

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement
Senate Bill 1376 Requiring Transportation
Network Companies to Provide Access for
Persons with Disabilities, Including Wheelchair
Users who need a Wheelchair Accessible
Vehicle

R.19-02-012
(Filed February 21, 2019)

**COMMENTS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY,
SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY, AND SAN FRANCISCO
MAYOR'S OFFICE ON DISABILITY ON TRACK 5A PROPOSALS AND FEBRUARY 17,
2022 WORKSHOP**

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INTRODUCTION

In accordance with the Scoping Memo and Ruling issued on January 14, 2022 (“Track 5 Scoping Memo”), the San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority, and San Francisco Mayor’s Office on Disability (collectively “San Francisco”) submit comments on Track 5A proposals and February 17, 2022 workshop (“Track 5A Workshop”) related to the TNC Access for All Act. Track 5A considers whether pre-scheduled wheelchair accessible vehicle (“WAV”) trips should be permitted to qualify in the Access for All Program and if permitted, how such trips should be calculated for purposes of Offset Requests, Exemption Requests, and other requirements.

San Francisco notes that there is largely a consensus that pre-scheduled trips are categorically different than TNC trips requested for immediate dispatch. It therefore follows that the California Public Utilities Commission (“Commission”) must establish a separate standard and framework for these trips to be incorporated in the TNC Access for All Program in any meaningful way that does not undermine the program. While Uber and Lyft maintain that pre-scheduled trips generally fit within the existing reporting requirements and should be eligible for offsets and exemptions under the current framework, their claims are not supported because pre-scheduled trips are a distinct service type and require separate metrics in order to accurately measure performance.

As the co-chairs of the San Francisco Mayor’s Disability Council state in a February 17, 2022 letter to Uber, “[w]e want to emphasize to you that we aren’t asking Uber to provide anything extra to our community; we simply want equal access to Uber services.”¹ San Francisco reiterates this principle of equal access and appreciates the opportunity to provide comments on Track 5A proposals and workshop.

¹ Exhibit A - Letter from SF Mayor’s Disability Council Co-Chairs to Uber, February 17, 2022

DISCUSSION

1. On-Demand and Pre-Scheduled Transportation

a. **The Commission Should Define Pre-Scheduled TNC Trips as Any TNC Service That Allows a Passenger to Schedule a WAV Trip with a Specific Time.**

As San Francisco stated in our proposal, pre-scheduled trips are any trip for which the customer chooses the pickup time, independent of how far in the future. This definition applies whether a rider is requesting a standard TNC vehicle or a WAV. San Francisco's definition of a pre-scheduled WAV trip aligns with the Consumer Protection and Enforcement Division's ("CPED") staff definition of "any WAV service that allows a passenger to schedule a WAV trip with a specific pickup time."² We note that CPED's definition narrowly only applies to WAV rides but appreciate CPED staff's clarification that "there should be no difference between the trip request methods for on-demand and pre-scheduled WAV service."³

San Francisco is also in alignment with Lyft and the Disability Advocates on this question. As stated in their comments on the Track 5A Scoping Memo, "Lyft considers a "pre-scheduled" WAV trip a trip requested for a specific time in the future via the Lyft app."⁴

San Francisco disagrees with Uber's caveat that a pre-scheduled trip must be requested "at least 30 minutes in advance"⁵ and SFTWA's proposal that pre-scheduled trips "should be defined as a request for service at a specified time later than the applicable Offset Response Time Benchmark (ORTB) for an 'on-demand' request."⁶ Based on the information added to the record by Uber and Lyft, as well as our general understanding of how pre-scheduled rides are available/requested, Uber and SFTWA's proposed windows are not equivalent to options offered to non-WAV riders and therefore somewhat arbitrary. Therefore, the Commission should dismiss these suggestions. Instead, the Commission should adopt a definition for pre-scheduled service which ensures a similar

² CPED Proposal on Track 5A Issues, p. 4

³ CPED Proposal on Track 5A Issues, p. 4

⁴ Lyft Comments on Track 5A, p. 2; Disability Advocates Proposal on Track 5A Issues, p. 4

