

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 Lyft 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 Lyft's Advice Letter 4 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 Lyft 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 protested Lyft's Advice Letter 4A, which it served on January 19, 2021.¹ The Disposition Letter approved \$531,452.40 in offsets for Quarter 2 of 2020 for San Francisco and Los Angeles.

Alternatively, we ask that upon review of the resolution, the Commission deny the request without prejudice, and request that Lyft resubmit Advice Letter 4B Offset Application data because the data provided by Lyft is facially erroneous, and upon submittal, we request that CPED evaluate the resubmitted data. The data provided by Lyft is facially erroneous and cannot be used to evaluate whether Lyft meets the Qualifying Standard for Improved Level of Service. Specifically, in all of the data reported by Lyft for San Francisco, the PERIOD B (Accepted to Arrival) is less than the TOTAL RESPONSE TIME (Requested to Arrival). This is impossible. In addition, Lyft reports for San Francisco for PERIOD A

¹ Lyft submitted a supplemental Advice Letter 4B on February 24, 2021 at the request of CPED. CPED did not re-open the protest period, so San Francisco's protest to Lyft Advice Letter 4A is applicable.

(Requested To Accepted) include negative values, meaning that trips are accepted before they are requested. This, too, is impossible.

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 improvement over the prior quarter’s performance.” (Emphasis added.)

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 Lyft is requesting offsets. Lyft’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, Lyft 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.). Lyft received an offset in the prior quarter, yet Lyft has not provided to the CPED the data required to demonstrate that it has achieved 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.) 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.

In sum, Lyft 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 requests that CPED prepare a revised resolution for Commission review denying the Lyft Advice Letter 4B. Alternatively, San Francisco respectfully requests that CPED prepare a revised resolution for Commission review denying the request without prejudice, and asking that Lyft resubmit Advice Letter 4 Offset Application data because the data provided by Lyft is facially erroneous, and upon submission, that CPED evaluate these resubmitted data. We also ask that the Commission to request that Lyft include in this corrected submission Offset Time Standard for the preceding quarter that will allow for evaluation of the second part of the Commission’s two-part test.

Sincerely,

By: _____ /s/

Tilly Chang
Executive Director
San Francisco County Transportation Authority
tilly.chang@sfcta.org

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.”

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: Annette Tran, Marilyn Golden, Autumn Elliott