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 ON PROPOSED MODIFICATION TO DECISION 13-09-045 – from former San Francisco Mayor Willie L. Brown Jr.

In response to the proposed modification to Decision 13-09-045 adopting rules and regulations to protect public safety while allowing new entrants to the transportation industry, we would like to make the following comments.

Millions of Californians today are able to share their vehicles and give rides to fellow citizens. There are many sites that allow people to match up easily for this purpose. These sites span across a spectrum starting from 511.org, Craig's List Rideshare, Meetup.com, university sites, all the way to new transportation network companies (TNC's) such as Wingz, Uber, Lyft, Summon and Sidecar. Some of these sites facilitate scheduled rides (Wingz, Craig's List, 511.org) while others facilitate on-demand instant rides (Uber, Lyft, Sidecar, Summon). The California Public Utilities Commission regulates only some sites, although almost all sites derive some type of financial benefit from offering their services. The one thing all sites have in common is that they enable regular people to use their personal vehicles to give rides to fellow citizens, for a fee. The site 511.org, operated with funds from taxpayers, encourages people to share expenses, without providing details about what paid rides may be covered by the driver's insurance and what rides would not. Groups using Meetup.com and individuals using Craig's List Rideshare encourage passengers to pay drivers a fee and go to places like Lake Tahoe or Los Angeles for the weekend. Drivers often try to totally eliminate the cost of their ski trips by inviting several people in their car for a fixed per person amount ($45 per person for example). Wingz allows people to schedule paid rides from other people who may or may not already be going to the airport. Uber and Lyft allow passengers to pay drivers for instantaneous rides.

Currently personal insurance policies exclude any for-profit ride. Conversely commercial policies treat personal trips as incidental and do not provide the same coverage that a personal policy does. Today millions of citizens in California who are not professional drivers wish for their personal automobile insurance companies to cover them for paid rides, yet they are unable to get this coverage. Personal insurance policies exclude any rides that are not free or almost free carpooling to work. Most of the rides arranged through the various websites do not qualify as carpooling. The result is that millions of drivers are currently not insured for paid ridesharing activities generated from apps or websites, or even their own personal referrals and business development.

Californians need the option to purchase additional personal insurance for their ridesharing activities, regardless of what method they use to find riders. The requirement for automobile insurance should be on the driver, not on the website company. Some sites such as Wingz, Uber, Lyft and Sidecar have purchased $1M policies that overlap personal policies (as they are being regulated as TNC's). But only a few companies can afford this type of insurance and most websites arranging rides have no such insurance (Craig's List, Meetup.com, 511.org, University Sites). If this system continues, new entrants to the industry without large amounts of venture capital will not be able to facilitate ridesharing going forward. Even if all the websites were carrying automobile insurance, there are very few insurance companies offering insurance to the app companies.

Additional insurance coverage requirements such as Uninsured Motorists Coverage, Comprehensive Coverage, Collision Coverage and Medical Payments Coverage make sense as safety measure. Wingz believes that any potential insurance gap needs to be closed. Wingz has already provided a robust commercial liability insurance policy in accordance with Decision 13-09-045. But ultimately we believe that each individual driver should be responsible for buying his or her own coverage, independently of what website, app, or personal relationships they use to find paying riders. Once this insurance exists, TNC's would be required to verify that all drivers in their networks have the proper insurance policy.

Wingz is currently seeking to propose a law to the California Legislature requiring that citizens have the option to buy extra insurance on their personal policy, to cover them for any paid ridesharing activities.

There is a fundamental flaw in the requirement that the TNC companies purchase insurance for all drivers. The problem is that most of these non-employee drivers are driving on multiple platforms with their personal vehicles. With the current system, there will always be ambiguity about who is responsible in case of accidents. A $1M optional auto liability insurance add-on should be required for and purchased by each individual driver wishing to give rides for money, regardless of the platform, app, or website used to generate the ride request. Requiring each TNC company to buy this insurance for drivers separately results in drivers being insured multiple times. It is wasteful, complex, and does not eliminate ambiguity in case of accidents.