⁵ Uber Proposal on Track 5A Issues, p. 2

⁶ SFTWA Proposal on Track 5A Issues, p. 2

experience for WAV users and non-WAV users alike, and should be broadly defined as “any TNC service that allows a passenger to schedule a ride with a specific pick-up time.”

b. Pre-Scheduled TNC Trips Are Categorically Different From “On-Demand” TNC Trips and Therefore Require a Separate Reporting and Performance Framework

San Francisco concurs with the Disability Advocates, CPED, and San Francisco Taxi Workers Alliance (“SFTWA”) that pre-scheduled WAV trips are distinct from WAV trips requested for immediate dispatch.⁷ Despite Lyft’s assertion that “Pre-scheduled rides fit squarely within the current framework established in Decisions 20-03-07 and 21-11-004 with a few minor clarifications to the definition of response time,”⁸ there is no evidence in the record to support this claim. Nor does it align with the simple fact that if the Commission must now explore and define “pre-scheduled WAV trips” in this Track, this method of service was not explicitly understood or considered in the current framework as Lyft claims.

Therefore, “Pre-scheduled” WAV trips should be subject to different performance requirements than “on-demand” WAV trips. Riders have different expectations for the reliability of pre-scheduled trips since they can be pre-assigned and pre-scheduled by drivers and therefore these trips are generally more reliable and on time. It follows then that the performance requirements should reflect the realities of this specific service type and related customer expectations and experiences. As the Disability Advocates explained in their Proposal, “One of the key reasons that TNC WAV service is an important element of accessible transportation is because of its on-demand nature. Other existing wheelchair-accessible services, such as paratransit, require advance scheduling for use, which is one of the elements that many wheelchair users seek to avoid when expressing their desire for TNC service.”⁹ Public comment further emphasized the difference in customer experience between pre-scheduled trips and on-demand trips. As Helen Smolinski and her wife explained in their public comments at the Track 5A Workshop, their daughter is a wheelchair user and their family relies on pre-scheduled rides for important

⁷ Disability Advocates Proposal on Track 5A Issues, pp. 2-3; CPED Proposal on Track 5A Issues, p. 4; SFTWA Proposal on Track 5A Issues, p. 2

⁸ Lyft Comments on Track 5A, p. 3

⁹ Disability Advocates Proposal on Track 5A Issues, p. 4

trips like doctor's appointments.¹⁰ They prefer the security of knowing they have a ride secured in advance for such trips, and strongly support the continuation of pre-scheduled trips. As the Disability Advocates and members of the public have noted, on-demand and pre-scheduled trips are distinct service categories. Both are important for expanding transportation options for the disability community.

c. Clear and Separate Standards and Metrics for Pre-Scheduled WAV Trip Performance Are Required In Order to Consider These Trips for Offsets or Exemptions.

San Francisco agrees with CPED that TNCs providing pre-scheduled trips will need to demonstrate they meet a separate performance standard to qualify for an offset or an exemption and that this is true regardless of whether pre-scheduled rides are considered a type of "on-demand transportation."¹¹ As SFTWA stated in their proposal, "[p]re-scheduled requests for service do not fit into the reporting and compliance categories the Commission has developed for 'on-demand' service" and "must be handled differently."¹² Consistent with our comments since the beginning of the TNC Access for All proceeding, San Francisco also agrees with the Disability Advocates that any "standards for WAV rides must be set in relation to the levels of service experienced by people without disabilities" and that "[f]or pre-scheduled trips, completion rates and wait times must be comparable between WAV service and non-WAV service."¹³ Therefore, we maintain that the record requires more evidence on the response times and completion rates for non-WAV service that is pre-scheduled.¹⁴

Further, the Disability Advocates proposed that if TNCs are offering pre-scheduled trips to the general public they should also be required to offer pre-scheduled WAV service, to qualify for an exemption.¹⁵ As they explain, "to the extent that a TNC offers the option of prescheduled trips as part of its standard service, the general obligation under California's anti-discrimination laws and the Americans

¹⁰ Helen Smolinski, Public Comment on Track 5A Workshop, February 17, 2022

¹¹ CPED Proposal on Track 5A Issues, p. 7

¹² SFTWA Proposal on Track 5A Issues, p. 2

¹³ Disability Advocates Proposal on Track 5A Issues, p. 6

¹⁴ San Francisco Proposal on Track 5A Issues, p. 4

¹⁵ Disability Advocates comment in Track 5A Workshop, February 17, 2022

with Disabilities Act that a business may not exclude customers on the basis of disability means that the TNC is obligated to offer pre-scheduled WAV service.”¹⁶ San Francisco agrees with this assertion.

