



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

01-28-13

04:59 PM

Order Instituting Rulemaking on Regulations Relating to
Passenger Carriers, Ridesharing, and New Online-
Enabled Transportation Services

Rulemaking 12-12-011

COMMENTS OF ZIMRIDE, INC.

Kristin Sverchek
General Counsel
Zimride, Inc.
548 Market St #68514
San Francisco, CA 94104
Tel: (855) 946-7433
kristin@zimride.com

January 28, 2013

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

COMMENTS OF ZIMRIDE, INC.

In accordance with the Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services (“Order”), Zimride, Inc. (“Zimride”) submits the following comments.

Zimride’s Lyft mobile application (the “Lyft Platform”) is a peer-to-peer real-time ride matching platform that enables individuals interested in sharing rides to easily connect. The Lyft Platform greatly expands and enhances the convenience, availability and safety of existing ridesharing alternatives, such as casual carpools, bulletin boards, and Craigslist. Through such innovation, ridesharing will finally be able to succeed on a mainstream scale.

I. Introduction

Zimride appreciates the Commission’s decision to commence this rulemaking proceeding and concurs with its stated objectives of “protect[ing] public safety and encourage[ing] innovators to use technology to improve the lives of Californians.”¹ As the Order acknowledges, ridesharing is a socially beneficial way of conserving resources and building community.² Over the last several decades, there have been numerous attempts to expand ridesharing as a means of promoting more efficient use of resources in addition to reducing carbon emissions, traffic congestion, and wear and tear on public infrastructure. These efforts have fallen short

¹ Order at 1.

² Order at 6.

Emerging peer-to-peer platforms, such as the Lyft Platform, represent the critical “last-mile” solution that can help make public transit a viable alternative to car-ownership. As noted in recent studies by the University of California, Berkeley³, empty seats in cars represent our nation’s greatest source of untapped transportation capacity, yet the rigidity of conventional ridesharing programs, which generally require fixed travel times, presents a barrier to most people. Closing gaps in service and penetrating difficult-to-serve areas are the top reasons that public transit agencies are exploring ridesharing to complement their services. A major study funded by the Federal Transit Administration in 2012 concluded, “it is highly unlikely that transit can absorb the anticipated growth in vehicles that is predicted over the next decade. Ridesharing needs to be given serious consideration as a solution in partnership with public transit if congestion, pollution, and emissions are to be tamed in the future.”⁴ Peer-to-peer platforms such as Lyft are inextricably linked to successful transportation planning, resource management, carbon reduction, air quality, economic growth and sustainable community development.

II. Background: Zimride and Lyft

Zimride was established in 2007 as an online carpooling community. The company has 35 employees, is based in San Francisco, and provides web-based ride matching services to hundreds of universities, government institutions and employers throughout the United States. Recently Zimride designed and introduced for use in the Bay Area the Lyft Platform.

In order to ensure the safety of Lyft riders and drivers, Zimride has established strict requirements for disclosure and conduct. In order to use the Lyft Platform as a driver, a community member must authorize Lyft to obtain driving record checks with the California

³ Elizabeth Deakin, Karen Trapenberg Frick, Kevin Shively, *Dynamic Ridesharing*, ACCESS 40, Spring 2012, at 23.

⁴ TRANSIT COOPERATIVE RESEARCH PROGRAM, NATIONAL ACADEMY OF SCIENCES TRANSPORTATION RESEARCH BOARD, RIDESHARING AS A COMPLEMENT TO TRANSIT, SYNTHESIS 98 (2012).

Department of Motor Vehicles (“DMV”) and criminal background checks with law enforcement agencies. Drivers must be at least 23 years of age, have held a U.S. driver’s license for at least three years, have a good driving record, and no history of theft, violent crime or property damage. Cars must be four-door, no older than the 2000 model year and undergo a vehicle inspection for safety and cleanliness. Each Lyft community member must log in through Facebook, have a credit card on file, and use a GPS-enabled smart phone. Lyft community drivers and riders rate each other at the end of each ride arranged through the Lyft Platform, and any rider or driver whose ratings fall below a certain threshold is removed from the community. In addition to requiring each driver to maintain a valid personal auto insurance policy with coverage as required by law, Zimride has purchased an additional \$1 million per occurrence excess liability policy to provide an additional measure of safety and security for Lyft community members. All decisions to offer or accept a ride via the Lyft Platform are at the option of the driver and rider, and any rider or driver may decline a match at any time, for any reason. All drivers are Lyft community members who have signed up and satisfied the requirements described above, and may choose the times at which they are available to provide rides to fellow Lyft community members. Donations, if any, are administered via credit card on file such that no cash changes hands between driver and rider. Following the ride, a rider may authorize a donation to the driver’s account of any amount, including \$0.

