.
6. In order to maintain the confidentiality of the Annual Reports for the years 2020 and forward, each TNC is required to satisfy the burden of proof to substantiate each confidentiality claim.
7. Lyft, Uber, HopSkipDrive, and Nomad filed motions for confidential treatment of trip data in their 2021-2024 Annual Reports.

Conclusions of Law

1. It is reasonable to conclude that, with limited exceptions identified in this decision, the TNCs have failed to carry their burden of proving that the trip data at issue in the Annual Reports for the years 2021-2024 is exempt from public

disclosure by California's privacy laws, including, but not limited to, Article I, Section 1, of the California Constitution.

2. It is reasonable to conclude that it would be an injustice if the TNC trip data in the Annual Reports for 2021-2024 is not publicly disclosed.

3. It is reasonable to conclude that the trip data at issue in the Annual Reports for 2021-2024 does not fit within any of the protected categories in California's privacy law provided by Government Code § 6254(c).

4. It is reasonable to conclude that disclosing the trip data in the Annual Reports for 2021-2024 will allow the public to see if the TNCs are operating safely.

5. It is reasonable to conclude that disclosing the trip data in the Annual Reports for 2021-2024 will allow the public to see if the TNCs are operating in a nondiscriminatory manner.

6. It is reasonable to conclude that disclosing the trip data in the Annual Reports for 2021-2024 will allow the public to see if people with disabilities have equal access to TNC services.

7. It is reasonable to conclude that disclosing the trip data in the Annual Reports for 2021-2024 will allow the public to see the impact of TNC vehicles on traffic congestion, infrastructure, and airborne pollutants.

8. It is reasonable to conclude that considering the evidentiary record, there is substantial evidence that the trip data in the Annual Reports for 2021-2024, with limited exceptions identified in this decision, is not protected from public disclosure on privacy grounds.

9. It is reasonable to conclude that requiring TNCs to disclose the trip data in the Annual Reports for 2021-2024 with limited exceptions identified in this decision does not amount to an unreasonable search and seizure under the Fourth Amendment to the U.S. Constitution.

10. It is reasonable to conclude that requiring TNCs to disclose the trip data in the Annual Reports for 2021-2024 does not amount to a regulatory taking under the Fifth Amendment to the U.S. Constitution.

11. It is reasonable to conclude that the Moving Parties' trip data for the years 2021-2024 is not generally known to the TNC industry or to the public.

12. It is reasonable to conclude that the TNCs have taken reasonable measures to keep the secrecy of the trip data for the years 2021-2024.

13. It is reasonable to conclude that the trip data for 2021-2024 has independent value by being kept secret.

14. It is reasonable to conclude that the public interest in disclosing the trip data in the Annual Reports for 2021-2024 with limited exceptions identified in this decision clearly outweighs the public interest in not disclosing the trip data.

15. It is reasonable to conclude that the Commission should require each TNC to submit its public version of its Annual Reports for 2021-2024 with all timestamps aggregated to the nearest 30-minute interval to strike an appropriate balance between promoting public use of trip data while protecting personal privacy.

16. It is reasonable to conclude that the conclusions of law made herein should also apply to and resolve HopSkipDrive's 2020 *Motion for Confidential Treatment*.

17. It is reasonable to conclude that for Annual Reports for 2025 and beyond, TNCs should follow the disclosure, redaction, and aggregation protocols adopted by this decision.

18. It is reasonable to conclude that D.20-03-014 should be modified so that TNCs shall no longer file motions for confidential treatment of trip data categories that the Commission has resolved by this decision.

19. It is reasonable to conclude that if instructions between this decision and the *2020 Confidentiality Ruling* conflict, the instructions in this decision trump.

O R D E R

IT IS ORDERED that:

1. All Transportation Network Companies (TNC) permitted to provide passenger transport services shall submit public versions of their Annual Report for the years 2021-2024 to the Commission in CSV format, using the same format as the originally submitted Annual Report. TNCs may redact the following information from the public versions of their Annual Reports for 2021-2024:

- Latitude and longitude information in all data categories;
- Driver information in the following categories: drivers' names, type of driver identification, license state of issuance, license number, expiration date, description of allegation, definition, type and description of alleged sexual assault or sexual harassment, and vehicle VIN (Vehicle Identification Number);
- Ride ID;
- Waybill fields for assaults and harassments;
- Law Enforcement: the Reason for the Citation;
- Suspended Drivers: Description of Allegation Supporting Suspension;

- Driver pay but not the total cost of the fare charges; and
- Accidents and incidents: the parties involved in the incident, any party found liable in an arbitration proceeding, information concerning any criminal proceeding if the record has been sealed by the court, and amounts paid by the TNC's insurance, driver's insurance, or by any other source.

2. Data that is being redacted shall maintain the same columns and column headers, with the redacted data being replaced with the text string "Redacted" for each value of redacted data. The timing of the Annual Report submittals shall be as follows: 2024 Annual Reports: two weeks after the Commission issues this decision. 2023 Annual Reports; two weeks after the TNCs submit their 2024 Annual Reports. 2022 Annual Reports: two weeks after the TNCs submit their 2023 Annual Reports. 2021 Annual Reports: two weeks after the TNCs submit their 2022 Annual Reports.

