

APPENDIX TO TPAC'S COMMENTS ON PD

TPAC's Proposed Changes to Proposed Decision Modifying D.13-09-045

The Taxicab Paratransit Association of California ("TPAC") provides the following proposed changes solely in the interest of protecting public safety, without admitting in any way the lawfulness of the California Public Utilities Commission's D.13-09-045 or D.14-04-022, and without waiving any of TPAC's arguments in currently-pending litigation concerning those decisions, including California Supreme Court Case Nos. S218427 and S218564 and Court of Appeal Case No. C076432.

FINDINGS OF FACT: no changes

CONCLUSIONS OF LAW:

~~1. TNC services should be defined as whenever the TNC driver has the application (app) open.~~

Because it is contrary to the public interest and the safety objectives of this proceeding to condition insurance coverage on vague and unenforceable time constraints, TPAC believes that Conclusion of Law 1 should be deleted.

2. A TNC permit from the California Public Utilities Commission should require a minimum \$1 million per incident primary commercial liability insurance policy, as well as medical payments coverage in the minimum amount of \$5,000, comprehensive and collision coverage in the minimum amount of \$50,000, and uninsured/underinsured motorist coverage in the minimum amount of \$1,000,000 per incident.

3. The modified insurance requirements should be applicable to Uber.

ORDERING PARAGRAPHS:

~~1. Transportation Network Company (TNC) services are defined as whenever the TNC driver has the application open.~~

~~2. Transportation Network Company (TNC) services are provided by TNC drivers during three distinct time periods. Period One is: "Application open—waiting for a match." Period Two is: "Match accepted—but passenger not yet picked up." Period Three is: "Passenger in car—until passenger safely exits car." Decision 13-09-045 made clear that coverage was mandatory during Periods Two and Three. This Decision clarifies that coverage is also mandatory during Period One.~~

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As noted above, because insurance coverage should not be conditioned on vague and unenforceable time constraints, TPAC believes that ordering paragraphs 1 and 2 should be deleted.

3. A Transportation Network Company permit from the California Public Utilities Commission will require a minimum \$1 million per incident primary commercial liability insurance policy, as well as medical payments coverage in the minimum amount of \$5,000, comprehensive and collision coverage in the minimum amount of \$50,000, and uninsured/underinsured motorist coverage in the minimum amount of \$1,000,000 per incident.

4. We require that each of the Transportation Network Companies ~~file~~ furnish evidence of their insurance policies ~~under seal with to~~ the Commission pursuant to General Order Series 157 and 115 as part of applying for a permit. The new insurance requirements will apply ~~upon the expiration of the insurance policies in place one year from the effective date of this decision, whichever is sooner~~ immediately. Until such time as the TNCs furnish the Commission with evidence that their insurance policies are in compliance with the foregoing requirements, TNCs must disclose in writing to their drivers and passengers that drivers' personal insurance policies do not provide coverage for the paid transportation of passengers.

~~5. Transportation Network Companies (TNC) may satisfy the insurance requirements, prescribed by these regulations, by either maintaining such insurance on its own, or with any combination of a policy maintained by the TNC and a policy maintained by the TNC driver that is specifically written for the purpose of covering TNC services, or portion thereof. Such combination of policies must meet the minimum limits required by these regulations. Such policies are exclusive and shall assume all liability. Such policies shall have the sole duty to defend.~~

~~6. In the event a driver maintained policy is used to partially fulfill the insurance requirements, a transportation network company's insurance must provide sole excess coverage to the driver's policy that is specifically written for the purpose of covering transportation network services, or portion thereof. In the event such driver maintained policy ceases to exist, the transportation network company's insurance shall provide primary and exclusive coverage, and assume all liability and the sole duty to defend, at dollar one.~~

~~7. Unless coverage for Transportation Network Company (TNC) services is separately and specifically stated in the policy and priced pursuant to approval by the California Department of Insurance, a driver's personal automobile policy is in no way required to provide coverage or the duty to defend for TNC services.~~

Provided that the word "primary" is inserted in ordering paragraph 3 as indicated above, ordering paragraphs 5, 6, and 7 are unnecessary and should therefore be deleted.

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8. The modified insurance requirements also applies to Uber.

9. We require that all *ex parte* communications be reported pursuant to Rule 8.4, [including retroactive reporting of *ex parte* communications since Dec. 20, 2012. Parties must file their retroactive notices of *ex parte* communication within 30 days of the date of this decision.](#)

10. We require the reporting requirements set forth in Rule 8.4 to cover communications between “interested persons” and the Commission’s Policy and Planning Division such that any communication between an “interested person” and Policy and Planning Division must be reported in accordance with Rule 8.4.

11. Rulemaking 12-12-011 remains open.