III. Jurisdiction

The first and most critical question the Commission asks in the Order is whether and under what circumstances it has statutory authority to regulate peer-to-peer platforms. The legislature has given the Commission authority to regulate entities that provide “transportation

for compensation” within the State of California including charter-party carriers of passengers.⁵ Zimride, however, is not a “charter-party carrier of passengers” as defined in Public Utilities Code (“PU Code”) section 5360 and is instead a platform, which neither engages in transportation nor holds itself out as the provider of transportation. Zimride does not employ or compensate drivers, own vehicles, or engage in transporting passengers; instead, it simply provides an easy and safe method for individuals to engage in the traditionally unregulated activity of ridesharing. Riders using the platform have full discretion over whether or not to donate money following rides, such that no driver is assured of compensation.

The Commission does not currently have the authority to regulate any business or person providing services that fall within the charter-party carrier statutory exemptions, including the exemptions for ridesharing and for non-commercial enterprises. Attempting to force-fit existing regulations onto such an emerging platform would destroy dynamic ridesharing in its infancy, and all the social and environmental benefits it could provide. Given these facts, the Commission should tread lightly in this area and focus solely on regulation necessary to fulfill its responsibility for public safety. The Commission has previously established a registration mechanism for ensuring compliance with the exemption requirements in section 5353(h), and could take a similar approach in this rulemaking proceeding such that peer-to-peer platforms can advance ridesharing through innovative technologies without unjustified interference or regulation.

IV. Safety

The second important threshold question that the Commission must resolve is how peer-to-peer platforms can best advance public safety interests. In many ways, the Order appears to

⁵ PU Code § 5371

view the emergence of peer-to-peer ridesharing platforms as creating a safety issue that did not previously exist. In fact, ridesharing has been occurring on a relatively large scale for many decades -- from casual carpools and bulletin boards to more recent forums such as Craigslist -- without any regulation and with few if any institutional safety mechanisms. Rather than creating a new activity requiring scrutiny as a public safety concern, responsible peer-to-peer platforms such as Lyft have introduced innovative and highly effective institutional safety mechanisms that increase public safety over existing alternatives. New tools made available by modern technologies – online criminal background checks, mobile application photo identification, and GPS positioning – can advance public safety beyond existing measures.

Zimride strongly believes that the Lyft Platform will significantly increase public safety standards over traditional ridesharing methods. When a rider or driver participates in traditional ridesharing, neither the rider nor the driver have any means of confirming the identity or safety credentials of the person with whom they are sharing a ride. For many people, this is enough to discourage them from participating in ridesharing altogether. The Lyft Platform addresses this problem by maintaining strict eligibility and disclosure requirements. Lyft drivers voluntarily submit to DMV and criminal background checks and vehicle inspections. All Lyft drivers and riders are required to log in through Facebook, and are excluded from using the Lyft Platform if they do not maintain consistently high ratings from their fellow riders/drivers.

The charter-party carrier safety requirements are not applicable to businesses that fall outside the statutory definition, or that qualify for exemption under the non-commercial enterprise and/or ridesharing exemptions. However, Zimride would support adherence to rules like the following for companies operating a real-time online ride-matching platform in order for such companies to qualify for a certificate of exemption:

- participation in the DMV pull program to the extent allowed by the DMV or, if not applicable, agreement by drivers to voluntarily permit the exempt entity access to DMV records on an annual basis;
- an insurance policy providing \$1 million per occurrence in excess liability insurance to be in effect at all times when any driver is transporting a rider matched via a ridesharing platform; and
- mutual driver and rider ratings to ensure good behavior.

V. Ridesharing

The ridesharing exemption under section 5353(h) provides for “[t]ransportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less...” and/or transportation that is “incidental to another purpose of the driver.” A narrow reading of the exemption would not take into account the modern-day realities of flexible workplaces, nor would it account for trips to or from non-work destinations like schools, daycares, stores, and so on. It is also important that the phrase “the purpose of the driver” not be read too narrowly. A focus on driver’s state of mind would be so difficult to discern that it would create uncertainty and be impossible to enforce.

