

**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

R. 12-12-011
(Filed December 20, 2012)

**SUMMON'S OPENING COMMENTS ON PROPOSED DECISION MODIFYING
DECISION 13-09-045**

Dated: June 25, 2014

Submitted by:
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Summon submits the following comments in response to the Assigned Commissioner’s Proposed Decision Modifying Decision 13-09-045 regulating Transportation Network Companies (“TNCs”).

I. TNC SERVICES SHOULD BE DEFINED TO INCLUDE ONLY PERIODS 2 AND 3, AND TNC INSURANCE COVERAGE SHOULD NOT BE REQUIRED DURING PERIOD 1.

The definition of “providing TNC services” should be limited to activity that occurs after a driver accepts a ride request (periods 2 and 3), and TNCs should not be required to provide commercial insurance during Period 1, when the app is on but the TNC driver has not accepted a request. Prior to accepting a request, a TNC driver has not engaged in any commercial activity, and personal auto insurance should apply.

Prior to accepting a request, a TNC driver has no connection to any rider on the TNC platform, so there is no commercial component to his or her driving. The driver’s car is not being used as a livery vehicle because there is no identifiable rider to whom the driver or the TNC has a responsibility. The TNC driver, free to accept or reject any incoming requests, is no different from any other driver on the road during Period 1. Accordingly, personal auto insurance companies should fulfill their responsibility to

provide coverage during Period 1. Should they fail to do so, the insured can dispute the carrier's decision through standard channels.

The Proposed Decision does not address the uncertainty or confusion that could arise from requiring TNCs to provide insurance during Period 1. For instance, if a driver uses multiple TNC apps and gets into an accident during Period 1, which TNC's insurer would be responsible for providing coverage? A battle among different TNC insurers to avoid coverage would result in higher costs of TNC services for consumers, a result that surely the Commission would seek to avoid. In addition, drivers often drive part-time for TNC services and may forget to turn their app off at all times when they can't or don't wish to accept requests. The driver's oversight does not change the nature of his or her activity from personal to commercial. Incidents occurring under such circumstances could generate confusion or unduly place the burden on TNCs to provide insurance coverage even when the driver had no intention of accepting a request.

II. THE PROPOSED INSURANCE REQUIREMENTS ARE TOO ONEROUS AND DON'T REFLECT THE REALITIES OF THE INSURANCE MARKETPLACE FOR TNCs.

The proposed decision does not provide any guidance to TNCs on how and where to find affordable insurance that would satisfy the proposed requirements. Previously in this proceeding, Summon had included comments from insurance industry representatives showing the difficulty of obtaining affordable commercial liability insurance for TNCs due to the nature of the TNC business model. Since TNCs like Summon don't own any of the cars used on the platform, and drivers serve as independent contractors rather than employees, TNCs don't themselves have an insurable interest in the vehicles being used. The insurance market has yet to create an affordable

product to address this unique relationship among TNCs, TNC drivers, and the drivers' vehicles. TNCs are still an emerging and rapidly changing industry that the insurance industry hasn't been able to keep pace with, with regards to liability coverage and other types of insurance.

Since insurers haven't yet responded to the TNC industry with appropriately tailored products, the Commission should at least provide some guidance to TNCs on how to meet insurance requirements. For instance, perhaps the Commission can work the California Department of Insurance to set up a state insurance fund for TNCs or compile a list of carriers who are willing to provide TNC coverage.

Summon also takes issue with the part of the proposed decision requiring medical payments coverage since drivers serve as independent contractors of TNCs and are aware of their need to independently purchase health and medical insurance for themselves and their families. In addition, recent state and federal laws have made it compulsory for individuals to purchase health insurance of their own.¹ In light of these developments, TNCs should not have to provide medical payments coverage.

III. ONLY THE DISCUSSIONS OF THE INSURANCE WORKING GROUP SHOULD BE SUBJECT TO THE REPORTING REQUIREMENTS OF RULE 8.4.

The proposed decision would make all communications in this proceeding subject to the reporting requirements of Rule 8.4. In order to encourage the free flow of information, most communications between interested parties and the Commission should be kept private. Communications with the Commission may often contain business-specific information, such as the particulars of a TNC's background check or

¹ See HealthCare.gov, "What If I don't have health coverage?", <https://www.healthcare.gov/what-if-i-dont-have-health-coverage/>; Tax Penalty FAQ's (Shared Responsibility Payment), <https://www.coveredca.com/faqs/Tax-Penalty/#101>

vehicle inspection program, that should be kept private due to the competitive advantage they provide.

However, meeting minutes from meetings of the Insurance Working Group should be subject to the reporting requirements of Rule 8.4 so that all interested parties can remain up to date on the best ways to keep the TNC industry at its safest. Since insurance affordability and accessibility can hinder TNCs new to the industry, the meeting minutes of the Insurance Working Group should be subject to reporting requirements.

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Respectfully Submitted,

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