2. Response Time Definitions

a. The Commission Should Adopt a New “Period C” To Measure the Response Time of Pre-Scheduled TNC Trips.

San Francisco appreciates the general consensus on this issue from the Disability Advocates, Lyft, Uber, and SFTWA.¹⁷ No party expressed opposition, either in their proposals or at the Track 5A Workshop, to a minimum of zero minutes for the on-time rate calculation (Period C). San Francisco did not hear any opposition or reason why the Commission should not adopt our proposed definitions, as follows:

- Period A (applies only to on-demand): time difference between request to acceptance
- Period B (applies only to on-demand): time difference between acceptance to arrival
- Period C (applies only to pre-scheduled, for both WAV and non-WAV rides): time difference between scheduled arrival and actual arrival. Minimum value should be 0 minutes.

3. San Francisco Supports the Disability Advocates Proposal on How CPED Should Treat Previous and Pending Advice Letters with Pre-Scheduled WAV Trip Data.

San Francisco supports Disability Advocates initial Proposal on treating previous and pending advice letters¹⁸ and further agree with the clarifications made by Autumn Elliot and Melissa Kasnitz to CPED staff during the Track 5A Workshop. We agree with CPED’s proposal that “any data associated with prescheduled trips shall be reported separately from on-demand trips”¹⁹ and recommend the Commission adopt the Period C definition San Francisco has proposed for this separate reporting. Offsets should be awarded only if the on-demand service provided meets established performance

¹⁶ Disability Advocates Proposal on Track 5A Issues, p. 1

¹⁷ Disability Advocates Proposal on Track 5A Issues, p. 7; Lyft Proposal on Track 5A Issues, pp. 3-6; Uber Proposal on Track 5A Issues, p. 4; SFTWA Proposal on Track 5A Issues, p. 3

¹⁸ Disability Advocates Proposal on Track 5A Issues, p. 8

¹⁹ CPED Proposal on Track 5A Issues, p. 9

metrics. Advice letters that included pre-scheduled trips and were previously approved should be resubmitted with the CPED’s guidance to use “0” instead of a negative response time.²⁰

Therefore, San Francisco disagrees with Lyft’s assertion that “[a]dvice letters concerning activity that occurred while the prior rules were in effect should be promptly approved consistent with the rules then in effect. Advice letters that have been approved should not be reopened.”²¹ Given the prior confusion about reporting pre-scheduled trips, there is no reason why past advice letters should not be resubmitted to conform with the new reporting methodology.

4. TNCs Should Report on Pre-Scheduled Trips Separately from On-Demand Trips.

As San Francisco explained in our proposal and reiterated at the Track 5A Workshop, clearly distinguishing between pre-scheduled and on-demand trips should be incorporated into reports for both WAV and non-WAV service. San Francisco supports the Disability Advocates and CPED recommendations that TNCs report data separately for on-demand and pre-scheduled trips.²² We agree with CPED that “[T]his quarterly and by-county reporting for WAV service would be submitted via an Advice Letter filing, would be consistent with the pre-scheduled trip definition and performance framework established by the Commission as an outcome of this Scoping Memo, and use a data reporting template provided by CPED Staff like the one already in use for on-demand WAV trips.”²³

CONCLUSION

San Francisco supports the Commission’s efforts to ensure equal access to all Californians and appreciate the diligence being performed to accurately define and measure pre-scheduled WAV service. We believe this is an important consideration to ensure the TNC Access for All Program truly

²⁰ Lyft Comments on Track 5A, pp. 5-6

²¹ Lyft Proposal on Track 5A, p. 8

²² Disability Advocates Proposal on Track 5A Issues, pp. 8-9; CPED Proposal on Track 5A Issues, p. 11

²³ CPED Proposal on Track 5A Issues, p. 11

encourages equivalent service and look forward to providing further comments on proposals and the Proposed Decision.

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Respectfully submitted,

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