Over the past few years, there has been a significant growth in collaborative consumption companies (also known as the “sharing economy”). Web and mobile-based platforms have led the charge by enabling individuals to share goods like cars and homes, barter personal property, or offer services to others. Lyft has applied this model to ridesharing. Trying to distinguish “legitimate” ridesharing on the basis of whether a driver was or was not “planning” to make a trip does not allow individuals to share resources. Given the move toward collaborative consumption and sustainability (particularly in California), the Commission should recognize and embrace the legitimacy of ridesharing with a flexible and open understanding of the “purpose” of the driver or the trip.

Over Zimride's 5-year history building ridesharing platforms, the company learned that the most important factor to achieving success is reaching a critical mass of users, such that a person desiring a ride at any given time can be quickly and efficiently matched with a driver. A large user base is essential to the functioning of real-time ridesharing.⁵ The mechanism through which riders can share expenses by offering an optional donation is critical to this supply. Drivers are unlikely to make themselves available for ridesharing without the possibility of donations. Any contribution from rider to driver using the Lyft Platform is entirely voluntary, and, if a rider wishes, he or she may decline to provide any donation at all to offset the driver's costs. The rider's decision whether and at what level to donate is made privately on the rider's smart phone at the conclusion of the ride, and is not revealed to the driver at the time. More than any of Zimride's previous ridesharing products, Lyft has already been able to provide the initial base of users that will allow the platform to finally make real-time ridesharing work. Why would such an economic incentive be restricted to "vehicle costs" (an inherently nebulous concept) when drivers need such an incentive for a functional ridesharing platform? If the Commission places overly stringent requirements on cost-sharing mechanisms for ridesharing platforms, ridesharing will be unable to get to the requisite critical mass needed for success.

Notwithstanding the obvious distinction between this donation arrangement and driving for compensation or profit, clarification on this point is needed in order to avoid any confusion or ambiguity. Therefore Zimride recommends that the Commission explicitly acknowledge and clarify that: 1) a voluntary donation, regardless of the amount, does not constitute "compensation" as the term is used in section 5360 and that 2) the "primary purpose" of any driver that only receives voluntary donations from riders and no other pay from the company

⁵ Nelson D. Chan & Susan A. Shaheen, *Ridesharing in North America: Past, Present, and Future*, TRANSPORT REVIEWS, 32:1, 105 (2012).

operating the rideshare platform is not to make a “profit”, as defined in section 5353(h). The Commission may also consider recommending that the Legislature clarify or broaden the definition of ridesharing; one such example is that currently set forth in the California Vehicle Code.⁶

VI. Transportation Access

Zimride’s founders established the Lyft Platform and other ridesharing services because of a fundamental belief that offering new transportation alternatives can secure “adequate and dependable transportation” on public roadways, while decreasing “unnecessary congestion [and] wear and tear” and promoting public safety.⁷

The Commission has announced its strong commitment to promoting environmental sustainability and the reduction of greenhouse gas emissions. Because the need to reduce the impacts of automobile use is an important component in achieving environmental sustainability, a key goal of this proceeding should be supporting and encouraging new transportation programs that will finally enable mainstream adoption of ridesharing. Ridesharing decreases wear and tear and congestion on city streets and highways. It also reduces emissions of dangerous pollutants that threaten human health and quality of life, and greenhouse gases that threaten the survival of the planet. Finally, ridesharing is able to improve access to public transportation by filling service gaps, solving the “last mile” problem of getting to or from a destination after a rider gets off a bus or train, and creating capacity on over-crowded service corridors.⁸ A heavy-handed approach to regulation here would stifle ridesharing’s ability to solve these problems.

⁶ Section 522 of the Vehicle Code defines "Ridesharing" as “two or more persons traveling by any mode, including, but not limited to, carpooling, vanpooling, buspooling, taxipooling, jitney, and public transit.”

⁷ Order at 8.

⁸ TRANSIT COOPERATIVE RESEARCH PROGRAM, NATIONAL ACADEMY OF SCIENCES TRANSPORTATION RESEARCH BOARD, RIDESHARING AS A COMPLEMENT TO TRANSIT 33-34, SYNTHESIS 98 (2012).

