London N. Breed
Mayor

Nicole Bohn
Mayor's Office
on Disability

Jeffrey P. Tumlin
Director of
Transportation

Tilly Chang
Executive Director

March 22, 2021

Via E-Mail
TNCaccess@cpuc.ca.gov

California Public Utilities Commission
Consumer Protection and Enforcement Division
Transportation Licensing and Analysis Branch
505 Van Ness Avenue
San Francisco, CA 94102

Re: Request for Commission review of CPED Disposition of Uber Advice Letter 4B

Pursuant to Rule 7.6.3 of General Order 96-B, the San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority, and San Francisco Mayor's Office on Disability (collectively "San Francisco"), submits this request for Commission review of the Consumer Protection and Enforcement Division (CPED)'s Disposition Letter of Uber's Advice Letter 4B requesting an offset, dated March 12, 2021 ("Disposition Letter") on the basis that CPED, as the Industry Division designated to review such letters, erred in finding that Uber met the second element of improved level of service to be entitled to its offset request according to the standard cited by the CPED and in D. 20-03-007, the Commission's decision on Track 2 issues. San Francisco raised this issue in its protest to Uber's Advice Letter 4A,[1] which it served on January 8, 2021. The Disposition Letter approved $843,305.06 in offsets for Quarter 2 of 2020 for 12 counties.

To show "improved level of service" for a given quarter and geographic area, a TNC shall demonstrate it achieved either the Level 1 or Level 2 Offset Time Standard as set forth in the Track 2 Decision. (D. 20-03-007, p. 18.)[2] Moreover, to meet this standard, a TNC also must demonstrate an improved level of service in each quarter for which offsets are requested. (*Ibid.*)

In Table 1 of the Disposition Letter, CPED cites this very standard in its Criteria for Evaluating Offsets. This table includes a two-part test for evaluating Improved Level of Service: "Either the Level 1 (50%) or Level 2 (75%) Offset Time Standard for a quarter in a geographic area, **and** demonstrated

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[1] Uber submitted a supplemental Advice Letter 4B on January 12, 2021 at the request of CPED. CPED did not re-open the protest period, so San Francisco's protest to Uber Advice Letter 4A is applicable.

[2] D. 20-03-007 ("Track 2 Decision") suggests that improvements should be measured in minutes and requires that TNCs provide this response time data on the template tab titled "Offset Response Times."

improvement over the prior quarter's performance." (Emphasis added.) While the Disposition Letter noted that San Francisco protested Uber's Advice Letter 4A on January 8, 2021, it failed to acknowledge San Francisco's argument that Uber's Advice Letter failed to meet this two part test. (See Disposition Letter, p. 5/7 of the PDF; San Francisco Protest to Uber AL 4A, pp. 4-5.)

In the "Discussion and Disposition of AL 4B," CPED states that "Table 3 below shows Q2 2020 response times reported in each geographic area where Uber is requesting offsets. Uber's response time in each county is less than the response time for the selected standard (see Table 2 for the adopted response times by county). Therefore, Uber has demonstrated improved level of service as required." (Disposition Letter, p 6/7 of the PDF.)

CPED's conclusion on this point is erroneous, as it failed to apply the second part of the Commission's two-part test, which specifically requires a comparison to the prior quarter's performance. (Disposition Letter Table 1; D. 20-03-007, p. 18.). Uber received an offset in the prior quarter, yet Uber has not provided to the CPED the data required to demonstrate that it has achieve an Offset Time Standard that exceeds the percentage achieved in the prior quarter, as required by the Track 2 Decision. (D. 20-03-007, p. 19.)

Table 1 below shows the response time for the subject quarter as well as the response time for the prior quarter using the Qualifying Standard for demonstrating Improved Level of Service that the CPED applied in prior Disposition Letters: Improved 50th percentile response time quarter-over-quarter. It demonstrates that Uber failed to demonstrate improved level of service for seven of the counties: Alameda, Contra Costa, Los Angeles, Marin, Riverside, San Francisco and San Joaquin. As noted, San Francisco pointed out this exact failure to demonstrate improvement in our original protest letter. An arbitrary and capricious application of the requirements is not only incorrect, it exacerbates the disservice to the disability community, who require access via a functioning program now and without further delay.

Table 1. Level 1 Response Times for Completed Trips

	Q1 2020 Response Time in Minutes (50th %)	Q2 2020 Response Time in Minutes (50th %)	Improved Response Time?
ALAMEDA	13.88	14.45	NO
CONTRA COSTA	17.08	17.22	NO
KERN	-	10.68	-
LOS ANGELES	9.42	13.73	NO
MARIN	20.55	25.67	NO
ORANGE	10.4	10.15	YES
RIVERSIDE	8.22	14.17	NO
SAN FRANCISCO	17.47	17.78	NO
SAN JOAQUIN	3.93	13.22	NO
SAN MATEO	16.1	15.08	YES
SANTA CLARA	16.53	15.58	YES
VENTURA	-	21.38	-

In sum, Uber has failed to meet the Commission's stated criteria for demonstrating Improved Level of Service when evaluating offsets, and CPED has erred by failing to apply the second part of the Commission's two-part test that requires a comparison to the prior quarter's performance. San Francisco respectfully asks that CPED prepare a revised resolution on the Disposition Letter for Uber Advice Letter 4B removing offset awards for Alameda, Contra Costa, Los Angeles, Marin, Riverside, San Francisco and San Joaquin counties, for Commission review.

Sincerely,

By: _____/s/_____
Tilly Chang
Executive Director
San Francisco County Transportation Authority
tilly.chang@sfcta.org

By: _____/s/_____
Jeffrey Tumlin
Director of Transportation
San Francisco Municipal Transportation Agency
Jeffrey.Tumlin@sfmta.com

By: _____/s/_____
Nicole Bohn
Director
San Francisco Mayor's Office on Disability
nicole.bohn@sfgov.org

cc: Stephanie Kuhlman, westregs@uber.com, Marilyn Golden, Autumn Elliott