

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 27, 2020

Honorable Lorena Gonzalez
California State Assembly
State Capitol, Room 2114
Sacramento, CA 95814

RE: Response to January 9, 2020 letter regarding collection of data from Transportation Network Companies (TNCs) (R.12-12-011)

BY ELECTRONIC TRANSMISSION

Dear Assemblymember Gonzalez:

Thank you for your letter of January 9, 2020 in which you expressed your concerns with current Transportation Network Company (TNC) data collection rules at the California Public Utilities Commission (CPUC). I also share your concerns regarding the safety record of the TNCs and the critical need to ensure these companies operate with the highest safety standard for passengers and drivers.

The confidentiality of data has been an ongoing issue at the CPUC, and in recent years, the CPUC has approved new rules that have allowed the agency to be more critical of confidentiality claims, especially surrounding data linked to public safety. The CPUC continues to address such issues in an ongoing regulatory process involving TNC data and interested parties have weighed in on existing rules regarding the confidentiality of such data. This letter intends to provide you with information on the CPUC's broad efforts to better regulate TNCs. Below you will find details on the current status of TNC data collection at the CPUC, ongoing efforts to share TNC data outside of the TNC rulemaking, the current protocols for the submittal of confidential data to the CPUC, and a status of relevant CPUC enforcement activities.

In 2013, CPUC Decision (D.) 13-09-045 directed CPUC staff to make public TNC data that identifies the number and percentages of customers that requested an accessible vehicle, as well as any complaints of unfair or discriminatory treatment of persons with disabilities.¹ Accessibility data going back to 2014 is currently posted on our website.

¹ Available at <https://www.cpuc.ca.gov/General.aspx?id=3046>

In an effort to address issues that have come to the CPUC's attention since 2013 while performing its duty to ensure TNCs operate safely and in a manner consistent with the authority that the CPUC has granted them, Commissioner Genevieve Shiroma issued a scoping memo on October 25, 2019 for TNC Rulemaking 12-12-011² which put parties on notice that the CPUC would be revisiting the issue of confidentiality related to TNC data reports, among other issues. A ruling was issued on November 6, 2019 soliciting comment on concerns related to data confidentiality, collection, and sharing. Opening comments were filed in response to this ruling and response comments were filed on December 20, 2019. These comments are currently being reviewed and we anticipate issuing a decision on the matter in the first quarter of 2020.

In addition to the TNC Rulemaking, the CPUC has broadened its efforts to better regulate TNCs through initiatives by administrative actions or by way of legislative mandate. Such efforts include the following:

Data Sharing Outside of Rulemaking: On February 15, 2019, the CPUC entered into an interagency agreement with the California Air Resources Board (CARB) to share TNC records, including data required to determine average emissions of greenhouse gases per passenger mile, to further the collaborative efforts called for by the California Clean Miles Standard Incentive Program under Senate Bill 1014 (Skinner, 2018).

Protocols for Submitting Confidential Data: On January 1, 2018, CPUC General Order 66-D became effective and established cross-industry procedures for confidentiality claims. Those procedures require any party, including TNCs, who requests confidential treatment of information to satisfy the following requirements: 1) designate each page, section, field or portion relevant as confidential; 2) provide the citation of applicable provisions of the California Public Records Act to serve as the basis for the claim; 3) provide a signed declaration by an officer of the information submitter or an agent designated by the officer in support of the legal authority cited; and 4) provide name and contact regarding the potential release of the information. General Order 66-D places the onus on the parties who are requesting confidentiality to justify why they deem the data confidential. This was an intentional effort to limit parties who overclaim confidentiality. Currently, TNCs rely on "Footnote 42" in Decision 13-09-045 to satisfy GO 66-D. A current proceeding, as you reference in your letter, is considering a modification to Footnote 42.

The CPUC may request information from TNCs or other regulated entities that may include sensitive material. Under the CPUC's Rules and Practice Procedures, respondents

² Available at: <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M318/K168/318168736.PDF>

may request to file the information under seal which protects the confidentiality of the documents submitted.³ This information allows CPUC enforcement staff the means to conduct follow up investigations into misconduct related to our regulated entities.

Consumer Protection and Enforcement: The CPUC transportation enforcement branch has established a team dedicated to investigating potential TNC misconduct. This team utilizes TNC data analysis to determine if the TNCs violated safety and/or consumer protection rules. The team is also conducting investigations and enhancing the skills and tools to bring investigations to formal enforcement proceedings before the CPUC.

The CPUC recognizes the critical and increasingly important role of TNC data as local and regional governments form policies and take actions to achieve state goals that affect their communities each day, particularly those focused on public safety, housing, public transportation, and greenhouse gas reductions. At the same time, the CPUC recognizes the importance of protecting the privacy of individuals and will continue to guard confidentiality of personal information. TNC operations will continue to dramatically impact the transportation system, and as they evolve to incorporate more technology and automation, it is essential that California governments begin to think proactively about policies, regulations, and investments.

Thank you again for your letter. I appreciate your continued attention to this matter and reiterate my concern and commitment to address safety issues that affect communities across California. I am available to answer any further questions you may have and can be reached at Marybel.Batjer@cpuc.ca.gov. You may also contact Hazel Miranda, Director of Legislative Affairs at Hazel.Miranda@cpuc.ca.gov or (916) 327-7189.

Sincerely,



Marybel Batjer, President
California Public Utilities Commission

³ <http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=209618807>