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Decision 26-07-060 July 16, 2026

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

ORDER GRANTING LIMITED REHEARING OF DECISION 25-08-035

This Order grants Lyft, Inc.'s (Lyft) application for rehearing of Decision (D.) 25-08-035 (Decision) filed on September 29, 2025.

In D.13-09-045, the Commission authorized the operation in California of a new category of transportation charter party carriers called Transportation Network Companies (TNCs). (*Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry* (2013) [D.13-09-045].)[1] As a condition to operate, D.13-09-045 set forth various requirements that TNCs must comply with, one of which is the obligation to submit verified Annual Reports to the Commission that include information about each trip provided by a TNC driver for the 11 months prior to the Annual Report's due date.

D.13-09-045 determined that a TNC's Annual Report could be submitted confidentially to Commission staff. (D.13-09-045, p. 33, fn. 42.) Lyft submitted its Annual Reports for years 2014-2019 as confidential to the Commission in accordance with D.13-09-045.

D.20-03-014 revisited the Commission's earlier confidentiality determination and found that Annual Reports were no longer entitled to a presumption of confidentiality. (*Decision on Data Confidentiality Issues Track 3* (2020) [D.20-03-014].)

[1] Unless otherwise noted, citations to Commission Decisions issued since July 1, 2000 are to the official pdf versions, which are available on the Commission's website at: http://docs.cpuc.ca.gov/DecisionsSearchForm.aspx.

The changed policy was based on: (1) the lack of viable competition in the more mature TNC industry; (2) the heightened public interest in the Annual Report data; and, (3) stricter standards for claiming confidential treatment before the Commission. Instead, D.20-03-014 instructed that future claims for confidential treatment of information in a TNC's Annual Report must be made by motion and filed 90 days before the deadline for submitting the report to Commission staff.

The Decision pertains to Lyft's, Uber Technologies, Inc.'s, HopSkipDrive, Inc.'s, and Nomad Transit, LLC's motions for confidentiality regarding information in the 2021-2024 Annual Reports filed pursuant to D.20-03-014. The Decision set forth the data that TNCs had to publicly disclose and redact in their 2021-2024 Annual Reports, as well as the requirements for disclosure in future Annual Reports. The Decision also modified D.20-03-014, Ordering Paragraph (OP) 2, to reflect that TNCs could no longer file motions for confidential treatment of information in Annual Reports after 2024 (notwithstanding new information categories). The Decision ordered TNCs to resubmit the appropriately redacted 2021-2024 Annual Reports every two weeks, starting September 18, 2025.

Lyft timely filed an application for rehearing (App. Rehg.), alleging that the Commission erred in ordering the public disclosure of the trip data at issue after its finding that the trip data constitutes a privileged trade secret. In particular, Lyft alleges the Commission erred by: (1) conflating the trade secret disclosure standard and the California Public Records Act (CPRA) catch-all disclosure exemption standard; (2) finding that the public interest in disclosure outweighs the TNCs' interest in nondisclosure; (3) conflating Lyft's evidence regarding the privacy exemption with the trade secret injustice argument; and, (4) concluding that temporal aggregation of certain trip data would sufficiently mitigate the public's privacy concerns.

Concurrently, Lyft filed a motion to stay the Decision pending the Commission's determination on the rehearing. The Commission granted the stay of the Decision, except for Ordering Paragraphs 3 and 4, on October 31, 2025, in D.25-10-062.

We have carefully considered all of the allegations presented by the rehearing applicant and conclude that limited rehearing of the Decision is warranted to reconsider (1) the appropriate legal standard for disclosure of a privileged trade secret under the CPRA and Evidence Code, and (2) whether the TNCs have demonstrated a "legally protected privacy interest" in the trip data and if so, whether aggregation of the trip data, and at what level, is a sufficiently appropriate mitigation measure to overcome any privacy privileges and concerns.

I. BACKGROUND

A detailed background and procedural history are set out in the Decision and are adopted herein by reference. (See Decision, pp. 6-12.)

II. DISCUSSION

A. Limited rehearing is warranted to consider whether the privileged trade secret trip data is subject to disclosure under Evidence Code section 1060's injustice test.

Lyft's main allegation of error is that the Commission applied an incorrect standard in evaluating whether disclosure is warranted in light of the trip data's trade secret status. (App. Rehg., pp. 4-11.) Lyft argues that the Commission should have considered only the standard under Government Code section 7927.705 (which exempts CPRA disclosure for privileges under the Evidence Code, including trade secret) instead of applying the catch-all balancing test under section 7922.000. (*Ibid.*) Lyft's allegation has merit.

The CPRA generally provides "every person has a right to inspect any public record" (Gov. Code, § 7922.525, subd. (a)), "[e]xcept with respect to public records exempt from disclosure by express provisions of law." (Gov. Code, § 7922.530, subd. (a).) Government Code sections 7920.000 et seq. set forth over two dozen categories of exemptions from disclosure, which must be narrowly construed. (Cal. Const., art. I, § 3, subd. (b)(2) ["[a] statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access"].) CPRA exemptions are generally permissive, not mandatory: unless otherwise prohibited by law, the exemptions "do not prevent any agency from opening its records concerning the administration of the agency to public inspection" (Gov. Code, § 7921.500), or prevent an agency from "adopt[ing] requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth…." (Gov. Code, § 7922.505.)