The majority of TNC drivers are now driving using two to five platforms (they are not employees/contractors of any one company). For example, most drivers on Wingz are also signed up on one to three other TNC's. This means that a "hovering" driver causing an accident while driving with 4 different apps "ON" would have four insurance companies to file claims with. Each company will have a financial incentive to point the finger at other companies/parties in each accident. Even accidents involving drivers on personal errands will become contentious, if any app was "ON", intentionally or inadvertently. Some drivers will have an incentive to purchase minimal personal insurance and always have their apps "on".

Another problem is that there are very few insurance companies offering commercial insurance policies to TNC's today. Two of these companies, James River and Gemini, told us that they are not writing new policies at this time (most recent communication was April 3rd, 2014). Clearly, 99% of commercial insurance companies do not want to be in this business. There is a clear risk that some of the TNC's may suddenly become uninsured if their policies are dropped or prices are increased.

We believe that insurance companies will be able to make money from optional paid individual policies geared specifically to the millions of citizens who wish to give paid rides in their personal vehicles. This option will ensure that they are covered for both personal transportation and paid rides, without ambiguity. TNC's have been in operation for two years now so there is a lot of data available to understand the risk and pricing for this option. Californians not engaged in ridesharing would not bear any additional cost, as this option would be a billable addition to personal policies. Such endorsements, if required of all drivers signed up with TNC's, would satisfy all the safety requirements of the CPUC. There would be no more ambiguity about the responsible parties in case of accidents.

Another benefit of adding optional paid ride insurance endorsements is that the cost of insurance will go down on a "per driver" basis. There will be less waste. Currently Wingz pays $5 per ride as well as a significant non-refundable fee for each new driver on its platform. Uber, Lyft and Sidecar pay similar amounts for often the exact same drivers, so each driver has multiple expensive wasteful policies covering his personal activities (while he is not even an employee or contractor of any of these companies). The driver's relationship to these companies is as a client, similar to eBay and its own users. Only large companies with millions of dollars in funding will be able to subsidize these heavy duplicative insurance costs. Drivers will become totally dependent on just a few TNC's. Taxi companies will not be able to compete or afford to become TNC's as the industry migrates toward TNC's. The taxi monopoly will simply be replaced by a new "Uber monopoly", excluding current taxi companies or new companies with helpful technology from participating in the new sharing economy. Simple carpooling sites such as 511.org or university websites will not be able to afford insurance and their drivers will continue to be uninsured. In the end, the sharing economy should be about citizens helping each other out, not a handful of companies monopolizing the market and creating a new dependency on well-funded companies.

Another issue involves the requirement that insurance policies offer coverage in case of accidents when the app is "ON", even if there is no passenger in the car or if the driver is not on his way to pick up a passenger. Our recommendation that personal policies should offer a paid ride options for would-be TNC drivers would solve this problem. The issue here is that without having the drivers carry their own insurance, there will be always be questions about which policy should go into effect when multiple apps are "ON". Should it be the personal policy, if the trip was to the grocery store, despite the fact that multiple apps were "ON"? Which of the multiple apps may carry the burden of responsibility? Would it be the last TNC used by the driver? Would it be the TNC most frequently used by the driver? What if, in the future, there are more than five TNC's, which of the many "on" apps would carry the responsibility?

Finally, another ambiguity involves the fact that today there are two distinct types of TNC's. There is a TNC organizing scheduled rides (Wingz) and there are TNC's organizing instant on-demand rides (UberX, Lyft, Sidecar and Summon).

Each of these two groups carries different risks. The first type, Wingz, facilitates only scheduled rides, often booked days in advance, with a minimum of two hours advance notice. Drivers on this platform are not GPS-tracked and cannot turn their app "ON" or "OFF". Drivers never "hover around" neighborhoods or airports hoping for rides. Rides are often booked from a website, not necessarily an app. The risk for this activity is lower than the other type.

The second type of TNC provides instant rides. A passenger presses a button and a car appears shortly afterward. This system involves drivers who are being tracked via GPS and who have indicated that they are "On Duty" on their app. The drivers are often hovering in neighborhoods and reacting to requests at the last minute. The risk for these activities is higher than for scheduled rides.

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