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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 12-12-0011

Comments from the Greater California Livery Association

On behalf of the Greater California Livery Association (GCLA), representing the more than 7,000 charter party carriers in California, I am writing to provide comments on the California Public Utilities Commission (CPUC) *Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services*. Our association commends the CPUC for its initiative and welcomes this opportunity to provide our comments in furtherance of the CPUC's and the GCLA's commitment to public safety and fair commerce.

The GCLA is particularly interested in and concerned with businesses like Uber, Sidecar and Lyft – referred hereafter as transportation technology companies -- that allow passengers to use GPS-enabled smartphone apps and similar technology to obtain transportation services from limousine operators or other passenger carriers. To be clear, we have no issues with technology that facilitates interaction and enhanced customer service between CPUC-licensed limousine companies and their clients. Many of our members are already using this type of technology. On the other hand, when new technology is used to connect California residents and visitors with a variety of companies and individuals providing transportation – with little or no regulation or enforcement capability – we feel strongly that there is an inherent danger to public safety and a threat to the long standing business model used by reputable limousine companies in California.

Jurisdiction

From our review of these transportation technology companies and real-world experience, we conclude that they should be subject to the same CPUC regulation and enforcement as charter party carriers. The CPUC regulations applicable to these companies include but are not limited to charging consistent rates based on airport transfer or hourly rates established by individually licensed charter party carriers. The charging of individual fares based on donations conflicts with both taxicab fares and charter party carrier limousine rates and should be prohibited. More importantly, the companies and individuals performing this service must be required to carry the CPUC minimum levels of liability for property damage, general liability and workers compensation insurance, as well as minimum requirements for drivers and vehicles. It is not apparent that these transportation technology companies are capable of meeting these CPUC requirements.

The transportation technology companies are clearly in business to make a profit. This is readily apparent from the amount of capital that has made available to them – particularly Uber - by investors that seek a return on their investments in the companies. The expected returns on investment can only be achieved if the company becomes more valuable through growth and profitability. The profit objective alone disqualifies these companies from being considered a ridesharing service as defined in the California Vehicle Code and thus they should not be allowed to operate in what currently can be seen as a gray area of California law between the taxicab model (on demand under the jurisdiction of municipalities) or the charter party carriers (pre-arranged) operating under the jurisdiction of the CPUC.

Safety

The GCLA believes that the transportation technology companies can put the public at risk of potential dangers arising from having unregulated and perhaps even unlicensed drivers and unsafe vehicles providing for-hire transportation services without oversight or enforcement. Also lacking for these companies are drug and alcohol testing, DMV pull-notice of drivers, and California Highway Patrol (CHP) inspections of vehicle. Moreover, these companies cannot be relied upon by the public due to the lack of direct regulation of them and uncertainty over whether their operations and standards are consistent with state and local requirements.

Transportation Access

The public's access to transportation from these transportation technology companies should be of particular concern to the CPUC. Because they operate under the radar of current regulation and enforcement, there is no way to ensure they meet accessibility requirements for California residents and visitors with disabilities. Moreover, the rating system provided for by some of these companies may discourage some drivers from even responding to service requests from consumers who have a low customer rating based on other drivers' experiences with them. For instance, a person refusing to make an appropriate "donation" for transportation services, could easily be blacklisted or otherwise flagged so that future requests for service are ignored.

Insurance

If the vehicles used by a transportation technology company are insured as a private vehicle rather than as a commercial or livery vehicle, the public receives a lower level of protection if the vehicle is involved in an accident. This is completely inconsistent with CPUC requirements for charter party carriers because the CPUC requires a minimum coverage of \$750,000 for any vehicle with a seating capacity of 7 passengers or fewer; non-commercial vehicles have much lower coverage requirements (\$15,000 for injury/death to one person; \$30,000 for injury/death to more than one person, and \$5,000 for damage to property).

Rideshare

Make no mistake these transportation technology companies do not meet any reasonable test for ridesharing and thus should not be allowed to operate free from regulation and enforcement. They fail to meet the definition because they operate outside of strictly work and home locations, and transport passengers on trip that are not incidental to the driver. Also, they fail to qualify for the CPUC exemption because – as noted above – they operate for profit/compensation. Because some of these companies claim they are engaging in ridesharing because they take voluntary "donations," at a minimum, the CPUC should narrow its definition of ridesharing by stating that to qualify for the exemption a company may not make any profit and/or accept compensation as

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a result of the provision of such ridesharing services. This could best be accomplished by stipulating that no third party processing of donations is allowed for ridesharing.

Summary

Many licensed limousine companies operating in California have or likely soon will have the technology to connect electronically with their passengers via smartphone or special apps. The transportation technology companies must have the same capability as the limousine companies, driver by driver, vehicle by vehicle, if they are to be licensed by the CPUC. In addition to the CPUC, these companies also must demonstrate to other agencies such as municipal airports, CHP, DMV, et al, that they meet the requirements applicable to their companies. The transportation technology companies, on the other hand, can and do connect passengers with private drivers and vehicles that are not regulated either on the state or local level. This is a fact that must be addressed promptly by the CPUC through the rulemaking process to protect California residents and visitors.

Dated January 25, 2013, at Los Angeles, California

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