As relevant here, Government Code section 7927.705 exempts from disclosure records whose disclosure is "prohibited pursuant to federal or state law, including … provisions of the Evidence Code relating to privilege." Section 7927.705 is not an independent exemption but rather incorporates other prohibitions established by law. (*First Amendment Coalition v. Superior Court* (2023) 98 Cal.App.5th 593.) The operative protection therefore derives from Evidence Code itself, not from section 7927.705 independently.

In this case, Evidence Code section 1060 provides "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." (See *Masonite Corp. v. Superior Court* (1994) 25 Cal.App.4th 1045, 1056, fn. 12, as modified (July 8, 1994) ["Evidence Code section 1060 affords the owner of a trade secret a privilege to prevent disclosure of the secret in a civil or criminal proceeding. (Evid. Code, §§ 901–903.)"]) Notably, section 1060 only permits disclosure where nondisclosure would "conceal fraud or otherwise work injustice." (Evid. Code, § 1060.)

Bridgestone/Firestone, Inc. v. Superior Court is the controlling authority on section 1060's injustice exception. (*Bridgestone/Firestone, Inc. v. Superior Court* (1992) 7 Cal.App.4th 1384, 1390.) The court set forth a burden-shifting analysis requiring a concrete showing that denying disclosure would work fraud or injustice under the specific circumstances. (*Id.* at p. 1393.) After the party claiming the trade secret privilege meets the burden of "its entitlement to that privilege," the burden shifts to the proponent of disclosure to make a "particularized showing" that the information sought is "relevant and necessary" to a material element of the case and is reasonably "essential to the fair resolution of the lawsuit." (*Ibid.*) The burden then shifts again "to the holder of the privilege to demonstrate any claimed disadvantages of a protective order." (*Ibid.*) Parties "may propose or oppose less intrusive alternatives to disclosure of the trade secret," but the trade secret claimant carries the burden of demonstrating that "an alternative to disclosure will not be unduly burdensome" to the other side and will maintain "the same fair balance" that would have otherwise been achieved by disclosure. (*Ibid.*)

Separately from the express exemptions (such as trade secret), the CPRA also provides for a "catch-all exemption" to disclosure. (Cal. Law Revision Com. com., West's Ann. Cal. Gov. Code § 7922.000.) Government Code section 7922.000 allows withholding records where "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." (Gov. Code, § 7922.000.) This is a general balancing test applied on a case-by-case basis, as confirmed in *Iloh v. Regents of University of California* (2023) 87 Cal.App.5th 513. (See also *Humane Society of U.S. v. Superior Court* (2013) 214 Cal.App.4th 1233.) It applies where no specific exemption governs the records at issue. (See *County of Santa Clara v. Superior Court* (2009) 170 Cal.App.4th 1301, 1320, as modified (Feb. 27, 2009) [listing express enumerated exemptions distinct from the catchall provision].) Where records are subject to a prohibition or exemption incorporated through section 7927.705—including provisions of the Evidence Code relating to privilege—the catch-all balancing test under section 7922.000 is displaced. (See *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1421-1423 [relying on section 7927.705's express incorporation of state law prohibitions or exemptions to hold that Penal Code section 832.7's confidentiality mandate was incorporated into CPRA and controlled over the general catch-all exemption].)

The Decision concluded that Lyft (and other TNCs) have carried their burdens of establishing that their trip data meets the three-part trade secret test under Civil Code section 3426.1(d). (See Decision, pp. 43-51.) Then, citing the tests in *Bridgestone* and *Humane Society*, the Decision concluded that a trade secret finding is not an absolute bar to disclosure and requires a balancing test under both Evidence Code section 1060 and Government Code section 7922.000 (former section 6255(a)), and conducted that balancing in three steps. (Decision, p. 51-79, citing *Bridgestone/Firestone, Inc. v. Superior Court, supra,* 7 Cal.App.4th 1384 and *Humane Society of U.S. v. Superior Court, supra,* 214 Cal.App.4th 1233.)

The Decision treated *Bridgestone*'s "work injustice" exception under Evidence Code section 1060 and *Humane Society*'s catch-all balancing test under Government Code section 7922.000 as a unified two-part framework, but these provisions are mutually exclusive. Section 1060's embedded exception is the correct mechanism for overriding a confirmed trade secret privilege within a proceeding; section 7922.000's residual balancing test applies only where no specific exemption or prohibition governs. Once the Decision affirmatively found the trip data qualified as a trade secret, section 1060's injustice exception was the only available disclosure mechanism. Therefore, we grant limited rehearing of the Decision to reconsider whether disclosure of the trip data is permitted pursuant to Evidence Code section 1060's injustice test.