3. All Transportation Network Companies (TNC) permitted to provide passenger transport services shall submit public versions of their Annual Report for the year 2020 to the Commission in CSV format, using the same format as the originally submitted Annual Report. Data that is being redacted shall maintain the same columns and column headers with the redacted data being replaced with the text string "Redacted" for each value of redacted data. The 2020 Annual Reports shall be submitted two weeks after the TNCs submit their 2021 Annual Reports.

4. All Transportation Network Companies (TNC) permitted to provide passenger transport services shall submit public versions of their Annual Report for the years 2014-2019 to the Commission in CSV format, using the same format

as the originally submitted Annual Report. Data that is being redacted shall maintain the same columns and column headers with the redacted data being replaced with the text string “Redacted” for each value of redacted data. The timing of the Annual Report submittals shall be as follows: 2019 Annual Reports: two weeks after the TNCs submit their 2020 Annual Reports. 2018 Annual Reports; two weeks after the TNCs submit their 2019 Annual Reports. 2017 Annual Reports: two weeks after the TNCs submit their 2018 Annual Reports. 2016 Annual Reports: two weeks after the TNCs submit their 2017 Annual Reports. 2015 Annual Reports: two weeks after the TNCs submit their 2016 Annual Reports. 2014 Annual Reports: two weeks after the TNCs submit their 2015 Annual Reports.

5. The following categories of trip data shall be disclosed for each ride provided as part of each Transportation Network Company’s public version of its Annual Reports for the years 2021-2024. Per Ordering Paragraph 1, certain other data categories may be marked “Redacted”.

- Trip Requester Zip Code (at time of trip request);
- Driver Zip Code (at time of trip request);
- Trip Request Date/Time (aggregated to the nearest 30-minute interval);
- Miles Traveled (Period 1);
- Request Accepted Date/Time (aggregated to the nearest 30-minute interval);
- Request Accepted Zip Code;
- Passenger Pick Up Date/Time (aggregated to the nearest 30-minute interval);
- Miles Traveled (Period 2);

- Passenger Pick Up Zip Code;
- Passenger Drop Off Date/Time (aggregated to the nearest 30-minute interval);
- Passenger Drop Off Zip Code;
- Miles Traveled (Period 3);
- Total Amount Paid;
- Accident/Incident/Liability unless there is either a confidential settlement or the court has ordered the records sealed;
- Law Enforcement: officer name, location, and amount of citation;
- Zero Tolerance: ZeroToleranceDescr and ComplaintResolveDescr;
- Off-Platform Complaints: OffPlatformSolicitationDescr and ComplaintResolvedDescr;
- Waybill requests accepted;
- The vehicle make, vehicle model, and vehicle year of the vehicle providing the passenger trip;
- Census block and census tract of the passenger Pick Up; and
- Census block and census tract of the passenger Drop Off.

Any additional reporting categories to be made part of the public version of the 2021-2024 Annual Reports are set forth in the templates attached to this decision.

6. Each Transportation Network Company shall continue to use the templates for the 2021-2024 Annual Reports attached to this decision to comply with the ordering paragraphs of this decision.

7. For all Transportation Network Company (TNC) Annual Reports not identified in Ordering Paragraph 1, Transportation Network Companies shall follow the attached appendix for the 2024 Annual Report as their guide submitting their Annual Reports for 2025 and thereafter. Commission staff in charge of receiving and evaluating the Annual Report for 2025 and thereafter shall have the right to make modifications to reporting template.

8. For the Requests Not Accepted report, date/time fields shall be disclosed per Ordering Paragraph [5] including aggregation to the nearest 30-minute interval.

9. All location data fields in reports not identified in Ordering Paragraph [1], with the exception of those at the zip code level, may be marked “Redacted” per Ordering Paragraph [5].

10. The requirements set forth in Ordering Paragraphs [1] and [5] shall also apply to HopSkipDrive’s 2020 Annual Report.

11. All Transportation Network Companies who submit Annual Reports commencing in 2025 and beyond shall comply with the data disclosure, redaction, and aggregation requirements adopted by this decision, the 2024 Annual Report appendix, and to the extent not contrary to this decision, the *Ruling on Uber’s and Lyft’s Motion for Confidential Treatment of Certain Information in Their 2020 Annual Reports*.

12. Decision 20-03-014, Ordering Paragraph 2, is modified so that starting with the 2025 Annual Report filings and beyond, Transport Network Companies shall not file motions for confidential treatment of trip data reporting categories that the Commission has addressed by this decision, the 2024 Annual Report

appendix, and to the extent not contrary to this decision, the *Ruling on Uber's and Lyft's Motion for Confidential Treatment of Certain Information in Their 2020 Annual Reports*.

13. If instructions between this decision, the 2024 Annual Report appendix, and the *Ruling on Uber's and Lyft's Motion for Confidential Treatment of Certain Information in Their 2020 Annual Reports* conflict with one another, the instructions in this decision trump.

14. Rulemaking 12-12-011 is closed.

This order is effective today.

Dated August 28, 2025, at Sacramento, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

MATTHEW BAKER

Commissioners

Appendix A: *Ruling on Uber's and Lyft's Motion for Confidential Treatment of Certain Information in Their 2020 Annual Reports*

<https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=355738454>

Appendix B: Reporting Templates for the 2021 Annual Report, the 2022 Annual Report, the 2023 Annual Report, and the 2024 Annual Report.