B. *Bridgestone/Firestone* requires a "particularized showing" of concrete harm in the absence of disclosure.

Trade secret privilege under Evidence Code section 1060 protects "secret information essential to the continued operation of a business or industry." (*Bridgestone/Firestone, Inc. v. Superior Court*, *supra*, 7 Cal.App.4th at p. 1390.) But the privilege is not absolute—it yields if maintaining it would work an injustice, including where it is necessary "to disclose unfair competition or fraud or to reveal the improper use of dangerous materials by the party asserting the privilege." (*Ibid*.) The evidence to overcome the privilege must consist of a "prima facie, particularized showing that the information sought is relevant and necessary" to a material issue; not merely generally relevant or helpful. (*Id.* at pp. 1393, 1396-1397.)

Because the trade secret privilege has already been established, the burden of making this particularized showing rests with the proponent of disclosure. (Compare *id.*

at p. 1393 with *Humane Society of U.S. v. Superior Court*, *supra*, 214 Cal.App.4th at p. 1255.) If the TNCs propose a less intrusive alternative to disclosure, the TNCs would carry the burden of demonstrating "that an alternative to disclosure will not be unduly burdensome to the opposing side and that it will maintain the same fair balance in the litigation that would have been achieved by disclosure." (*Bridgestone/Firestone, Inc. v. Superior Court*, *supra*, 7 Cal.App.4th at p. 1393.)

Therefore, as discussed above, we grant limited rehearing of the Decision to reconsider whether the record supports the "particularized showing" of harm under *Bridgestone*.

C. Limited rehearing is warranted to reconsider whether the TNCs have demonstrated a legally protected privacy interest.

Separate from the trade secret argument, Lyft asserts that the Decision erred in concluding that redaction of precise geolocation data and other fields and aggregation of time stamps to the nearest half-hour is sufficient to overcome any public privacy concerns. (App. Rehg., pp. 14-24.) Specifically, Lyft asserts that the Decision erred in relying solely on the City of Chicago's practice and data and improperly rejected Lyft's expert testimony. (App. Rehg., pp. 15-21.) We find rehearing is warranted to reconsider the privacy concerns raised by parties.

The Decision appropriately relied on *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, to analyze the privacy concerns raised by affirmative disclosure of the trip data. The *Hill* test's first step is to consider whether the trip data is "(1) a legally protected privacy interest; (2) [there is] a reasonable expectation of privacy in the circumstances; and (3) [there is] a serious invasion of privacy." (*Hill v. National Collegiate Athletic Assn., supra,* 7 Cal.4th at pp. 39-40.) If any of these elements are not met, the TNCs are not able to establish a state constitutional privacy claim and the inquiry ends there. (*Id*. at 40.) If all of these elements are met, it is then necessary to consider whether "the invasion of privacy is justified because it substantively furthers one or more countervailing interests" or if there "are feasible and effective alternatives …

which have a lesser impact on privacy interests." (*Ibid*.) Thus, consideration of mitigation measures such as temporal aggregation should be considered as the last step of the *Hill* inquiry, once the constitutional privacy concerns have been established.

The Decision concluded that the TNCs failed to meet the *Hill* test for establishing a constitutional right to privacy because they had failed "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." (Decision, p. 23.) However, prior to considering appropriate mitigation measures, it is first necessary to determine whether the TNCs have established a "legally protected privacy interest" and whether disclosure was still warranted based on the appropriate balancing test. It is at that point that the evidence in the record can be reviewed to determine if the methodologies proposed by the TNCs or other parties are sufficient to mitigate the privacy concerns identified at the first step of the *Hill* inquiry. (See App. Rehg., pp. 14-24.)

Thus, we also grant rehearing of the Decision to reconsider whether the TNCs have established a legally protected privacy interest and, if so, whether temporal aggregation is sufficient to mitigate such privacy concerns. If we determine that aggregation is an appropriate mitigation measure, we may also consider whether the aggregated data retains privileged trade secret status under Evidence Code section 1060.

III. CONCLUSION

For the reasons stated above, we grant limited rehearing to consider whether: (1) the privileged trip data can be disclosed under Evidence Code section 1060's injustice test and (2) whether aggregation of the trip data, and at what level, overcomes any trade secret or privacy privileges and concerns.

THEREFORE, IT IS ORDERED that:

1. Rehearing of Decision 25-08-035 is granted for the limited purposes of considering:

   (a) whether the trip data in the Annual Reports for 2021-2024 and subsequent years can be disclosed pursuant to Evidence Code section 1060 and Government Code section 7927.705; and

(b) whether the Transportation Network Companies have demonstrated a "legally protected privacy interest" in the trip data and, if so, whether temporal aggregation of the trip data is a sufficiently appropriate mitigation measure.

2. This proceeding, Rulemaking 12-12-011, remains open.

This order is effective today.

Dated July 16, 2026, at San Francisco, California.

JOHN REYNOLDS
President

DARCIE L. HOUCK
KAREN DOUGLAS
CHRISTINE HARADA
MATTHEW BAKER
Commissioners